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Wednesday
November 3, 1982

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Environmental Protection Agency

Animal Diseases
Animal and Plant Health Inspection Service

Banks, Banking
Federal Reserve System

Civil Rights
Small Business Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodity Futures
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Drug Enforcement Administration

Hazardous Materials
Environmental Protection Agency

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

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FEDERAL RESERVE STSTEM

12 CFR Part 204

[Docket No. R-0432]

Regulation D—Reserve Requirements of Depository Institutions; Phase-in for Former Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to implement section 708 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act") (Pub. L. 97-320). Under this provision, a bank that was a member of the Federal Reserve System on or after July 1, 1979, but which withdrew from membership on or before March 31, 1980, is entitled to a phase-in of reserve requirements during a period beginning October 28, 1982, and ending October 24, 1985. Such banks are currently subject to reserve requirements in the same manner as member banks, while other nonmembers are phasing into the reserve requirements of the Monetary Control Act during a period that ends September 3, 1987.

EFFECTIVE DATE: October 28, 1982. This is the beginning of the first reserve maintenance period to which the new phase-in schedule will apply.

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

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) ("MCA") provides that banks that were not members of the Federal Reserve System at any time on or after July 1, 1979, are entitled to phase in reserve requirements through 1987. The MCA also provides that any bank that was a member bank at any time during the period beginning on July 1, 1979, and ending on March 30, 1980, is required to maintain reserves in an amount equal to the amount of reserves that are required to be maintained by a member bank. The provision relating to former members was modified by the Garn-St Germain Act.

Under section 708 of the Garn-St Germain Act, any bank that was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System on or before March 31, 1980, and does not become a member at any time after March 31, 1980, shall, beginning after the effective date of the Act, also be permitted to phase-in reserve requirements until October 1985. Accordingly, a limited number of former member banks that currently are maintaining reserve requirements in the same manner as member banks will have their reserve requirements reduced to coincide with the new reserve requirement phase-in schedule. The statute provides for a phase-in of reserve requirements for this group of former member banks only from the date of enactment of the Garn-St Germain Act and does not affect reserve requirements for any prior period. In addition, the legislative history of the Act states that a bank's date of withdrawal shall be determined by the date that its stock in the Federal Reserve Bank of its district had been redeemed. Former member banks that have previously been determined to be entitled to phase in reserve requirements through 1987 will continue to maintain reserves according to that schedule. The Board's amendment will take effect during the reserve maintenance period beginning October 28, 1982, which is the maintenance period that corresponds to the first reserve computation period after the enactment of the Garn-St Germain Act.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with adoption of this amendment because the change involves the implementation of a statutory provision that is effective upon enactment and does not provide the Board with discretion to modify its terms. Thus, the Board has determined that notice and public participation is unnecessary. The effective date of the amendment has not been deferred pursuant to 5 U.S.C. 553(d), since the Board's action relieves a restriction by reducing the reserve requirements of depository institutions and since deferring the effective date would be inconsistent with section 708 of the Garn-St Germain Act.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

PART 204—[AMENDED]

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*), the Board amends Regulation D (12 CFR Part 204) effective October 28, 1982, by revising paragraph (b) introductory text and paragraph (c) of § 204.4 to read as follows:

§ 204.4 Transitional adjustments.

* * * * *

(b) *Members and former members.* The required reserves of any depository institution that is a member bank on September 1, 1980, or withdraws from membership after March 31, 1980, shall be determined as follows: * * *

* * * * *

(c) *Certain former member banks.* The required reserves of any depository institution that was a member bank on July 1, 1979, and withdrew from membership during the period beginning on July 1, 1979, and ending on March 31, 1980, shall be determined by reducing the amount of required reserves computed under section 204.3 in accordance with the following schedule:

Reserve maintenance periods occurring between	Percentage that computed reserves will be reduced
October 28, 1982 and October 26, 1983	50
October 27, 1983 and October 24, 1984	33.3
October 25, 1984 and October 23, 1985	16.7
October 24, 1985 and forward	0

However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any State after April 1, 1980.

* * * * *

By order of the Board of Governors, October 28, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-30163 Filed 11-2-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 556

[No. 82-712]

Branching in Supervisory and Non-Supervisory Acquisitions; Correction

AGENCY: Federal Home Loan Bank Board.

ACTION: Policy statement; correction.

SUMMARY: The Federal Home Loan Bank Board corrects the final amendments to its policy statement on branching which were published at 47 FR 34124 (August 6, 1982).

EFFECTIVE DATE: July 28, 1982.

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

SUPPLEMENTARY INFORMATION: On July 28, 1982, the Federal Home Loan Bank Board adopted amendments to its policy statement on branching to clarify the Board's criteria for permitting operation of out-of-state branches by federally-chartered savings and loan associations and by multi-state, multiple savings and loan holding companies. Board Resolution No. 82-498 (July 28, 1982); 47 FR 34124, published (August 6, 1982). The final rule, as published, contained two typographical errors: The first, in the supplementary information accompanying the amendment to the Statement of Policy, and the second, in a reference in paragraph (a)(3)(ii)(*a*)(*3*) of § 556.5 of the Statement of Policy. By its action today, the Board corrects those typographical errors.

Accordingly, the Board is correcting FR Doc. 82-21371, appearing at 47 FR 34125, and amending § 556.5 by (1) changing the word "it" in the last sentence of the seventh paragraph of the supplementary information to read "its"; and (2) by changing the second reference to "(a)(3)(i)" in subparagraph (a)(3)(ii)(*a*)(*3*) of § 556.5 to read "(a)(3)(ii)".

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

Dated: October 27, 1982.

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

[FR Doc. 82-30273 Filed 11-2-82; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Parts 584, 589

[No. 82-709]

Service Corporations of Subsidiary Institutions of Savings and Loan Holding Companies

October 27, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; removal of Board ruling.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations by removing a Board Ruling that construes the term "service corporation" for purposes of section 408 of the National Housing Act. The existing ruling applies the regulations pertaining to service corporation investment and activities of federal associations to state-chartered insured institutions that are controlled by savings and loan holding companies. By removing the ruling, the Board intends to allow service corporation investment by state-chartered insured institutions to be governed by state law, without regard to whether the institution is owned by a holding company.

DATE: Effective October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Attorney, (202-377-6417), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C., 20552.

SUPPLEMENTARY INFORMATION: Section 408 of the National Housing Act ("the Act"), 12 U.S.C. 1730a (Supp. IV 1980), pertains to the regulation of savings and loan holding companies. Section 408(d) of the Act prohibits certain transactions between a subsidiary insured institution of a savings and loan holding company and its affiliates. Subsections (d)(1) and (d)(4)(B) of section 408 exempt transactions with affiliate service corporations from certain prohibitions. For the purpose of construing the breadth of these exemptions, however, the Act includes no definition of the term "service corporation."

To clarify the scope of the exceptions in section 408(d), the Board adopted a ruling at 12 CFR 589.3 in 1972, which provided that, for purposes of section 408 of the Act, the term "service corporation" meant a corporation of the type in which a federal association could invest pursuant to 12 CFR 545.9-1. *See* 37 FR 18074 (September 7, 1972). The Board subsequently amended § 589.3 by adding a new paragraph (c), which stated that subsidiary insured institutions may invest in service corporation affiliates to the same extent, and subject to the same limitations, that federal institutions may invest in service corporations pursuant to § 545.9-1. *See* 39 FR 37056 (October 17, 1974). The ruling provides that a service corporation of a subsidiary insured institution may engage only in those activities that are permissible for service corporations of federal associations and, further, that the amount that an institution may invest in a service corporation cannot exceed the amount of investment a federal association may make. These limitations applied to subsidiary insured institutions of both unitary and multiple holding companies. The effect of this ruling has been that state-chartered subsidiary insured institutions have been made subject to federal regulations regarding permissible service corporation investment, whereas those state institutions not owned by a holding company may invest in service corporations to the extent allowed by state law. Where state law allows a service corporation to engage in more activities than a federal service corporation or permits the insured institution to invest more than three percent of its assets in a service corporation, a disparity exists among state-chartered institutions regarding their service corporation investment authority.

The Board published the ruling at § 589.3 pursuant to the authority conferred by section 408(h) of the Act to issue such rules and regulations as are necessary for its administration. The determination by the Board that the term "service corporation" included only entities of the type in which a federal association may invest pursuant to § 545.9-1 was one of policy regarding the means thought most appropriate to administer the Act and accomplish its purposes. The ruling reflected a decision that the resulting lack of parity between state-chartered institutions regarding their authority to invest in service corporations was outweighed by the desirability of having a uniform definition of service corporation in administering the Act. This interpretation of the term "service corporation," however, was not mandated by either the language of the Act or by its legislative history.

The Board has recently reevaluated § 589.3 to determine whether it is

appropriate to foster the disparity in service corporation investment authority among state-chartered insured institutions. As a policy matter, the Board believes that there is no need to impose on a state-chartered insured institution the limitations in § 545.9–1 simply because the institution is owned by a holding company. The Board further believes that there is no legal requirement to retain the existing ruling and that administration of the Act would not be impaired by rescinding the ruling. For this reason, the Board is rescinding § 589.3 with the intention of thereby allowing state-chartered subsidiary insured institutions to invest in service corporations as allowed by state law.

The Board is also amending three of its holding company regulations to incorporate certain technical changes and to make them consistent with the Board's removal of § 589.3. The Board is amending 12 CFR 584.2(c) by changing the cross-reference in that section to 12 CFR 545.9–1(c), which is the present citation to the list of preapproved activities for service corporations of federal associations. Similarly, the Board is amending 12 CFR 584.3(a)(4)(i) by changing the cross-reference in the parenthetical statement to section 545.9–1(d), which is the present citation to the regulation pertaining to the amount of investment a federal association may make in a service corporation. In addition, the Board is amending the parenthetical exemption in § 584.3(a)(4)(i) by adding language that would permit state-chartered subsidiary insured institutions to make loans to their service corporations to the extent permitted by the law of the chartering state. The Board is also amending 12 CFR 584.6(c)(1) by deleting the reference to the limitations imposed by 12 CFR 545.9–1(d)(1) in order that the regulation will be consistent with the rescission of § 589.3.

The Board has determined that the notice and comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.13 are unnecessary because the action pertains to an interpretive rule and the effect of that rule on other Board regulations. For the same reason, and because the amendments relieve restrictions on insured institutions, the Board finds that the delay of effective date provided by 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary.

List of Subjects

12 CFR Part 584

Holding companies, Savings and loan associations, Operations.

12 CFR Part 589

Holding companies, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 584 and 589 of Subchapter F, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

1. Revise paragraph (c) of § 584.2 as follows:

§ 584.2 Prohibited holding company activities.

* * * * *

(c) *Interim approval by the Corporation.* Until further notice by order or regulation, the Corporation, pursuant to paragraph (b)(6) of this section, hereby approves without application the furnishing or performing of such services or engaging in such activities as are specified in § 545.9–1(c) of this Chapter, as now or hereafter in effect, if such service or activity is conducted by a service corporation subsidiary of a subsidiary insured institution of a savings and loan holding company and if such service corporation has legal power to do so.

* * * * *

2. Revise paragraph (a)(4) introductory text and subparagraph (i) of § 584.3 as follows:

§ 584.3 Transactions with affiliates.

(a) *Prohibited transactions.* * * *

(4) Make any loan, discount or extension of credit to:

(i) Any affiliate (other than to a service corporation subsidiary of such insured institution, in the case of a Federal savings and loan association, to the extent permitted by § 545.9–1(d) of this Chapter or, in the case of a state-chartered subsidiary insured institution, to the extent permitted by the law of the chartering state) except in a transaction authorized by paragraph (a)(7)(i) of this section, or * * *

* * * * *

3. Revise paragraph (c)(l) of § 584.6 as follows:

§ 584.6 Holding company indebtedness.

* * * * *

(c) *Exemptions from computation of 15-percent limitation.* * * *

(1) By a service corporation subsidiary of an insured institution subsidiary of a savings and loan holding company, including any wholly-owned subsidiary of such service corporation.

* * * * *

PART 589—BOARD RULINGS

4. Remove § 589.3 as follows:

§ 589.3 [Removed October 27, 1982]

(Sec. 402, 48 Stat. 1250, as amended, sec. 408, 48 Stat. 1461, as added by 73 Stat. 691, as amended (12 U.S.C. 1725, 1730a), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1671)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-30164 11-1-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 590

[No. 82-707]

Usury Preemption; Interpretation

Date: October 27, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final interpretive rule.

SUMMARY: The Federal Home Loan Bank Board adopts two interpretive rulings regarding the effect of the federal preemption of state interest-rate ceilings contained in Section 501 of the Depository Institutions Deregulation and Monetary Control Act. These interpretations address: (1) The status of interpretive rulings issued under Public Law 96–161; and (2) the effect of the preemption on state criminal usury laws.

EFFECTIVE DATE: October 27, 1982.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 ((202) 377–6457).

SUPPLEMENTARY INFORMATION: Section 501 of the Depository Institutions Deregulation and Monetary Control Act (DIDMCA) provides that "the provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any" federally-related loan made after March 31, 1980, and secured by a first lien on residential real property, on a residential manufactured home, or on all the stock allocated to a dwelling unit in a residential housing cooperative. 12 U.S.C. § 1735f–7 note (Supp. IV 1980). The statute authorizes the Federal Home Loan Bank Board to issue rules and publish interpretations governing the implementation of this preemption. (DIDMCA § 501(f), 12 U.S.C. 1735–7 note;

12 CFR 590.5 (1981).) Pursuant to this authority, the Board is publishing interpretive rulings regarding: (1) the status of interpretations issued under Public Law 96–161, the temporary predecessor to Section 501; and (2) the effect of the preemption on state criminal usury statutes.

I. *Section 590.100 Status of Interpretations Issued Under Public Law 96–161*

In December, 1979, Congress enacted Pub. L. 96–161 which included a temporary preemption of state interest ceilings applicable to federally related residential first mortgages. Pub. L. No. 96–161, section 105, 93 Stat. 1233 (1979) (repealed by DIDMCA § 529, Pub. L. No. 96–221, 94 Stat. 168 (1980)). Like Section 501, Pub. L. 96–161 gave the Board interpretative and regulatory authority, *id.* at section 105(c), which the Board used to publish 12 interpretations regarding the effect of the temporary override. 45 FR 2840 (Jan. 15, 1980), 6165 (Jan. 25, 1980), 8000 (Feb. 6, 1980), 15921 (Mar. 12, 1980). When the Board issued regulations under Section 501, it indicated that it would adhere to the positions taken in the prior interpretations. 45 FR 24112 (Apr. 9, 1980).

Since the enactment of Section 501, the Board has not issued any formal agency interpretations of the preemption created by that statute until now. To avoid confusion as to the status of Public Law 96–161 interpretations, the Board begins its new series of interpretations with a specific endorsement of the prior rulings.

II. *Section 590.101 Criminal Usury Statutes*

Questions have been raised regarding the effect of the federal usury preemption on state statutes which deem it a criminal offense to charge interest at a rate in excess of that specified in the state law. An example of such a state statute is the section of the New York Penal Code which provides:

> A person is guilty of criminal usury in the second degree when, not being authorized or permitted by law to do so, he knowingly charges, takes or receives any money or other property as interest on the loan or forbearance of any money or other property, at a rate exceeding twenty-five per centum per annum or the equivalent rate for a longer or shorter period.

N.Y. Penal Law § 190.40 (McKinney Supp. 1981). The New York statute is similar to those of several other states which make it a criminal offense to charge interest exceeding a stated rate.[1]

Petitioners requesting an interpretive ruling by the Board have offered two reasons why this question is not free from doubt. First, the legislative history of Section 501 is ambiguous on whether criminal usury laws are preempted. Such statutes are not specifically mentioned in the committee reports. Petitioners note that Congress seemed primarily concerned with state laws that limited interest rates to 10–20%. *See* 126 Cong. Rec. S3244 (daily ed. Mar. 28, 1980) (remarks of Sen. Proxmire). Petitioners also note a statement by Rep. Hanley, then a member of the House Banking Committee, that the Section permitted market interest rates without real impediments "other than the criminal usury statutes." 126 Cong. Rec. H2285 (daily ed. Mar. 27, 1980). Secondly, petitioners have expressed concern that, because of the strong public policy embodied in state criminal codes, courts may try to reconcile the two statutes rather than allow the federal law to control.

Criminal usury statutes of the above type are used by states to control "loansharking." *Reisman v. William Hartman & Sons, Inc.* 51 Misc. 2d 393, 273 N.Y.S. 2d 295, 297 (1966). The Board notes that preemption would not interfere with the states' interest in protecting their citizens against this activity. Since the federal statute applies primarily to institutional lenders and only to first mortgages, the states' ability to prosecute individuals who engage in extortionate credit practices is unaffected.

In addition, the Board notes that charging a rate in excess of these criminal statutes is only a crime if the lender is "not * * * authorized or permitted by law to do so." New York Penal Code § 190.40. Similar language is found in the other state criminal usury statutes cited by petitioners. While this phrase appears to exempt from penalty loans made under the auspices of the federal law, it is the Board's view that the state statute must yield in any event.

If applied to loans subject to Section 501, state criminal usury statutes would frustrate the purpose of Section 501, which is to free mortgage credit markets from artificial legal restraints. S. Rep. No. 368, 96th Cong., 1st Sess. 19 (1979). Although residential mortgage rates have not reached the ceilings in these statutes, the rates on residential construction loans have approached them and there is the possibility that rates may reach these ceilings at some future date. Because state criminal usury statutes stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress, they must yield to the federal law.

Notwithstanding ambiguous statements made on the floor of the Congress, the express language of Section 501 is clear. The federal statute preempts "any" state constitutional or statutory provision setting a limit on mortgage interest rates. 12 U.S.C. 1735f–7 note (Supp. IV 1980); S. Rep. No. 368, 96th Cong. 1st Sess. 18 (1979).[2] As given classic expression by the Supreme Court, "the meaning or the statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, * * * the sole function of the courts is to enforce it according to its terms." *Caminetti v. United States*, 242 U.S. 470, 485 (1917). The cited state criminal usury statutes without question impose a limit on mortgage interest rates and thus fall within the preemption of the statute. Even where Congress has not completely displaced state law in a particular area, the state law is nullified to the extent that it actually conflicts with federal law. *Fidelity Federal Savings and Loan Association v. de la Cuesta*, 50 U.S.L.W. 4916, 4919 (U.S. June 28, 1982). A conflict arises where the state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). *See also Ray v. Atlantic Richfield Co.*, 435 U.S. 151, 158 (1978); *Jones v. Rath Packing Co.*, 430 U.S. 519, 526 (1977); *DeCanas v. Bica*, 424 U.S. 351, 363 (1976). Whenever a conflict between a state and federal law exists, it is immaterial that the state law was passed pursuant to the state's power to promote the health and welfare of its citizens. *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1, 201 (1824).

There are several cases in which the Supreme Court specifically has held conflicting state criminal laws to be preempted in order to preserve federal

[1] *See, e.g.*, Fla. Stat. Ann. § 687.071 (West Supp. 1980); Mich. Stat. Ann. § 19.15, (F1) (1976); Ohio Rev. Code Ann. §§ 2905.21–24 (Baldwin 1980).

[2] Legislative history generally should be used to interpret a statute only where the language of the statute is ambiguous. 2A Sutherland Statutory Construction § 48.01 (4th ed. 1973) (hereinafter cited as Sutherland]. Floor statements, such as those cited above, are not the most persuasive form of legislative history. Sutherland § 48.13. Moreover, the floor statements on § 501 are themselves contradictory, as the statement of Senator Proxmire, co-sponsor of the bill, implies that the only restraint on interest rates should be the free market. 125 Cong. Rec. S 15262 (daily ed. Oct. 29, 1979). This appears to be a case where the ambiguity of the legislative history forces resort to the plain language of the statute. *United States v. Bass*, 404 U.S. 336, 339 (1971).

statutory schemes. *See Hill v. Florida*, 325 U.S. 538 (1945) (provision of National Labor Relations Act guaranteeing full freedom of choice in selecting local business agents preempts state law making it a crime for a convicted felon to serve in that capacity); *McDermott v. Wisconsin*, 228 U.S. 115 (1913) (merchant could not be criminally prosecuted under state labelling law for selling syrup in packages which conformed to federal regulations); *Easton v. Iowa* 188 U.S. 220 (1903) (state could not sentence national bank officer to five years' hard labor for accepting deposit while bank was insolvent since insolvency of national bank is matter of federal law).

The only other possible basis for sustaining the state statutes would require a finding that the federal statute is invalid. The courts, however, have upheld the authority of Congress to preempt state interest ceilings under its Commerce Clause powers. *See Stephens Security Bank v. Eppivic Corp.*, 411 F. Supp. 61 (W. D. Ark. 1976); *McInnis v. Cooper Communities, Inc.*, 611 S.W. 2d 767 (Ark. 1981). Moreover, the Supreme Court has held that Congress can regulate loansharking activities under those same powers. *Perez v. United States*, 402, U.S. 146 (1971).

Preemption of the New York criminal usury statute comports with long-standing notions of federalism. Section 501 was enacted to ensure that mortgage credit was available in all states. S. Rep. No. 368, 96th Cong., 1st Sess. 18–19 (1979). The displacement of state ceilings was also deemed necessary to preserve the federal system of monetary control. *Id.* This was a problem that could be remedied only at the national level. This major federal interest would be defeated by inconsistent state criminal usury statutes. *See Douglas v. Seacoast Products, Inc.*, 431 U.S. 265, 286 (1977).

List of Subjects in 12 CFR Part 590

Banks, banking, Mortgages, Savings and loan associations, Usury.

The Board has determined that the notice and public comment procedures of 5 U.S.C. 553(b) and 12 CFR 508.12 and the delay of effective date provided under 5 U.S.C. 553(d) and 12 CFR 508.14 are unnecessary because the interpretations constitute interpretative rules within the meaning of 5 U.S.C. 553(b)(3)(A) and 12 CFR 508.11, and 5 U.S.C. 553(d)(2) and 12 CFR 508.14, respectively.

PART 590—PREEMPTION OF STATE USURY LAWS

Accordingly, the Board amends Part 590, of Subchapter G, Chapter V, Title 12 Code of Federal Regulations, as set forth below.

1. Add two new sections to read as follows:

Interpretations

§ 590.100 Status of Interpretations issued under Public Law 96–161.

The Board continues to adhere to the views expressed in the formal Interpretations issued under the authority of Section 105(c) of Pub. L. 96–161, 93 Stat. 1233 (1979). These interpretations, which relate to the temporary preemption of state interest ceilings contained in Pub. L. 96–161, may be found at 45 FR 2840 (Jan. 15, 1980); 45 FR 6165 (Jan. 25, 1980); 45 FR 8000 (Feb. 6, 1980); 45 FR 15921 (Mar. 12, 1980).

§ 590.101 State criminal usury statutes.

(a) Section 501 provides that "the provisions of the constitution or laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges shall not apply to any" federally-related loan secured by a first lien on residential real property, a residential manufactured home, or all the stock allocated to a dwelling unit in a residential housing cooperative. 12 U.S.C. 1735f–7 note (Supp. IV 1980). The question has arisen as to whether the federal statute preempts a state law which deems it a criminal offense to charge interest at a rate in excess of that specified in the state law.

(b) In the Board's view, Section 501 preempts all state laws which expressly limit the rate or amount of interest chargeable on a federally-related residential first mortgage. It does not matter whether the statute in question imposes criminal or civil sanctions; Section 501, by its terms, preempts "any" state law which imposes a ceiling on interest rates. The wording of the federal statute clearly expresses an intent to displace all direct state law restraints on interest. Any state law that conflicts with this Congressional purpose must yield.

(Depository Institutions Deregulation and Monetary Control Act Section 501, 12 U.S.C. 1735f–7 note)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–30221 Filed 11–2–82; 8:45 am]

BILLING CODE 6720–01–M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations Provisions

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, is amending its regulation dealing with loans that are subject to bank approval. This amendment eliminates the prior approval requirements for certain types of loans and specifies which Farm Credit System bank is responsible for approving loans to directors, officers, and employees of System institutions.

EFFECTIVE DATE: December 3, 1982.

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

SUPPLEMENTARY INFORMATION: On June 14, 1982, the Farm Credit Administration noticed and published for public comment a proposed amendment to 12 CFR Part 614 (47 FR 25535) which would amend regulation § 614.4470. The Federal Farm Credit Board (Board) considered each of the comments received and adopted the final regulation at its October 4–6, 1982 meeting.

The amended regulation eliminates the prior approval requirements for certain types of loans and clarifies which bank has responsibility for reviewing and approving individual loans. The prior regulation required that all loans by System institutions to bank officers and employees and association directors, officers, and employees were subject to prior approval by the district bank. The amended regulation eliminates the prior approval requirement when the association in which the loan originates does not employ the borrower, is not under joint management with the association employing the borrower, or is not supervised by the bank which employs the borrower. For example, under the amended regulation a production credit association (PCA) employee does not need prior approval for a Federal land bank association (FLBA) loan unless the PCA and the FLBA are under joint management. Similarly, a Federal intermediate credit bank (FICB) employee does not need prior approval for a loan from a Federal land bank (FLB). The amended regulation clarifies that when approval is required it must

be given by the bank supervising the association in which the loan originates.

The term "controls" as used in subsection (b)(2) means: Ownership of 5 percent or more of the equity; owning, controlling, or having the power to vote 5 percent or more of any class of voting securities; or having the power to exercise a controlling influence over the management or policies of such entity.

Eight comments were received which supported the proposed amendment. One additional comment recommended that subsection (a)(5) should be limited to include only loans to bank employees who are in a position to exercise influence over association personnel. The Board does not believe that the regulation should provide exceptions from prior approval of the type suggested. The regulation ensures adequate monitoring of System lending activities with employees and will not create any hardship for employees who are properly carrying out their duties and responsibilities.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Credit, Rural areas.

PART 614—LOAN POLICIES AND OPERATIONS

For the reasons set out in the preamble, Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as shown.

Subpart M—Loan Approval Requirements

Section 614.4470 is revised to read as follows:

§ 614.4470 Loans subject to bank approval.

(a) The following loans (unless such loans are of a type prohibited under Part 612) shall be subject to prior approval of the bank supervising the association in which the loan application originates:

(1) Loans to a director of the association.

(2) Loans to a director of an association which is under joint management when the application originates in one of the associations.

(3) Loans to an employee of the association.

(4) Loans to an employee of an association which is under joint management when the application originates in one of the associations.

(5) Loans to bank employees when the application originates in one of the associations supervised by the employing bank.

(b) Loans to any borrower shall be subject to the prior approval of the bank supervising the association in which the loan application originates whenever a director or an employee of the association or an employee of the bank supervising the association:

(1) Will receive proceeds of the loan in excess of the amount prescribed by the supervising bank board and approved by the Farm Credit Administration, or

(2) Has a significant personal or beneficial interest in the loan, the proceeds, or the security, or controls the borrower, or

(3) Is an endorser, guarantor, or comaker with respect to the loan in excess of an amount prescribed by the supervising bank board and approved by the Farm Credit Administration.

(c) Any loan which will result in any one borrower being obligated (as defined in § 614.4360(b)) in excess of an amount established by the supervising bank under its policies for delegation of authority to associations shall be subject to prior approval of the supervising bank.

* * * * *

(Sec. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, (12 U.S.C. 2243, 2246 and 2252.))

Donald E. Wilkinson,

Governor.

[FR. Doc 82-30198 Filed 11-02-82; 8:45 am]

BILLING CODE 6705-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Regulation ER-1300; Econ. Reg. Amdt. 46 to Part 241]

Uniform System of Accounts and Reports for Certificated Air Carriers; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that on September 21, 1982, the Office of Management and Budget (OMB) approved the revised reporting requirements in Part 241 of the Board's Economic Regulations (ER-1297, 47 FR 44591, October 8, 1982). OMB approval is required under the Paperwork Reduction Act of 1980.

DATES:

Adopted: October 22, 1982.

Effective: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

Accordingly, the Civil Aeronautics Board amends Part 241 of its Economic Regulations (14 CFR 241) by revising the note at the end of Part 241 to read:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget under number 3024-0013.

This amendment is issued by the undersigned pursuant to delegation of authority form the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR. Doc 82-30261 Filed 11-2-82; 8:45 am]

BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Economic and Public Interest Requirements for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of interpretive guideline as an Appendix.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined to revise its Guideline on Economic and Public Interest Requirements for Contract Market Designation. 40 FR 25849 (1975), 1 Comm. Fut. L. Rep. [CCH] ¶ 6145. This revision clarifies present requirements for initial and continued designation as contract markets under Sections 5 and 5a of the Commodity Exchange Act, 7 U.S.C. 7 and 7a (1976 and Supp. IV 1980) ("Act"). The revised guideline is being published as an Appendix to Part 5 of the Commission's regulations in order that affected persons and the public will be better aware of the Commission's policies.

EFFECTIVE DATE: November 3, 1982.

FOR FURTHER INFORMATION CONTACT: Blake Imel, Deputy Director, or Paul M. Architzel, Chief Counsel, Division of Economics and Education, telephone (202) 254-3203; 254-6990. Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: Commission Guideline No. 1,[1] provides

[1] 40 FR 25849 (1975), 1 Comm. Fut. L. Rep. [CCH] ¶ 6145.

criteria by which the Commission determines whether a board of trade has complied with the economic and public interest requirements for contract market designation. In order for the board of trade to obtain designation as a contract market pursuant to Section 6 of the Act, it must meet those standards contained in Section 5 of the Act. See 7 U.S.C. 7 and 8 (1976 and Supp. IV 1980). After designation has been granted, a contract market must continue to satisfy those initial criteria and must also comply with additional requirements set forth in Section 5a of the Act. 7 U.S.C. 7a (1976 and Supp. IV, 1980).

On November 5, 1980, the Commission published for public comment proposed Rule 5.1 (45 FR 73504). The Commission thereby proposed:

> to replace its present Guideline No. 1 with this proposed rule in order to (1) provide boards of trade with more specific criteria for initial and continued compliance with Sections 5 and 5a of the Act for applications for contract market designation and for all currently designated contract markets, and (2) reflect specific requirements relating to proposed futures contracts based on financial instruments and aggregates or indices of securities. In addition, the Commission believes that this proposed rule will provide a uniform procedural framework within which boards of trade shall be required to meet their burden of demonstrating, both initially and for purposes of continued designation, compliance with the Act.
>
> 45 FR 73504 (footnote omitted).

The Commission provided approximately three months for public comment on the proposed rule and later extended the comment period by an additional thirty days. 46 FR 9958 (January 30, 1981). Five commodity exchanges and two members of the public commented on the proposal. Two commentators supported the proposed rule.

The five boards of trade which submitted comments opposed various sections of the proposed rule on several grounds. Several of them posed the fundamental question of whether Guideline No. 1 should be codified as a Commission rule. They contended that application for designation as a contract market requires a high degree of flexibility because contracts on various commodities differ greatly. By codifying Guideline No. 1, they contended, this flexibility would be lost.

The Commission does not agree that codification of Guideline No. 1 is fundamentally inappropriate in light of the nature of the designation process. However, it is the Commission's experience that an interpretive guideline adequately establishes the necessary framework for reviewing applications for contract market designation. Accordingly, the Commission is not at this time promulgating revised Guideline No. 1 as a Commission rule, but instead has determined to revise and readopt Guideline No. 1 as an interpretive statement.

In revising and readopting Guideline No. 1 as an interpretive statement, the Commission has carefully considered the comments submitted in connection with its proposal to codify Guideline No. 1 as a Commission regulation. Accordingly, as a result of its consideration of these comments, the Commission has made several changes in the revised guideline from that which was proposed as a Commission regulation.[2]

In addition, the Commission has included in the guideline, criteria also proposed in connection with the extension of the Commission's pilot option program to include options on physicals, insofar as these criteria will apply to applications for designation in futures and may apply to options on physicals, should the option rules be adopted. This has been added to the guideline so that the common requirements relating to the composition of designation applications will be located in a unified guideline.

Initially, these criteria were included in, and have been published for public comment as part of, the proposed rules governing the extension of the Commission's pilot program to include options on physicals. 47 FR 28401 (June 30, 1982). In particular, proposed Commission options on physicals Rules 33.4(a)(7), (a)(8), and (a)(9), have been incorporated into the guideline. The comments received by the Commission in response to its request for public comment on these proposed options rules have been carefully considered by the Commission in incorporating these criteria for designation into the revised guideline.[3]

[2] It should also be noted that the Commission anticipates that certain additional revisions to the guideline may be made at a later time to conform the guideline to any amendments in the Act. In this regard it should be noted that bills to reauthorize the Commission and to amend the Act are currently pending before the Congress. See H.R. 5447 and S. 2109, 97th Cong., 2d Sess. (1982).

[3] The Commission is incorporating into Guideline No. 1 the requirements for applications for designation of options on physical commodities based upon the pending proposed rules for the extension of its pilot option program. Of course, even if the Commission were to determine not to adopt these proposed option rules, or modify them substantially, Guideline No. 1 would nevertheless be applicable to applications for designation as futures contract markets.

I. Statutory Authority

Several commentators questioned whether the Commission in issuing this guideline as either a rule or as an interpretation of the Act is within its statutory authority. They contended that the guideline includes requirements for designation not found in the Act. They further stated that because the exchanges' self-interest insured that only well-designed contracts whose existence would be in the public interest would be traded, a detailed guideline for designation applications was unnecessary. By adopting the guideline, they reasoned, the Commission was imposing additional and unwarranted costs on the exchanges and was thereby stifling innovation. Several commentators also suggested that issuance of a revised guideline by the Commission would have an anticompetitive effect and is contrary to the requirements of Section 15 of the Act.

The requirement that boards of trade demonstrate that they meet specified conditions in order to be designated as contract markets has been a fundamental tool of federal regulation over commodity futures exchanges since the Future Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921).[4] At present, the requirements for initial and continuing designation are found in Sections 5 and 5a of the Act. Included among these provisions is the requirement of Section 5(g) of the Act that exchanges demonstrate that trading in a proposed contract is not contrary to the public interest.[5]

[4] For example, designation as a contract market under the 1921 Act was contingent upon a board of trade's providing for the prevention of manipulative activity and the prevention of dissemination of false information, upon providing for certain types of recordkeeping, for admission into exchange membership of cooperative producer associations, and upon location of the contract market at a terminal cash market. *See*, §§ 5(a), (b), (c), (d), and (e) of the Future Trading Act of 1921. Although the consitutionality of the Future Trading Act of 1921 was successfully challenged as an improper use of the Congressional taxing power in *Hill* v. *Wallace*, 259 U.S. 44 (1922), subsequent legislation was patterned after this statute.

[5] These requirements also include location of the contract market at a terminal cash market or provision for terms and conditions as approved by the Commission (5(a)); provision for recordkeeping (5(b) and 5a(2)); prevention of dissemination of false information (5(c)), and of price manipulation (5(d)); provision for membership of cooperative associations (5(e)); and provision for compliance with Commission Orders issued under the Act (5(f)). Moreover, contract markets must submit their rules to the Commission (5a(1) and (12)) and continue to meet such economic criteria as providing for notice of delivery dates (5a(5)), and for a period for delivery on the contract which will prevent market congestion (5a(4)); providing that futures contracts conform to United States commodity standards or to standards adopted by the Commission (5a(6));

The Commission's guideline is intended to provide contract markets with a uniform, specific means of demonstrating their ability to comply with these statutory requirements. The revised guideline is composed of four sections. As discussed in greater detail below, these sections require an exchange to describe the cash market underlying its proposed contracts; to analyze the contract's terms and conditions including, among others, the terms of the contract concerning delivery; to analyze the economic purpose to be served by the contract; and to discuss any other issues which might relate to whether trading of the contract is contrary to the public interest. Although the guideline is more specific and detailed than is the statute, the relationship between these four sections and the statutory requirements for designation is readily apparent.[6]

Several commentators contended that Congress intended that the Commission encourage exchanges to seek designation as contract markets in new commodities. They contended that in order to promote innovative designations the Commission must reduce the demonstration of compliance with the Act necessary to obtain designation. First, the Commission does not believe that the Congressional interest in facilitating more innovative use of futures instruments was intended to compromise the exchanges' burden to demonstrate compliance with the applicable statutory requirements for designation. Indeed, Congress has not made any changes which would lessen the substantive requirements applicable to designations. Moreover, the Commission does not believe that its revision to Guideline No. 1 is contrary to market innovation. To the contrary, this revision to Guideline No. 1 will assure that the guideline reflects existing practices and innovations which have occurred in the development of new futures contracts.[7] Indeed, the framework of this revised guideline should facilitate the application process and should assist the exchanges in filing more complete applications. The Commission anticipates that adherence to the guideline will reduce the necessity for supplementary and additional filings by the exchanges, and thus aid the Commission in its review of new contact market designations.[8]

Finally, several boards of trade opposed revision of Guideline No. 1 on the grounds that such a revision would adversely affect competition. They contended that smaller exchanges are unable to bear the costs of completing the application process for contract market designations, that all United States boards of trade suffered a competitive disadvantage because foreign exchanges do not have similar regulatory requirements and are not required to obtain approval of their governments in initiating new contracts, and that Guideline No. 1 was intended by the Commission to be a means of granting franchises.

These comments are without merit. The Commission is required under Section 15 of the Act, 7 U.S.C. 19 (1976) to "take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act as well as the policies and purposes of this Act." * * *"

As explained above, the requirement that contract markets obtain Commission approval before new contracts begin to trade, so that producers and consumers are assured that trading is in the public interest, is a fundamental objective of the Act. Accordingly, all exchanges must meet the same criteria, and must meet the same public interest standard, as mandated by Congress.

In any event, past experience indicates that all contract markets, regardless of size, have been able to comply with the requirements of Guideline No. 1. Moreover, since 1975, when the guideline was first set forth, three new exchanges have entered the futures markets in the United States.[9] In addition, it is not apparent that the type of regulation imposed by foreign governments on foreign exchanges has adversely affected the ability of United States exchanges to innovate and remain competitive. Finally, it has never been the Commission's policy to grant exclusive franchises. Rather, the Commission has designated all futures contracts which can successfully meet the statutory and regulatory criteria for designation.

1. *Section A of the Guideline.*

As the Commission noted in its **Federal Register** notice of November 5, 1980, the public interest test for contract market designation contained in Section 5(g) of the Act, 7 U.S.C. 7(g) (1976), requires that contract terms and conditions must reflect commercial practices in the underlying cash market.[10] The absence of such conformity between cash market practices and the futures market may result in a failure of the contract to serve a hedging or price basing function or may increase the potential for manipulations or market congestion. In order for the exchanges to demonstrate the conformity of the terms of the proposed futures contract to cash market practices, it is necessary for the exchange to describe various aspects of the existing cash market.

Section A of Guideline No. 1, therefore, provides that a description of the cash market shall be provided. This analysis should include, where applicable, information on the production and consumption of the underlying commodity, on the nature and structure of cash marketing channels and of the manner in which the

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accepting warehouse receipts issued under United States law and requiring warehouses to keep certain records (5a(3) and (7)); enforcing exchange rules (5a(8)); and permitting delivery on contract of such qualities, and at such points and at such differentials as will minimize market disruptions (5a(10)).

[6] *See Investment Company Institute* v. *Camp*, 401 U.S. 617, 626–627 (1971); *Udall* v. *Tallman*, 380 U.S. 1, 16 (1965), (interpretation of statute is sustained where reasonable). *Cf. Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 369 (1973); *Board of Trade Clearing Corp.* v. *United States*, 77–80 Transfer Binder, Comm. Fut. L. Rep [CCH] ¶20,534 at p. 22,207 (D.D.C. 1978), *aff'd per curiam sub nom., Board of Trade Clearing Corp.* v. *CFTC*, No. 78–1263 (D.C. Cir. March 29, 1979); (rulemaking sustained when reasonably related to purposes of the statute).

[7] As noted in publishing for comment proposed Rule 5.1, the Commission believes that the revised guideline merely reflects the current requirements under the Act and are those which it has imposed on all boards of trade applying for designation since April 21, 1975. During that time period, futures trading has been initiated in a number of additional commodities with a wide variety of contract terms; most notably futures contract pertaining to interest rates. Further, under these requirements, the Commission has recently designated contracts which rely solely on cash settlement in lieu of physical delivery, and contracts based on indices of the value of an aggregate of securities.

[8] Other commentators suggested that the cost of the application process was not justified because the exchanges' self-interest would achieve the statutory goals of well-designed, economically beneficial contracts, without Commission oversight. However, even if the commission's revisions to Gudieline No. 1, or its review of applications in general, did have the effect of erecting a regulatory obstacle to the trading of new contracts and thereby increasing certain costs to the exchanges, the Congress intended to subject such contracts to Commission review.

[9] Of the three new exchanges—Amex Commodity Exchange, Inc., New York Futures Exchange, and New Orleans Commodity Exchange—the latter two are still actively trading.

[10] As noted, Section 5(a) of the Act requires the location of the contract market at a terminal market except when a board of trade provides for terms and conditions approved by the Commission. Section 5(d) provides for the prevention of manipulation by the board of trade, and Section 5a(10) requires delivery on contracts of such qualities of the commodity at such points at differentials as will prevent or diminish price manipulation, market congestion, or abnormal movements of the commodity. The Commission interprets these sections, in addition to Section 5(g), as pertaining to the conformity of contract terms to conditions in the underlying cash market.

commodity is stored, transported and in which ownership is financed.[11]

One commentator suggested that, as proposed in Rule 5.1, the requirements of this section were overly comprehensive and would cause exchanges to unnecessarily expend resources to respond to factors which may not be applicable to every application. The commentator further suggested that the language of proposed Regulation 5.1 which required that exchanges describe the cash market in its entirety and, where applicable, the segment which is the source of supply for delivery, was ambiguous.

In view of these comments, the Commission has made clear in the revised guideline that the purpose of the cash market description is to support the justification of individual contract terms and the demonstration of economic purpose. The Commission believes that this statement of purpose concerning the cash market description will assist the exchanges in determining those segments of the cash market which are relevant to the various aspects of its submission and the nature of the information which it should provide. For instance, to support its justification of individual contract terms, an exchange may find it appropriate to describe in some detail the aspects of a regional cash market (including storage and transportation) which will be the source of deliverable supply while describing with less specificity a more broadly defined cash market in which the contract may also be used for hedging and price basing. In addition, the Commission recognizes that the relevant segments of the cash markets for certain physical commodities may be international in scope, while others are merely national or regional in scope. Thus, the relevant sgments to be described will vary depending upon the contract. Finally, while the Commission's Guideline contains several categories of information which should be considered by the exchange, the Commission anticipates that not every item of paragraphs (1)–(4) of Section A of the guideline will apply equally to each contract.

The information required under this section includes, where applicable, statistical data. That data should be compiled for a period of time sufficient to reflect historic patterns of production, consumption, and exchange of the commodity. The guideline provides that, in the absence of a justification supporting a shorter period, five years is the minimum time period for review.

At least one commentator suggested that this requirement for data was burdensome. The commentator maintained that in some cases it is costly to compile data, that data collected by conventional means may be unreliable, and that the five year period was unreasonable. The Commission did not intend by this requirement to require data to be provided where data was obtainable only at unreasonable expense or through unreasonably burdensome methods. Accordingly, the guideline provides that if the board of trade cannot obtain the requisite data through a reasonable effort, interviews with persons having knowledge of the cash market may substitute for, or may supplement, the statistical data to be provided. Moreover, the requirement that data be provided for at least a five year period is meant to serve only as a bench mark in cases where such data is readily available and will accurately reflect relevant economic trends. As in proposed Rule 5.1 the revised guideline provides that a shorter period of time may be used where justified.[12]

2. *Section B of the Guideline:*

Section B of revised Guideline No. 1 requires a board of trade applying for contract market designation to justify individual contract terms and conditions, particularly in light of the underlying cash market. As noted above, the Commission believes that a departure of contract terms from current cash market conditions may result in an increased potential for market disruptions[13] or may result in the failure of the contract to serve a hedging or price basing function. Accordingly, the Commission reviews contracts to assure that the terms and conditions reflect commercial practices in the underlying market, or in the absence of such conformity, that the variance will not be detrimental to orderly trading in the contract, or result in a failure to serve an economic purpose.

The Commission is requiring in the revised guideline that the justification for the terms and conditions for proposed contracts be supported, where practicable, by statistical data as provided in paragraph (5) of Section A of the guideline. It is not the Commission's intent to require exchanges to develop statistical data where the cost of supply such data would be unreasonable. Again, however, the Commission intends that in the absence of such data the exchanges will supply a reasonable explanation and will supply interviews with or statements by persons knowledgeable concerning the cash market.

In revising the guideline, the Commission is not including a provision which was included in paragraph (b) of the proposed Rule 5.1. That provision would have required a demonstration that each individual term or condition of the contract support a price basing or hedging use of the contract. The Commission is of the opinion that this requirement concerning the relationship of contract terms to the economic purpose of the contract is sufficiently addressed under paragraphs (1) and (2) of Section C of the revised guideline. In addition, a specific term or condition of a contract may not further use of the contract for price basing or hedging. Nevertheless, the contract, when taken as a whole, may be well designed and may be used for hedging or for price basing. Accordingly, the Commission believes that the requirement that the exchange make such a demonstration with respect to each term of a contract is unnecessary.

Of course, that is not to say that no individual terms of the contract must be demonstrated to further the hedging or price-basing use of the contract. The exchange is expected to make such a demonstration for the terms and conditions of the contract as part of its analysis under Section C of the guideline. And, the Commission will review all of the terms of the contract, to

[11] Section (a)(4) of proposed Rule 5.1 required information concerning "the nature and structure of the transport, communication, storage, and financing sectors which support the commodity underlying the proposed contract." One commentator suggested that such comprehensive information on supporting sectors of the economy is unnecessary for consideration of contract terms. Upon reconsideration, the Commission concurs that in most cases, this is true. Accordingly, the requirements of the revised guideline have been amended to require a less comprehensive description of these functions as they apply to the described commodity.

[12] In determining whether data required under Sections A and B of the revised guideline is reasonably available, the Commission will balance the costs to the exchange of obtaining or developing such data and the essential nature of the information in demonstrating that the terms of the contract are in compliance with the relevant sections of the Act. In so doing, the Commission reserves the right to overrule the balance struck by the exchange in its justification.

[13] One commentator suggested that the Commission's interest that contracts be protected from disruptions resulting from manipulation or shortages in supplies is "adequately promoted by the affirmative action requirements of Guideline No. 2." The Commission disagrees to the extent that it believes that adequate contract terms and conditions provide an important prophylactic measure in reducing the potential for disruptive market situations. *See* Footnote 10, *supra*. For instance, Section 5a(10) of the Act clearly provides that contract terms concerning delivery locations, deliverable grades and the differentials applied thereto must tend to prevent or eliminate price manipulations, market congestion, or abnormal movements of the commodity.

ascertain whether any of them prevents, or significantly impairs, the contract from serving as a hedging or price basing mechanism.

The individual terms and conditions to be justified under Section B of the revised guideline include the par and non-par commodity characteristics, delivery locations, contract differentials, delivery facilities, trading months, delivery pack and size, inspection and certification procedures, the delivery instrument, significant costs of delivery and specified minimum and maximum price fluctuations. One commentator suggested that no contract could conform in all of the above terms and conditions to cash market practices. The commentator suggested as an example that the size of transportation units to delivery points may differ from those going away from delivery points. Therefore the commentator suggested, the contract which could not be in complete conformity to cash market practices if it selected either of, or a compromise between, these transportation units, would be in violation of the guideline.

The Commission, however, does not believe that such a result necessarily follows. The guideline is intended to provide a framework by which exchanges analyze their contract terms and provides that, to the extent a term or condition is not in conformity with prevailing cash market practices, the board of trade shall provide a justification for the variance. This justification must demonstrate that the term or condition is necessary or appropriate for the contract and will result in sufficiently available and saleable deliverable supplies.

The guideline requires that the delivery months in contracts be specified and that certain criteria relating to the selection of those months be discussed. These criteria include the seasonality of deliverable supplies, availability of warehouse space, availability of transportation facilities, and any other factor which may affect the viability of each future month. One commentator stated with respect to this requirement that the exchanges were aware of the criteria by which proper selection of delivery months was made and that selection of this term of the contract was best left to the unreviewed discretion of the exchanges.

The Commission does not agree. Selection of delivery months by an exchange must be reviewed by the Commission. The delivery months selected are important terms of many contracts, and in those instances proper selection of months may be crucial to freeing contracts from susceptibility to price distortions and manipulations. Accordingly, review of contract months is essential to the Commission's review of designation applications and to a determination that such trading would not be contrary to the public interest.

Two commentators objected to specific language concerning the justification of particular individual contract terms and conditions under paragraph B of proposed Rule 5.1 on the grounds that the justification required was excessive or the requirements were ambiguous. In light of these comments the Commission has made certain clarifying amendments to paragraphs (2)(b)(i); (2)(j); and (3) of Section B of the revised guideline. For instance, with respect to the justification of delivery points the Commission has revised the language to require that the exchanges supply a description of the "composition of the market" rather than the "number of major buyers and sellers" as in the proposed Regulation 5.1. Similarly, language concerning the justification of cash settlement procedures now reflects that exchanges submit information pertaining to final settlement of contracts at a "value reflecting the underlying cash market" rather than an "economic value."

Finally, to facilitate exposition of the required justification, the Commission has consolidated and reordered, and reworded certain requirements concerning individual contract terms and conditions in Section B of the revised guideline. However, these changes are editorial in nature and do not alter the substance of the requirements of proposed Rule 5.1.

3. *Sections C and D of the Guideline:*

Congress made clear when it adopted the public interest test of Section 5(g) of the Act, that the public interest test is broader than, and includes, an economic purpose test. *See*, S. Rep. 1194, 93rd Cong. 2d Sess. 36 (1974).[14] The economic purpose test requires a board of trade to demonstrate that transactions for future delivery in a commodity are, or reasonably can be expected to be, quoted and disseminated for price basing, or utilized as a means of hedging against possible loss through fluctuations in price.

Section C of the revised guideline details the type of information which should be provided by exchanges in order to demonstrate that a contract meets the economic purpose test. As in the proposed Rule 5.1, individual sections of the revised guideline apply to the information on economic purpose which must be supplied at the time of initial designation, as well as the requirements for continuing designation. For initial designation, the evidence must be prospective, of course, and include a consideration of the cash market participants and institutions and the price basing or hedging characteristics of the major contract terms. In addition, under the revised guideline, the Commission staff may request that a contract market applying for designation supply statements from, or reports of interviews with, potential users of the contract which convey specifically the manner and circumstances under which these persons may be expected to utilize the contract for pricing or hedging.

Several commentators objected to the requirement of proposed Rule 5.1 which would have required on a routine basis, statements from, or reports of interviews with, potential market users concerning specifically how that person would use the market. These commentators suggested that such statements require market users to give hypothetical examples which could be supplied directly by the exchange, that market participants would be unwilling to give a detailed description of their business practices, and that merely obtaining a statement of interest on the part of the potential market user is adequate for Commission review.

The Commission believes that statements which detail how the market participant will use the contract to hedge are an important source for corroborating the exchange's analysis of how the proposed contract can be used for hedging or for price basing. Of course, the Commission realizes that until actual trading experience occurs, all such specific analyses are based on hypothetical examples or upon analogies to existing market experience. Nonetheless, such statements are of greater value to the Commission than a mere statement of interest by a market participant.

[14] One commentator suggested that the public interest test precludes the use by the Commission of an economic purpose test. As noted above, however, this interpretation is plainly contrary to the legislative history of Section 5(g) of the Act.

Another commentator suggested that a market test is the only means of determining economic purpose. The Commission disagrees with this comment. Among other things, Section 5(g) establishes conditions for initial designation when no market experience exists. Of course, that is not to say that market experience is never a factor to be considered in determining the economic purpose of a contract. Indeed, the Commission has recognized in the revised guideline that market experience may be a factor in determining whether an existing contract meets the economic purpose requirements. *See also*, 47 FR 29515–21 (July 7, 1982), for a discussion of Commission Rules 5.2 and 5.3, on dormant and low volume contracts.

The Commission has determined under the revised guideline, however, not to routinely require statements from, or reports of interviews with, potential market users concerning economic purpose. Among other things, the Commission has considered that in recent years a large number of proposed futures contracts considered by the Commission have been closely related to, or have essentially duplicated, existing contracts which have been approved recently or which are being actively traded. Under these circumstances, the Commission may already have sufficient evidence of potential hedging or pricing use of the contract, provided that its terms and conditions are in conformity with a significant segment of the underlying cash market.

In other cases, the structure of, and trading practices in, the underlying cash market and the terms of the contract may sufficiently demonstrate a contract's potential economic purpose. In view of this, under the revised guideline statements of, or reports of interviews with, trade sources are required only upon request. The Commission anticipates that such requests may be made, in those cases where, for example a contract is proposed for a cash market where no prior relevant futures trading experience exists, or where unique aspects of a contract might raise questions about its potential economic purpose.

The Commission has considered that this approach under the revised guideline might lead to delays in the processing of an exchange's application in the event that the staff finds it necessary to request such materials concerning potential market use during the review process. The Commission notes, however, that a board of trade is not precluded from submitting these materials with the initial application, and that such requests may be anticipated in those instances where novel contract terms are incorporated into the contract or where there is a lack of previous relevant trading experience in a particular commodity.

In revising Guideline No. 1, the Commission has determined not to include the requirement contained in the proposed rule that an exchange applying for designation in a commodity which is already trading on another exchange relate the trading experience of the other exchange to its application. The Commission has determined not to include this requirement because it is familiar with the trading history and patterns of those contracts already designated, and may be in a better position to ascertain information about those contracts than is a competing exchange. Of course, in certain instances, where issues involving the trading of other futures contracts are critical to a determination of whether designation of the pending applicant is in the public interest, the staff may require a contract market applying for designation to address this issue.

Section C of the guideline also includes a framework for demonstration of compliance with the economic purpose requirements for continuing designation. This provides that where an exchange is required to justify its continuing designation, a demonstration of economic purpose shall include an evaluation of the actual trading experience in the contract in terms of commercial usage and price basing, and an evaluation of the extent to which commercial participation constitutes hedging. This requirement is consistent with those portions of the legislative history which indicate that a primary test for economic purpose of an existing contract includes trading experience in the market.[15]

Several commentators took issue with this requirement on the grounds that it was unnecessary for a contract market in order to justify its continuing designation under a Commission Rule 1.50 request, 17 CFR § 1.50 (1981), to fulfill all of the requirements of the revised Guideline No. 1. Others maintained that this section was unnecessary in light of the Commission's low-volume contract rule, Commission Rule 5.3, 47 FR 29515 (1982) (to be codified in 17 CFR § 5.3). The revised Guideline is not inconsistent with either of these regulations.

The information required under Commission Rule 1.50 is specified by the Commission in its request. Accordingly, the Commission would determine on a case-by-case basis what sections of the guideline are included in the request for information. Thus, the Commission might require a board of trade to provide information with respect to one or all of the sections of revised Guideline No. 1, or it may even require additional information, depending upon the circumstances. Moreover, this guideline is not inconsistent with the low volume contract rule, Rule 5.3. That rule provides an alternative to Commission Rule 1.50. The information to be provided by the exchange under that rule, is far less than may be requested by the Commission under Commission Rule 1.50.

Section (d) of proposed Rule 5.1 required an affirmation of public interest. The Commission has determined not to include several of the subsections in the public interest requirement of the revised guideline which were provided for in the Commission's proposed Rule 5.1 (d).[16] Accordingly, the Commission is not requiring with each designation application under the revised guideline a demonstration of the efficacy of an exchange's rule-enforcement program.

The maintenance of an effective rule-enforcement program is a continuing obligation of each exchange and a requirement for initial or continuing designation of any exchange as a contract market. As such, the Commission routinely reviews rule-enforcement programs of the various exchanges independently of whether an exchange has applied for contract market designation. In conjuction with the staff's continuing oversight of the exchanges' rule-enforcement programs and with its review of initial designations, the staff may also request from an exchange a further explanation or a demonstration of how its existing programs will accommodate an additional contract, if designated. Moreover, an exchange may be required to submit to the Commission a demonstration of how it would adapt its surveillance program to unique aspects of a particular contract, should the staff so request. Given the ongoing nature of the Commission's oversight of exchange rule-enforcement programs, the Commission believes that such specific requests are better made in the particular circumstances where it is warranted. Accordingly, the Commission believes it is generally unnecessary for the exchanges to submit a justification of their overall programs as a routine aspect of the application process.

In addition, in revising the guideline the Commission has determined not to include certain routine requirements for contracts based on an aggregate of securities or an index thereon ("stock index") and any security issued or guaranteed by the United States or any agency thereof (U.S. debt security) which were contained in subparagraphs (d)(3) and (d)(4) respectively, of the proposed Rule 5.1.[17]

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[15] H.R. Rep. No. 975, 93d Cong. 2d Sess. 29 (1974).

[16] As part of the required affirmation of public interest, boards of trade were required to submit evidence that trading was not contrary to the public interest. That evidence required a demonstration of compliance with Commission Guideline No. 2, including a demonstration of the efficacy of the board of trade's enforcement program and a demonstration that the board of trade had in place a flexible program for surveillance and rule enforcement for the proposed contract market.

[17] Under proposed subparagraph (d)(3), boards of trade would have been required to routinely

With respect to contracts based upon stock indices, the Commission has engaged in further analysis and gained valuable experience in designation of these types of contracts since proposed Rule 5.1 was published for comment and does not believe that additional contracts in this area will necessarily raise unique issues which need be addressed by boards of trade concerning individual designation applications. Further, the Commission believes that certain issues pertaining to the manner in which a particular contract may impact on the underlying market will necessarily be addressed under Section B of the revised guideline which concerns the contract's terms and conditions.

Similarly, with respect to contracts on U.S. debt securities, the Commission has considered a number of issues pertaining generally to the trading of such contracts and does not believe that applications on additional contracts—particularly those which closely relate or essentially duplicate those already approved—will necessarily raise novel issues concerning the public interest considerations described in Section 2(a)(8)(B) of the Act, 7 U.S.C. 4a(g) (Supp. IV 1980).[18] The Commission notes, however, that with respect to contracts on either equity indices or U.S. debt securities, it retains the flexibility to require the exchanges to provide the relevant information concerning issues which could arise in connection with initial or continuing designation of these contracts.

In addition, the Commission has modified the requirement that the board of trade affirm that trading in the contract will not be contrary to the public interest. It has been the Commission's experience that such an affirmation has provided the Commission with little additional, useful information in determining whether the application for designation should be granted. Accordingly, the Commission has modified the requirement to provide that in those instances where, and as, directed, the board of trade shall provide additional information relating to any issue concerning whether the trading of the contract is in the public interest. By this provision, the Commission reserves the right to seek information from an applicant board of trade concerning any of the issues identified in proposed Rule 5.1 which have been deleted from the guideline, as well as any other issues which relate broadly to the public interest.

II. Application of Guideline to Options on Physicals

As part of its proposed rules to provide for a pilot program for the trading of options in physicals, 47 FR 28401 (June 30, 1982), the Commission determined to incorporate by rule various provisions of Guideline 1 into the application procedure for designation of options contract markets in physicals. The comment period on this proposal expired on July 30, 1982. Of the sixteen comment letters received by the Commission in connection with this proposal, four raised concerns with these requirements for applications for designation.

One of the chief concerns expressed by the commentators was with the codification in the option rules of those designation application requirements which were based upon Guideline No. 1. They contended that by adopting these requirements as regulations, the Commission and the boards of trade applying for designation would lose the flexibility necessary to file meaningful and coherent applications. The Commission has determined, at present, to incorporate their substance into the interpretive guideline. By so doing, the elements in applications for designation of contract markets in physicals common with designation applications in futures are located in a unified guideline.

Several of the commentators in their comments on the proposed options rules reiterated, or incorporated by reference the comments made in connection with proposed Rule 5.1. For example, the commentators objected to the codification of the application requirements, objected to the statistical data requirement for the cash market overview, and raised many of the same objections concerning vagueness or the requirements being over broad. The Commission has addressed these objections in its previous discussion of the guideline.[19]

List of Subjects in 17 CFR Part 5

Contract markets, Designation applications, Guideline No. 1, Public interest requirement.

PART 5—[AMENDED]

Accordingly, the Commission hereby amends Part 5 of Chapter I of Title 17 of the Code of Federal Regulations by adding Appendix A which shall read as follows:

Appendix A—Guideline No. 1; Interpretive Statement Regarding Economic and Public Interest Requirements for Contract Market Designation

For purposes of a board of trade seeking designation as a contract market and thereafter for the purpose of demonstrating continued compliance with the requirements of Sections 5 and 5a of the Commodity Exchange Act, the following shall be provided to the Commission.

A. *Description of the Cash Market.* In support of the justification and demostration to be furnished under Sections B and C of this guideline, a board of trade shall submit with its application a description of the cash market for the commodity on which the contract is based. For purposes of this section, the term cash market includes all aspects of the spot and forward markets in which the commodity underlying the contract is merchandised and for which the contract serves a hedging or price basing function. As applicable to the justification of individual contract terms or the contract's hedging or price basing function, the cash market description shall include:

(1) Production of the underlying commodity, including as appropriate, geographical locations and seasonal patterns in the case of tangible commodities and scheduled issuances in the case of financial instruments.

(2) Consumption of the underlying commodity, including, as appropriate, geographic locations and seasonal patterns of intermediate and ultimate consumption in the case of tangible commodities.

(3) The nature and structure of the cash marketing channels, including the nature and number of marketing institutions, the nature

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demonstrate that contracts on a stock index serve an economic purpose consistent with the proper functioning of the underlying market for the securities and include an analysis of the relationship between the volume of trading and nature of investment and trading in the contract and the underlying securities. Under proposed subparagraph (d)(4) concerning U.S. debt securities, boards of trade would have been required to routinely provide evidence concerning those public interest considerations described in Section 2(a)(8)(B) of the Act, 7 U.S.C. § 4a(g) (Supp. IV 1980), including evidence of the expected effect of the contract on the debt financing requirements of the United States Government and the continued efficiency of the underlying market for government securities.

[18] The Commission has considered these issues in a number of studies, in addition to its consideration of these issues during the course of its consideration of designation applications for contracts in U.S. debt securities. These studies include; *Treasury/Federal Reserve Study of Treasury Futures Markets: A Study by the Staff of the U.S. Treasury and Federal Reserve System,* U.S. Treasury and Federal Reserve System, Washington, D.C., May 1979; *CFTC Staff Response to the Treasury/Federal Reserve Study of Treasury Futures Markets,* Commodity Futures Trading Commission, Washington, D.C., June 1979; *Report to the Congress in Response to Section 21 of the Commodity Exchange Act. Pub. L. No. 96-276, 96th Cong. 2d Sess. Section 7, 94 Stat. 542,* Commodity Futures Trading Commission, Washington, D.C., May 29, 1981.

[19] The Commission finds that because Rule 5.1 was proposed prior to the effective date of the Regulatory Flexibility Act, Pub. L. 96-354, 948 Stat. 1164 *et seq.* and because the Commission is not here adopting a rule, the provisions of that Act are not applicable to this notice. Nevertheless, it is clear that even if the Regulatory Flexibility Act were applicable, this notice would not have an impact on "small entities" under the Commission's definition of that term. *See,* 47 FR 18618 (April 30, 1982).

of the forward contracting market, and the manner in which the price of the commodity is determined at various stages in its marketing.

(4) The prevalent means of market communications, methods of financing commodity ownership, and in the case of tangible commodities the manner in which tangible commodities are transported and stored.

(5) Information provided by the board of trade pursuant to this section shall include statistical data where applicable and where reasonably available. Such data shall cover a period of time sufficient to show accurately the historical patterns of production, consumption and marketing of the commodity which are relevant to the pricing or hedging use of the contract and/or the specification of its terms and conditions. In the absence of a justification for providing data from a shorter period, at least five (5) years of such data should be provided. If the board of trade through reasonable effort cannot obtain sufficient data, interviews with, or statements by, persons having knowledge of the cash market may be used to supplement or, if necessary, substitute for quantitative information.

(B) *Justification of Individual Contract Terms and Conditions.* A board of trade shall submit an analysis and justification of significant individual terms and conditions of the contract. Such analysis and justification for each term and condition should be supported in the manner provided by paragraph (5) of Section A of the guideline.

(1) The justification submitted by a board of trade concerning significant contract terms shall include, where applicable, (a) evidence of conformity with the underlying cash market and (b) evidence that the term for condition will provide for a deliverable supply which will not be conducive to price manipulation or distortion and that such a supply reasonably can be expected to be available to the short trader and saleable by the long trader at its market value in normal cash marketing channels. To the extent that a term or condition is not in conformity with prevailing cash market practices, the board of trade shall provide a reason for the variance and demonstrate that the term or condition is necessary or appropriate for the contract and will result in sufficiently available and saleable deliverable supplies.

(2) The justification shall also include, where applicable, the following:

(a) Complete specification of commodity characteristics for par and non-par delivery (such as grade, class, weight, issuer, maturity, rating) including the economic basis for the premiums and discounts, or lack thereof, for differing characteristics. For futures contracts based on debt securities, this shall include an economic justification of the formula to be used for the evaluation of non-par instruments.

(b) All delivery points, including, where applicable, for each point:

(i) The nature of the cash market at the delivery point (e.g., auction market, buying station or export terminal);

(ii) A description of the composition of the market;

(iii) The normal commercial practice for establishing cash market values and the availability of published cash prices reflecting the value of the deliverable commodity;

(iv) The level of deliverable supplies normally available, including the seasonal distribution of such supplies; and

(v) Any locational differentials for delivery points, including the economic basis for discounts or premiums, or lack thereof, applying to delivery points;

(c) A description of the delivery facility (such as warehouse, depository, financial institution) including:

(i) The type(s) of delivery facility at each delivery point;

(ii) The number and total capacity of facilities meeting contract requirements;

(iii) The proportion of such capacity expected to be available for traders who may wish to make delivery and seasonal changes in such proportions; and

(iv) The extent to which ownership and control of such facilities is dispersed or concentrated;

(d) Delivery months. The board of trade shall specify the delivery months and, where applicable, shall describe the relationship of each future delivery month to cyclical variations in deliverable supplies, availability of warehouse space, transportation facilities, cash market activity, and any other factors which may affect the viability of delivery in each such month. The board of trade's justification shall also consider the delivery months for existing contracts which draw on the same deliverable supply.

(e) The permissible delivery pack or composition of delivery units (such as 30 dozen cases of eggs or bonds of the same issue), including a description of any restrictions on the composition of the delivery unit;

(f) The size of contract unit, and, where relevant,

(i) Information concerning the typical cash market transaction size.

(ii) Information concerning the usual means of transportation for the commodity, including the quantity of the commodity customarily carried by such means, and

(iii) If a storable commodity is involved, the size of the unit normally handled by commercial storage facilities;

(g) The inspection and certification procedures for the verification of delivery eligibility and, for perishable commodities, the duration of the inspection certificate and any discounts applied to deliveries of a given age;

(h) The delivery instrument (such as a warehouse receipt of demand certificate), and the conditions under which such instrument is negotiable;

(i) The transportation terms at point of delivery (such as FOB, CIF, proportional rail billing or freight paid to another destination);

(j) The provisions for payment of costs in making and taking delivery, including a description of significant costs (such as inspection, assay, certification, warehouse charges or rail charges);

(k) The minimum price change (minimum price fluctuation), including the manner in which prices for the underlying commodity are normally quoted;

(l) Any restrictions on daily price movements (maximum price fluctuations), including the effect of any such restrictions upon the contract's pricing and hedging functions; and

(m) A demonstration that the contract terms and conditions, as a whole, will result in a deliverable supply which will not be conducive to price manipulation or distortion.

(3) In the case of contracts where cash settlements may serve as an alternative to or substitute for physical delivery, information submitted by the board of trade pursuant to this section must include evidence that the cash settlement of the contract is at a price reflecting the underlying cash market, will not be subject to manipulation, and must also include:

(a) an analysis of the price series upon which such settlement will be based, including the series' reliability, acceptability, public availability and timeliness.

(b) an analysis of the potential for manipulation of the cash-price series.

C. *Economic Purpose Test.* As a condition of initial and continued designation, a board of trade must demonstrate that the contract meets the economic purpose test. In order to meet the economic purpose test a board of trade shall demonstrate that:

(1) The prices involved in transactions for future delivery in the commodity are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, processors, merchants, or consumers of such commodity or the products or byproducts thereof, or

(2) Such transactions are, or reasonably can be expected to be, utilized by producers, processors, merchants, or consumers engaged in handling such commodity (including the products, byproducts or source commodity thereof) in interstate (including foreign) commerce as a means of hedging themselves against possible loss through fluctuations in price.

(3) For purposes of this section, the term hedging means bona fide hedging transactions and positions as defined in § 1.3(z)(1) of the Commission's rules.

(4) *Initial Designation.* To meet the economic purpose test at the time of initial designation, a board of trade must demonstrate that it is reasonable to expect the contract, as specified, to be used for hedging and/or price basing by providing an analysis of the potential price basing and hedging uses of the contract which shall include consideration of:

(a) The salient characteristics of the cash market, including its institutions and participants, as described pursuant to Section A of this guideline.

(b) The intended price basing or hedging characteristics of the specific contract terms and conditions, as described pursuant to Section B of this guideline. If a principal commercial use of the contract is expected to be hedging of commodities other than that for which designation is sought ("cross hedging") the board of trade shall supply data which indicates that such use of the contract would constitute appreciable risk reduction.

(c) As requested, statements from, or reports of interviews with potential users of the contract which convey specifically the manner and circumstances under which these

persons may be expected to utilize the contract for pricing or hedging.

(5) *Continuing Designation.* To justify its continuing designation under the economic purpose requirement, a board of trade designated as a contract market must demonstrate that trading in the contract for which it is designated has, in fact, served a hedging or price basing function on more than an occasional basis. Such a demonstration shall include:

(a) An evaluation of the actual trading experience in the contract in terms of commercial usage and its use for price basing.

(b) An evaluation of the extent to which commercial participation in the contract constitutes hedging.

D. *Other Public Interest Requirements.* As requested, a board of trade shall submit evidence other than that required in sections B and C of this guideline pertaining to the public interest standard contained in Section 5(g) of the Act.

Issued in Washington, D.C. on October 28, 1982, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 82-30172 Filed 11-2-82; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[PH-FRL2237-4; FAP 2H5344/R125]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the feed commodity dried grape pomace resulting from application of the insecticide to growing grapes. This regulation, to establish the maximum permissible level for residues of the insecticide in or on the commodity, was requested pursuant to a petition by the Interregional Research Project No. 4 (IR-4).

EFECTIVE DATE: Effective on November 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of July 28, 1982 (47 FR 32602) that announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had filed a feed additive petition (FAP 2H5344) with the EPA. The petition proposed the establishment of a feed additive regulation for residues of the insecticide chlorpyrifos (*0,0,*-diethyl *0*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on dried grape pomace at 2.0 parts per million (ppm) when present therein as a result of application of the insecticide to growing grapes.

No comments were received by the agency in response to this notice of filing.

The data submitted in the petition and other relevant materials have been evaluated and discussed in the notice of proposed rulemaking (PP 2E2584/P244) published in the **Federal Register** of August 25, 1982 (47 FR 37256) which proposed a tolerance in or on the commodity grapes.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 80 Stat. 751; 7 U.S.C. 136(a) *et seq.*). Therefore, 21 CFR 561.98 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: November 3, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))).

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: October 23, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR 561.98 is amended by adding and alphabetically inserting the feed commodity dried grape pomace to read as follows:

§ 561.98 Chlorpyrifos.

* * * * *

Feeds	Parts per million
* * * * *	
Grape, pomace, dried	2.0
* * * * *	

[FR Doc. 82-29982 Filed 11-2-81; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Removal of Loperamide From Control

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final rule which removes the drug, loperamide, and its salts from control under the Controlled Substances Act (21 U.S.C. 801 et seq.). This action results from the Acting Administrator of the Drug Enforcement Administration finding that loperamide hydrochloride has a currently accepted medical use in treatment in the United States and does not have sufficient potential for abuse or abuse liability to justify its continued control in any schedule.

EFFECTIVE DATE: November 3, 1982.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on July 28, 1982 (47 FR 32549) proposing the removal of loperamide and its salts from Schedule V of the Controlled Substances Act (21 U.S.C. 812(c) Schedule V(c), 21 CFR 1308.15(c)). All interested persons were given until September 27, 1982, to submit their objections, comments or requests for a hearing regarding the proposal. No comments or objections were received nor were there any requests for a hearing. In view thereof and based upon the investigations of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of the Department of Health and Human Services, received pursuant to 21 U.S.C. 811(b), the Acting Administrator finds that loperamide hydrochloride has a currently accepted medical use in treatment in the United States and does not have sufficient potential for abuse to justify its continued control in any schedule of the Controlled Substances Act.

Therefore, under the authority vested in the Attorney General by Section 201(a) of the act (21 U.S.C. 811(a)) and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby orders that 21 CFR 1308.15 be amended by removing paragraph (c).

Pursuant to 5 U.S.C. 605(b), the Acting Administrator certifies that removal of loperamide from control under the Controlled Substances Act is a deregulation action which will have no adverse impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354).

In accordance with the provisions of 21 U.S.C. 811(a), this final rule to remove loperamide from Schedule V is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

PART 1308—[AMENDED]

§ 1308.15 [Amended]

Accordingly, 21 CFR Part 1308 is amended as follows:

§ 1308.15 [Amended]

Section 1308.15 is amended by removing paragraph (c).

Dated: October 25, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-30264 Filed 11-2-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7842]

Income Tax; Taxable Years Beginning After December 31, 1953; Relationship of Election by Nonresident Alien Individual To Be Treated as Resident and United States Income Tax Treaties

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the relationship of the election by a nonresident alien individual to be treated as a U.S. resident and United States income tax treaties. The changes are necessary because the paragraph dealing with the relationship of the election and tax treaties was reserved when the existing regulations were adopted. The regulations would provide guidance to individuals considering taking advantage of the election. The election provision was added to the tax law by the Tax Reform Act of 1976.

DATE: The amendments are effective for taxable years ending on or after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, Attention: CC: LR:T; 202–566–3323 not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1980, the **Federal Register** published amendments to the Income Tax Regulations (26 CFR Part 1) under sections 879, 6013, and other sections of the Internal Revenue Code of 1954. The amendments concerned the election under sections 6013 (g) and (h) by a nonresident alien individual to be treated as a U.S. resident and the treatment of community income where the election is not made. The amendments reserved § 1.6013–6(a)(2)(v) of the regulations. On September 12, 1980, the **Federal Register** published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 6103 (g) of the Internal Revenue Code of 1954. The proposed amendment was to the reserved § 1.6013–6(a)(2)(v). After consideration of all comments submitted regarding the proposed amendment, the amendment is adopted by this Treasury decision. The final regulations delete an example and make clarifying amendments to the Income Tax Regulations under section 1441 of the Internal Revenue Code of 1954.

Discussion

Section 1012(a) of the Tax Reform Act of 1976 amended section 6013 of the Internal Revenue Code of 1954 by adding subsections (g) and (h), which provide that a nonresident alien individual may, under certain circumstances, elect to be treated as a U.S. resident. The principal effect of this election is to permit the nonresident alien individual to file a joint return with a spouse who is a resident or citizen of the United States.

An effect of being treated as a U.S. resident is that one is subject to income tax on worldwide income. The committee reports under the Tax Reform Act of 1976 state that an election under section 6013 (g) or (h) is an election to be taxed on worldwide income. H. Rep. No. 94–658, 94th Cong., 1st Sess. 204 (1975); S. Rep. No. 94–938, 94th Cong., 2d Sess. 213 (1976). The United States has entered into a number of income tax treaties with other countries. Under these treaties, the right of the treaty countries (including the United States) to tax income will depend in many cases, upon the country of which an individual is resident. As a nonresident alien individual making the election also may be a resident of another country, it is necessary to make clear the individual's residence for purposes of United States income tax treaties.

The regulations provide that an individual who makes the election may not, for United States income tax purposes, claim under any U.S. income tax treaty not to be a resident of the United States. Thus, the individual who makes the election will be subject to U.S. income tax on worldwide income even though the individual, as a resident of another country, may have been exempt under a U.S. income tax treaty from U.S. tax on certain income before

making the election. The regulations provide an example of the operation of the new rule.

Summary of Changes and Public Comment

The final regulations delete an example from the proposed regulations and make three clarifying amendments to the withholding regulations under section 1441.

Two public comments were received concerning the proposed regulations. One commentator asserted that the proposed regulations violate United States income tax treaty obligations. The regulations do not violate U.S. treaty obligations as the section 6013 (g) and (h) elections represent choices by individuals themselves to be taxed on worldwide income, even though before making an election the individuals may have been exempt from U.S. income tax under the Internal Revenue Code or a U.S. income tax treaty.

Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Drafting Information

The principal author of these regulations is Jason R. Felton of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects

26 CFR 1.1441–1—1.1465–1

Income taxes, Aliens, Foreign corporations,

26 CFR 1.6001–1—1.6109–2

Administration and procedure, Tax depositaries.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Part 1 are adopted as follows:

PART 1—[AMENDED]

1. Paragraph (a) (2)(v) is added to § 1.6013–6 to read as follows:

§ 1.6013–6 Election to treat nonresident alien individual as resident of the United States.

(a) Election for special treatment—

* * *

(2) Particular rules. * * *

(v) An individual who makes an election under this section may not, for United States income tax purposes, claim under any United States income tax treaty not to be a U.S. resident. The relationship of U.S. income tax treaties and the election under this section is illustrated by the following example.

Example. H, a U.S. citizen, is married to W, a nonresident alien of the United States and a domiciliary of country X. H and W maintain their only permanent home in country X. W receives both U.S. source and country X source interest during the taxable year. The interest is not effectively connected with a permanent establishment or a fixed base in any country. H and W make the section 6013 (g) election. Under article ii (1) of the United States—country X Income Tax Convention interest derived and beneficially owned by a resident of one contracting state is exempt from tax in the other contracting state. Article 4 (1) of the treaty provides that an individual is a resident of a contracting state if subject to tax in that country by reason of the individual's domicile, residence, or citizenship. Under article 4 (1) of the treaty, W is a resident of country X by virtue of her domocile in country X and also of the United States by virtue of the section 6013 (g) election. Article 4 (2) of the treaty provides that if an individual is a resident of both the United States and country X by reason of article 4 (1), the individual shall be deemed to be a resident of the contracting state in which he or she has a permanent home available. Because W's sole permanent home is in country X, under article 4 (2) of the treaty W is treated as a resident of country X for purposes of the treaty. Because W has elected under section 6013(g) to be treated as a U.S. resident (and thus to be taxed on worldwide income), W may not, for U.S. income tax purposes, claim under the treaty not to be a U.S. resident. W, therefore, is subject to U.S. income tax on the interest. For purposes of country X income tax, W is considered a resident of country X under the treaty.

§ 1.1441–4 [Amended]

2. Paragraph (b)(2)(i) of § 1.1441–4 is amended by adding the following phrase immediately after the word "resident": "(including, in accordance with § 1.6013–6(a)(2)(v), an individual with respect to whom an election to be treated as a resident under section 6013(g) is in effect)".

§ 1.1441–5 [Amended]

3. Paragraph (d) of § 1.1441–5 is amended by adding the following new sentence immediately after the first sentence: "An individual with respect to whom an election to be treated as a resident under section 6013(g) is in effect is not, in accordance with § 1.1441–1, a resident for purposes of this section."

4. Section 1.1441–6 is amended by adding at the end thereof a new paragraph (d) to read as set forth below:

§ 1.1441–6 Withholding pursuant to the application of a tax treaty which confers a reduced rate of, or exemption from, United States income tax.

* * * * *

(d) *Section 6013(g) election.* A nonresident alien individual with respect to whom a section 6013(g) election to be treated as a resident is in effect may not, in accordance with § 1.6013–6(a)(2)(v), claim a reduced rate of, or exemption from, United States income tax under an income tax treaty.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue

Approved: October 6, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82–30266 Filed 11–2–82; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW–4–FRL 2239–4]

Hazardous Waste Management Programs; South Carolina; Authorization for Interim Authorization Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination.

SUMMARY: The State of South Carolina has applied for Interim Authorization Phase II Components A and B. EPA has reviewed South Carolina's application for Phase II Interim Authorization, Components A and B, and has determined that South Carolina's hazardous waste program is substantially equivalent to the Federal program covered by Components A and B. The State of South Carolina is hereby granted Interim Authorization for Phase II, Components A and B, to operate the State's hazardous waste program covered by Components A and B, in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II, Components A and B, for South Carolina shall become effective November 3, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street,

N.E., Atlanta, Georgia 30365, Telephone (404) 881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the January 26, 1982 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced that States could apply for components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2801), contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B, published in the **Federal Register** January 23, 1982 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123, Subpart F (46 FR 8298) January 26, 1982.

The State of South Carolina received Interim Authorization for Phase I on February 25, 1981.

Draft Application.

The State of South Carolina submitted its draft application for Phase II Interim Authorization, Components A and B, on January 14, 1981. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration:

The South Carolina program needed to demonstrate equivalence with the public participation requirements of section 7004(b) RCRA as amended by Pub. L. 96–482. The State also needed to clarify the Part 264 standards as they applied to Experimental, Emergency, Special Wastes, and Temporary Permits. In addition, it was necessary that the State delineate those areas where it lacked equivalent regulations and would refer to the Federal regulations to derive permit terms and conditions.

State officials resolved these issues through revisions in the Program Description, Memorandum of Agreement, and the Attorney General's Statement.

Final Application

On June 18, 1982, South Carolina submitted to EPA a Final Application for Interim Authorization Phase II, Components A and B, under RCRA. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of South Carolina's hazardous waste management program.

EPA comments were forwarded to the State on August 11, 1982. No *major* questions were raised in the comments. The comments requested clarification in the Program Description on public participation in the permitting process, clarification to the language in the MOA concerning permit modification, delistings and variances, and correction of typographical errors made by the State.

By letters dated August 16, 1982, and September 1, 1982, the State responded satisfactorily to the issues raised by EPA. In those letters the State clarified the issues on public participation, the MOA, and corrected typographical errors in the State's application.

Public Hearing and Comment Period

As noticed in the **Federal Register** on July 14, 1982 (47 FR 20170), EPA gave the public until August 15, 1982, to comment on the State's application. EPA issued a public notice for a hearing to be held in Columbia, South Carolina on August 26, 1982, if significant public interest was expressed. EPA received written comments supporting the hazardous waste program in South Carolina, one of which requested a public hearing to provide public understanding. EPA considered the hearing to be a mechanism for soliciting specific opinions and viewpoints from the public on Phase II, Components A and B, Interim Authorization. Education of the public for broader understanding of the hazardous waste program is best done by the State agency. The State agency provides responses to any information requests and holds public meetings to explain its programs. For this reason, EPA felt a public hearing was unwarranted based on this one request. After careful review, I have determined that the South Carolina hazardous waste program is substantially equivalent to the Federal program.

Certification: South Carolina Application for Interim Authorization, Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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.

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

Dated: October 1, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-30263 Filed 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2237-5; PP 2E2584/R483]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity grapes. This regulation to establish a maximum permissible level for residues of the insecticide in or on grapes was requested pursuant to a petition by the Interregional Research Project No. 4 (IR-4).

DATE: Effective on November 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section (TS-767), Registration Division Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of August 25, 1982 (47 FR 37256) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experimental Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2584 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Arkansas, Georgia, Missouri, North Carolina, and South Carolina. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos (*0,0*-diethyl *0*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity grapes at 0.5 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is useful for the purpose for which the tolerance is sought. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before December 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: October 23, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the raw agricultural commodity grapes to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Grapes	0.5
* * * * *	

[FR Doc. 82-29983 Filed 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FLR 2236-3; PP OF2317/R486]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 5-Ethoxy-3-(Trichloromethyl)-1, 2, 4-Thiadiazole

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide 5-ethoxy-3-(tricholoromethyl)-1,2,4-thiadiazole and its monoacid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested pursuant to a petition by Olin Corporation.

EFFECTIVE DATE: Effective on November 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M-3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 14, 1980 (45 FR 16556) that Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904, had submitted pesticide petition OF2317 to the EPA. The petition proposed that tolerances be established for the combined residues of the fungicide 5-ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole and its monoacid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodities field corn grain; the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep; milk; and wheat grain at 0.05 part per million (ppm); and corn fodder and forage and wheat forage and straw at 0.1 ppm. The petition was subsequently amended increasing the proposed tolerances for meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep to 0.10 ppm and to include poultry. Non comments were

evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the data submitted, there are expectations of residues occurring in eggs, milk, meat, fat and meat byproducts of livestock. However, the tolerances being established are adequate and will cover residues which could occur in these items.

The toxicology data considered in support of the tolerances included a 2-year dog feeding study with a no-observed-effect level (NOEL) of 100 ppm; a 2-year rat feeding study with a NOEL of 80 ppm and no significant oncongenic effect; a rabbit teratology study with a NOEL 15 mg/kg/day; a 3-generation reproduction study in rats with a NOEL of 80 ppm. Also considered as supplementary information were a rat teratology study with a NOEL of 100 mg/kg/day and a mouse oncogenicity study. The mouse study showed no significant oncogenic effects that could be conclusively attributed to the fungicide. Based on the dog feeding study, the NOEL is 100 ppm or 2.5 mg/kg of body weight (bw). Using a 100 fold safety factor, the acceptable daily intake (ADI) is 0.025 mg/kg/bw/day and the maximum permissible intake (MPI) is 1.5 mg/day for a 60-kg person. The proposed and established tolerances will result in a maximum theoretical exposure of 4.28 percent of the ADI.

No actions are currently pending against the continued registration of 5-ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole. The nature of the residues is adequately understood and an adequate analytical method for determining residues of the fungicide, gas chromatography with an electron capture detector, is available for enforcement purposes. It is concluded that the tolerances will protect the public health, and are established as set forth below.

Any person adversely affected by this regulation may, on or before December 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic inpact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: October 21, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.370 is revised to read as follows:

§ 180.370 5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole; tolerances for residues.

Tolerances are established for residues of the fungicide 5-ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole and its monoacid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the following raw agricultural commodities:

Commodities	Parts per million
Avocados	0.15
Cattle, fat	.10
Cattle, mbyp	.10
Cattle, meat	.10
Corn, field, grain	.05
Corn, fodder	.10
Corn, forage	.10
Cottonseed	.20
Eggs	.05
Goats, fat	.10
Goats, mbyp	.10
Goats, meat	.10
Hogs, fat	.10
Hogs, mbyp	.10
Hogs, meat	.10
Horses, fat	.10
Horses, mbyp	.10
Horses, meat	.10
Milk	.05
Poultry, fat	.10
Poultry, mbyp	.10
Poultry, meat	.10
Sheep, fat	.10
Sheep, mbyp	.10
Sheep, meat	.10
Strawberries	.20
Wheat, forage	.10
Wheat, grain	.05
Wheat, straw	.10

[FR Doc. 82-29980 Filed 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2237-3; OPP-300066A]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ethoxylated Lignosulfonic Acid, Sodium Salt

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts ethoxylated lignosulfonic acid, sodium salt from the requirement of a tolerance when used as an inert ingredient in pesticide formulations. This regulation was requested by Westvaco.

EFFECTIVE DATE: Effective on November 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roland Blood, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the Federal Register of September 22, 1982 (47 FR 41769), which announced that at the request of Westvaco, Chemical Division, PO Box 70848, Charleston Heights, SC 29405, the Administrator proposed to amend 40 CFR 180.1001 (c) by establishing an exemption from the requirement of a tolerance for ethoxylated lignosulfonic acid, sodium salt when used as inert ingredient in pesticide formulations.

There were no comments or requests for referral to an advisory committee received in response to the proposed rulemaking.

The bases for establishing the exemption were discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, on or before December 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the

objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: October 23, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting ethoxylated lignosulfonic acid, sodium salt to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Ethoxylated lignosulfonic acid, sodium salt.		Surfactant.
* * * * *		

[FR Doc. 82-29961 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2236-5; OPP-300067A]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Secondary Alkyl (C_{11}–C_{15}) Poly (Oxyethylene) Acetate, Sodium Salt

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt from the requirement of a tolerance when used as inert ingredient in pesticide formulations. This regulation was requested by Sandoz, Colors and Chemicals.

EFFECTIVE DATE: Effective on November 3, 1982.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–7700)

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of September 29, 1982 (47 FR 42671) which announced that at the request of the Sandoz, Colors and Chemicals, the Administrator proposed to amend 40 CFR 180.1001 (c) and (e) by establishing exemptions from the requirement of a tolerance for secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The basis for establishing the exemption were discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, on or before December 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: October 19, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001 is amended by adding and alphabetically inserting the inert ingredient secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt to the tables in paragraphs (c) and (e) to read as follows:

§180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert Ingredients	Limits	Uses
* * * * *		
Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.		Surfactant
* * * * *		

(e) * * *

Inert Ingredients	Limits	Uses
* * * * *		
Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.		Surfactant
* * * * *		

[FR Doc. 82-29978 Filed 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Assistants at Surgery

Correction

In FR Doc. 82–27148, beginning on page 43650 in the issue of Friday, October 1, 1982, the first line of § 405.580(c)(1) on page 43654 should read, "(1) Are required due to exceptional".

BILLING CODE 1505-01-M

42 CFR Part 405

Medicare Program; Treatment of Cost of Uncompensated Services Furnished in Fulfillment of a Hill-Burton Free Care Obligation

Correction

In FR Doc. 82-27224, beginning on page 43656 in the issue of Friday, October 1, 1982, the following change should be made:

The line immediately preceding Secretary Schweiker's signature in the third column of page 43658 should read,

"Approved: September 23, 1982".

BILLING CODE 1505-01-M

42 CFR Parts 433 and 435

Medicaid Program; Liens, Adjustments, and Recoveries

Correction

In FR Doc. 82-27147, beginning on page 43644 in the issue of Friday, October 1, 1982, the following changes should be made:

1. On page 43646, the thirteenth line of the first complete paragraph in the first column should read, "procedures, and by whom and on what".

2. On page 43647, in § 433.36(g)(2), in the third column of the page, the third paragraph now designated "(1)" should have been designated "(i)".

3. On page 43648, the fourth line of § 435.122, in column two, should read, "supplements, it must provide Medicaid".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[43rd Rev. S.O. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Forty-third Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

DATES: Effective 11:59 p.m., October 31, 1982, and continuing in effect until 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-1559.

SUPPLEMENTARY INFORMATION:

Decided October 27, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Items 1, 8.D., 21, 22, 23. B. C. D. and E., and 26.C., the authorities of carriers operating portions of the 650 mile line segment between Salina, Kansas and Dallas, Texas, and which was acquired from the Rock Island on October 21, 1982. This line will be operated by the Oklahoma, Kansas and Texas Railroad Company (OKT) effective November 1, 1982, under authority of Finance Docket No. 29923. All interim operators have been ordered, by Order No. 513 of the Bankruptcy Court, to cease as of 11:59 p.m., October 31, 1982, their use and occupancy of the Trustee's railroad properties encompassed in the OKT Transition. Appendix B, incorporated by reference in the previous order and last printed in Thirteenth Revised Service Order No. 1473, is also revised by deleting line segments 28, 31, 33, and 35, and by revising line segments 29 and 30 to remove the reference to dispatching.

All remaining items in both appendices are renumbered accordingly.

It has been brought to the attention of the Board that, in certain cases, payment of compensation to the Trustee for the use of Rock Island property is in arrears. All interim operators are reminded that compensation, whether determined by lease, agreement, or the Rock Island Formula, is a requirement of this order and should remain current.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty day' notice.

It is ordered,

§ 1033.1473 Service Order 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to

avoid undue derterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those vountarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commission Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., October 31, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Public Law 96–254.

This order shall be served upon the Association of American Railroads, Transporation Division, as agent of the railroads subscribing to the car service and care hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A

RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. Chicago and North Western Transportation Company (CNW):

A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. From East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. At Sibley, Iowa.

P. At Hartley, Iowa.

Q. From Carlisle to Indianola, Iowa.

R. At Omaha, Nebraska (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. *St. Louis Southwestern Railway Company (SSW):*

A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. At North Topeka and Topeka, Kansas.

*7. *Missouri Pacific Railroad Company (MP):*

A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. From Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7.)

8. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

9. *Cadillac and Lake City Railway Company (CLK):*

A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. From Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

10. *Baltimore and Ohio Railroad Company (BO):*

A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

11. *Keota Washington Transportation Company (KWTR):*

A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

12. *The La Salle and Bureau County Railroad Company (LSBC):*

A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

13. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma.

B. At St. Joseph, Missouri.

14. *The Brandon Corporation (BRAN):*

A. From Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.

15. *Iowa Northern Railroad Company (IANR):*

A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)

B. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

16. *Iowa Railroad Company (IRRC):*

A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)

E. From East Des Moines, Iows (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. At Rock Island, Illinois including 26th Street Yard.

J. From Altoona to Pella, Iowa.

17. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

18. *Chicago Short Line Railway Company (CSL):*

A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. From Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

19. *Kyle Railroad Company (Kyle):*

A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. From Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. From Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

*20. *North Central Oklahoma Railway, Inc. (NCOK):*

A. From Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.0).

21. *South Central Arkansas Railway, Inc. (SCAR):* A. From El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

*22. *Burlington Northern Railroad Company (BN):* A. At Burlington, Iowa (milepost 0 to milepost 2.06). B. At Okeene, Oklahoma.

*23. *Fort Worth and Denver Railway Company (FWD):* A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line. B. At North Fort Worth, Texas (milepost 603.0 to 611.4).

24. *Omaha, Lincoln and Beatrice Railway Company (OLB):* A. At Lincoln, Nebraska (milepost 559.16) to (milepost 560.83).

Note.—In the interest of operational clarity and efficiency, and considering OLB's lease with the Trustee, OLB will be the supervising carrier for operations and maintenance for the above segment to be operated jointly with COE.

25. *Colorado and Eastern Railway Company (COE):* A. At Lincoln, Nebraska (milepost 558.0) to (milepost 562.0) a distance of approximately 4.0 miles. (This authority is joint with OLB between mileposts 559.16 and 560.83, see Item 27, Note).

*Changed.

APPENDIX B

Line No.	Location to be operated	Railroads using	Rock Island functions to be performed
1	Rock Island Jct., IL. switches	CO/BO, CWPS, CR, CSL	Track maintenance.
2	To ICG connection Cottage Ave., Chicago, IL.	CWPS	Track maintenance.
3	Irondale Branch, Chicago, IL	CWPS, CR	Track maintenance.
4	Chicago, IL, Regional Port, District Lake, Calumet Harbor, West Side.	ICG, CR, CSSB	Track maintenance.
5	Chicago (LaSalle St. Station) Joliet, IL.	RTA	Dispatching performed at Des Moines, IA (Suburban train operation).
5a	Joilet, IL—16th and Clark Streets	ICG, RTA	Interlocking Towers.
6	Moline-East Moline, IL, crossing signals.	BN DRINW	Highway crossing signal maintenance.
7	Rock Island, IL—28th Street	BN	Switchtender handles crossing and BN switches.
8	West Davenport-Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (Automatic Block Signal).
9	Burlington-Mediapolis, IA	BN	Track maintenance dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10	Eddyville-Beacon, IA	CNW	Track maintenance.
11	Cedar Rapids, IA—4th Street trackage.	ICG	Track maintenance.
12	Cedar Rapids, IA—9th Avenue crossing.	CNW	Control of CNW-RI crossing and highway crossing signal maintenance.
13	Waterloo, IA—McKinley Street crossing signals.	CNW	Highway crossing signal maintenance.
14	Iowa Jct.-Hollis, IL (Peoria Terminal Co.).	TPW	Track maintenance; dispatching performed by Peoria yardmaster.

APPENDIX B—Continued

15	Des Moines (Easton Blvd.) West Des Moines, IA.	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals-switches controlled at Short Line Tower (Automatic Block Signal).
16	Almena Jct.-CB&Q Jct. KS (Oronoque).	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches; (Automatic Block Signal).
17	Colorado Springs-Roswell Industrial District, CO.	ATSF	Track maintenance.
18	Council Bluffs, IA—6th, 7th, 8th St. crossing signals.	BN	Highway crossing signal maintenance.
18a	Council Bluffs, IA, vincinity BN of 14th Street.	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19	Albert Lea-Glenville, MN	CNW-ICG	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
20	Glenville-MN Manly, IA	CNW	Operator at Manley.
21	Inver Grove-South St. Paul, MN	CNW, SOO	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
22	Limon, CO	UP	Operator.
23	Polo-Airline Jct., MO	MILW	Track and signal maintenance; disptaching performed at Des Moines, IA which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction.)
24	Atchison, KS-St. Joseph, MO	ATFS	Track and signal maintenance; dispatching performed at El Reno, OK.
25	Wathena-Troy, KS	UP	Track and signal maintenance; dispatching at El Reno, OK.
26	Herington, KS-MP crossing interlocking.	MP	Interlocking controlled by RI operator (cannot be lined for MP and left unattended—signaling on MP cleared directionally).
27	Dodge City, KS.	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge track and bridge maintenance only (Line not in service at present).
28	McAllester-Shawnee, OK	MKT	Track and signal maintenance.
29	Sahawnee-Oklahoma City, OK	ATSF-MKT	Track and signal maintenance.
30	Malvern-Hot Spring, AR	MP	Dispatching performed at El Reno, OK.
31	Dallas, TX Right of District (formerly Dallas Union Terminal).	MP, MKT, FWD, ATSF, SP, SSW, SLSF.	Track and signal maintenance; maintain and control operation from towers. Supervision and maintenance to be provided by Missouri Pacific Railroad Company.
32	Saginaw, TX	FWD, ATSF	Track and signal maintenance; interlocking controls, switches, and signals.
33	Memphis, TN, Section "A" trackage (1,460 feet) owned by LN.	ICG, LN, SOU	Track maintenance.
34	Briark-West Memphis, AR	SSW-MP	Track and signal maintenance; dispatching performed at El Reno, OK: CTC controlled from Kentucky St.
35	West Memphis-Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK ABS—Block signals operator at Brinkley.
36	Irving-Carrollton, TX	SLSF	Maintenance, dispatching (all functions performed by SLSF at present).
37	Iowa Falls, IA	ICG	Interlocking towers.
38	Rock Island Junction, AR to Hermitage, AR.	WSR	Maintenance.
39	Thompson, NE	BN	Diamond crossing maintenance.
40	Beatrice, NE	BN	Diamond crossing maintenance.
41	Centerville, IA	BN	Interlocking plant maintenance and operation.
42	La Salle, IL	BN	Diamond crossing maintenance.
43	Ottawa, IL	BN	Interlocking plant maintenance.
44	Colona, IL	BN	Interlocking plant maintenance.
45	St. Joseph, Mo	BN	Diamond crossing maintenance.

Proposed Rules

Federal Register
Vol. 47, No. 213
Wednesday, November 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 113

Nondiscrimination in Federally Assisted Programs of SBA; Effectuation of Policies of Federal Government and SBA

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirement of 28 CFR 42.403(d) and in effectuation of Federal Government and Small Business Administration policies against discrimination, the Small Business Administration proposes to revise Appendix A to Part 113 by updating its listing of programs that receive Federal financial assistance and to include all nonfinancial programs. In addition, it is necessary to amend the definition of "financial assistance" to coincide with the definition which appears at 28 CFR 42.102(c). The proposed rule amending Appendix A which was published in the **Federal Register** on May 19, 1982, is withdrawn, (47 FR 21554).

DATES: Comments on this proposed rule must be received by December 3, 1982.

ADDRESSES: Send comments to: Office of Civil Rights Compliance, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Adelino Sanchez, Chief (202) 653–6579.

SUPPLEMENTARY INFORMATION: Part 112 of this Chapter, issued pursuant to Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from the Small Business Administration. The purpose of Part 113 is to reflect to the fullest extent possible the nondiscrimination policies of the Federal government as expressed in the several statutes, Executive Orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of SBA that discrimination based on race, color, religion, sex, marital status, handicap or national origin shall be prohibited to the extent that it is not prohibited by Part 112 of this Chapter, to all recipients of financial assistance from SBA. The Agency is proposing to amend Part 113 of this Chapter to include the definition of "financial assistance" as it appears in § 42.102(c) of Title 28 of Code of Federal Regulations. That subsection defines the term "financial assistance" to include (1) grants and loans of federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any financial agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. In addition, § 42.103(d) of Title 28 of the Code of Federal Regulations requires each Federal agency to supplement its Title VI regulation with an appendix listing the types of Federal financial assistance and to periodically update such appendix in the Federal Register. Accordingly, the Agency is proposing to amend Appendix A of Part 113 of Title 13 of the Code of Federal Regulations to include a listing of all of its financial and nonfinancial assistance programs.

SBA hereby certifies that this rule, if promulgated in final form, will not constitute a major rule for the purposes of Executive Order 12291. In addition, for purposes of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities. The rule constitutes a nonsubstantive procedural change, and by its terms will not significantly affect the administration of any of SBA's financial assistance programs.

List of Subjects in 13 CFR Part 113

Aged, Civil rights, Handicapped, Loan programs/business, Marital status discrimination, Religious discrimination, Sex discrimination, Small businesses.

PART 113—[AMENDED]

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), Part 113, Chapter I, Title 13 of the Code of Federal Regulations, would be amended as follows:

1. Section 113.2(b) would be revised to read as follows:

§ 113.2 [Amended]

(a) The term "financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any financial agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

2. Appendix A of Part 113 of Title 13 of the Code of Federal Regulations would be revised to read as follows:

APPENDIX A

Name of program	Authority
Business Loans	Small Business Act, section 7(a).
Debtor State development companies (501) and their small business concerns.	Small Business Investment Act, Title V.
Debtor local development companies (502) and their small business concern.s.	Small Business Investment Act, Title V.
Debtor certified development companies (503) and their small business concerns.	Small Business Investment Act, Title V.
Debtor small business investment companies and their small business concerns.	Small Business Investment Act, Title III.
Pollution Control	Small Business Investment Act, Title IV, Part A.
Surety Bond Guarantees	Small Business Investment Act, Title IV, Part B.
Disaster loans:	
Physical, including riot	Small Business Act, section 7(b)(1).
Economic Injury (EIDL)	Small Business Act, section 7(b)(2).
Federal Action Loan Program.	Small Business Act, section 7(b)(3). (No funds have been authorized for this program for FY 1982 thru FY 1984.).
Women's Business Enterprise.	Executive Order 12138.
Procurement Automated Source System.	Small Business Act, section 8.
Business Development Program.	Small Business Act, section 8(a).

APPENDIX A—Continued

Name of program	Authority
Subcontracting Program	Small Business Act, section 8(d)
Small Business Institute	Small Business Act, section 8(b)(1).
Certificate of Competency	Small Business Act, section 8(b)(7).
Technology Assistance Program.	Small Business Act, section 9.
Small Busimess Development Centers.	Small Business Act, section 21.
International Trade Program	Small Business Act, section 22.
Technical and Management Assistance.	Small Business Act, section 7(j).
Service Corps of Retired Executives and Active Corps of Executives.	Small Business Act, section 8(b)(1).

(Catalog of Federal Domestic Assistance Programs No. 59.001 through 59.031.)

Dated: October 19, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-29733 Filed 11-2-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-141 (Texas-24)]

High-Cast Gas Produced From Tight Formations; Proposed Rulemaking

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 Railroad Commission of Texas that the Garza Sand be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 13, 1982.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 12, 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 Walter W. Lawson, (202) 357-8556.

SUPPLEMENTARY INFORMATION:

In the matter of high-cost Gas produced from tight formations; Docket No. RM79-76-141 (Texas-24).

Notice of Proposed Rulemaking By Director, OPPR

Issued: October 28, 1982.

I. Background

On September 20, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Garza Sand, located in Duval County, Texas, 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 Texas' recommendation that the Garza Sand be designated a tight formation should be adopted. Texas' recomendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located in Duval County, Texas, Railroad Commission District 4. The recommended area is located approximately 3 miles west of Concepcion, Texas. It includes 3,820 acres of the southwest portion of Andres Garcia Heirs Survey, Abstract 657; 415 acres in the southeast corner of Santos Flores Survey, Abstract 213; 6,290 acres in the north half of the R. Ramirez Survey, Abstract 475; and 1,105 acres of the northeast portion of the Marcello Ynojosa Survey, Abstract 628. The Garza Sand is described as being very fine-grained, very silty, shaly and limey.

The Garza Sand lies at depths ranging from −6,700 feet to approximately −7,400 feet subsea. The maximum thickness encountered in any well is 13 feet, in the Sexton Oil & Minerals No. 1 Aminta Garza. Maximum thickness of the sand is estimated at 15 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation 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.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

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 Texas that the recommended portion of the Garza Sand, as described and delineated in Texas' recommendation as filed with the Commission, be designated as 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, N.E., Washington, D.C. 20426, on or before December 13, 1982. Each person submitting a comment shoud indicate that the comment is being submitted in Docket No. RM79-76-141 (Texas—24) and should give reasons including supporting data for any recommendation. 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 Office 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 they wish 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 November 12, 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 Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(143) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * * * *

(143) *Garza Sand in Texas.* RM79–76–141 (Texas-24)

(i) *Delineation of formation.* The Garza Sand is found in Duval County in Texas. The designated area is located approximately 3 miles west of the city of Concepcion, Texas, in Railroad Commission District 4 and includes portions of the following surveys: Andres Garcia Heirs Survey, Abstract 657; Santos Flores Survey, Abstract 475; R. Ramirez Survey, Abstract 475; and Marcello Ynojosa Survey, Abstract 628.

(ii) *Depth.* The top of the Garza Sand ranges from a measured depth of −6,700 feet to approximately −7,400 feet subsea.

[FR Doc. 82-30262 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 134, 148, 162, 171 and 172

Proposed Customs Regulations Amendments Relating to Penalties and Penalties Procedures

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to penalties and penalties procedures. The document would: (a) Add the revised penalty guidelines relating to 19 U.S.C. 1592 as an appendix to Part 171, Customs Regulations (19 CFR Part 171); (b) clarify the requirements and criteria applicable to prior disclosures of violations of 19 U.S.C. 1592; (c) place a limitation on the number of supplemental petitions requesting relief from fines, penalties, and forfeitures and from liquidated damages claims; and (d) make certain other minor, technical changes to Customs Regulations.

The proposed amendments are necessary in view of legislative and procedural changes relating to Customs fines, penalties, and forfeitures program.

DATE: Comments must be received on or before January 3, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Horold Loring, Commercial Fraud and Negligence Penalties Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8317).

SUPPLEMENTARY INFORMATION:

Background

Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592; hereinafter referred to as section 592), provides for penalties and penalties procedures when, by fraud, gross negligence or negligence, merchandise is entered, introduced, or attempted to be entered or introduced into the commerce of the United States, by means of any document, written or oral statement, or act, which is material and false, or by means of any material omission; or when a person aids or abets any other person in the entry, introduction, or attempted entry or introduction of merchandise by such means. Section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), provides for the remission or mitigation of fines, penalties, and forfeitures by the Secretary of the Treasury.

Public Law 95–410, the "Customs Procedural Reform and Simplification Act of 1978," amended section 592. As a result of changes made by Pub. L. 95–410, and as a result of a consideration of various aspects of its fines, penalties, and forfeitures program, the Customs Service believes that changes in its regulations are necessary. These changes are described in detail as follows.

Mitigation Guidelines for Section 592 Liabilities

Pursuant to Pub. L. 95–410, new procedures were adopted for the imposition of a monetary penalty or, in limited circumstances, for the seizure of merchandise, for a violation of section 592.

In a document published as T.D. 79–160 in the **Federal Register** on June 4, 1979 (44 FR 31950), guidelines used by Customs for the mitigation of claims for monetary penalties assessed pursuant to section 592 were approved by the Treasury Department. A notice advising the public that the guidelines were available upon request from Customs was published as T.D. 80–160 in the **Federal Register** on June 17, 1980 (45 FR 40975). That document also amended § 171.23, Customs Regulations (19 CFR 171.23), to provide that the guidelines were available to the public upon written request to Customs Headquarters.

Because of the widespread interest generated by the notice, and in light of the effects that the guidelines may have upon persons or organizations subject to their application, Customs determined that it would be in the interest of the efficient and effective administration of the Customs laws and regulations relating to fines, penalties, and forfeitures to publish the guidelines and solicit comments from the public. Accordingly, on September 22, 1980, a notice soliciting public comment on guidelines used by Customs for mitigation of claims for monetary penalties assessed pursuant to section 592 was published in the **Federal Register** (45 FR 62954). Numerous comments were received and analyzed. In view of these comments and Customs experience in applying the current guidelines, a substantial revision of the mitigation guidelines has been undertaken.

The revised penalty guidelines are designed to be used by field officers in assessing, as well as mitigating, claims for monetary penalty under section 592. Once issued, the revised guidelines will increase cooperation between Customs and the importing community, and prove beneficial for importers who, upon receipt of pre-penalty notices, will find it more economical to plead all aspects of their case from the outset before local Customs officials. In view of this revision, a decrease in litigation is expected. In furtherance of the

aforestated objectives, the guidelines would instruct field officers to consider mitigating, aggravating, and extraordinary factors in assessing a claim for monetary penalty. It is proposed to issue the revised guidelines as an appendix to Part 171, Customs Regulations (19 CFR Part 171).

Prior Disclosure

Section 162.74, Customs Regulations (19 CFR 162.74), concerns the "prior disclosure" of violations of section 592.

It is proposed to amend § 162.74(a) to add the requirement that a prior disclosure must be made in writing to a district director. Proposed § 162.74(a) would further provide that a disclosure to Customs of information concerning a violation which the appropriate Customs officer is satisfied was made before, or without knowledge of, the commencement of a formal investigation, but which does not otherwise meet the requirements of this section, will be considered as an extraordinary factor under the guidelines for mitigation of penalties assessed pursuant to section 592 (See Appendix A to this Notice).

It is proposed to redesignate present § 162.74(b) as § 162.74(c) and to add a new § 162.74(b). New § 162.74(b) would relate to the time of the prior disclosure. It would provide that a prior disclosure is deemed to have been made at the time of receipt by Customs of the documents which disclose the violation. If the documents are mailed, they are to be sent by certified mail, return-receipt requested. If the documents are delivered by hand, the person delivering the documents is to request a receipt from Customs, stating the time and date of receipt. The documents, whether mailed or hand-delivered, should be addressed to the immediate attention of the district director.

It is proposed to amend present § 162.74(c), which sets forth rules concerning when a formal investigation of a violation is considered to be commenced, and to redesignate the amended section as § 162.74(d). The amendments will result in the clarification and condensation of the definition of "commencement of a formal investigation."

Proposed § 162.74(d)(1) would amend present § 162.74(c)(1) to insert the words "recorded in writing as the date on which" immediately following "on the date". Proposed § 162.74(d)(2) would amend present section 162.74(c)(3) to substitute the words "by an investigating agent in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to" for "in writing by an investigating agent as the date on which he discovered facts and circumstances which caused him to." Proposed § 162.74(d)(3) would amend present § 162.74(c)(3) to delete the words "on the Memorandum of Information Received, Customs Form 4621," and to insert the words "in the investigatory record (including contemporaneous notes)" immediately following "by the Office of Investigations." It is proposed to eliminate present § 162.74(c)(4), (5), and (6) and to add a new § 162.74(d)(4). that section would provide that, in all cases not within the scope of proposed § 162.74(d)(1), (2), and (3), a formal investigation is considered to be commenced on the earliest of the following dates: (i) The date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that the possibility of a violation of section 592 existed with respect to the disclosing party and the disclosed information; (ii) the date on which an investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the violation concerning the type of or circumstances of the disclosed violation; or (iii) the date on which the agent requested specific books and records from the person relating to the disclosed information.

Present § 162.74(d) relates to proof of lack of knowledge of the commencement of a formal investigation. This section would be expanded and redesignated as § 162.74(f). It would provide that a person who claims the lack of knowledge of the commencement of a formal investigation has the burden of proving that lack of knowledge. Proposed § 162.74(f) would further provide that a person shall be deemed to have had knowledge of the commencement of a formal investigation of a violation if within three years before any claimed prior disclosure of the violations: (i) An investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation; or (ii) an investigating agent requested specific books and records of the person relating to the disclosed information.

Proposed § 162.74(e) would relate to the circumstances under which a formal investigation commences upon the expansion of an existing investigation to additional violations, committed by the same person, which are outside the scope of the existing investigation. A formal investigation as to such additional violations would be deemed to have commenced on the earliest of the following dates: (i) The date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that the possibility of a violation of section 592 existed with respect to the additional violations; (ii) the date on which an investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of additional violations; or (iii) the date on which the agent requested specific books and records of the person relating to the additional violations.

It is proposed to redesignate present § 162.74(e), (f), and (g) as § 162.74(h), (i), and (j), respectively.

It is proposed to add a new § 162.74(g) which would relate to penalty claims not requiring formal investigation. That section would provide that a prior disclosure may not be made after an authorized Customs officer determines that there is reasonable cause to believe that there has been a violation of section 592 and determines that a claim for monetary penalty shall be issued without commencement of a formal investigation.

Section 162.71 sets forth definitions of certain terms used in Subpart G, Part 162, Customs Regulations (19 CFR Part 162). The proposed amendments would add a new § 162.71(e) to define "discloses the circumstances of a violation" as that term is used in § 162.74(a). As so defined, the term would mean the act of providing to Customs, in writing, a statement which identifies the merchandise and importation involved in the violation, the material false statement or omission made, and, to the best of the disclosing party's knowledge, the true and accurate information or data which should have been provided in the entry documents.

Supplemental Petitions

Sections 171.33 and 172.33, Customs Regulations (19 CFR 171.33, 172.33) pertain to supplemental petitions for relief from fines, penalties, and forfeitures and from liquidated damages claims.

A new paragraph (c) limiting the number of supplemental petitions to two would be added to §§ 171.33 and 172.33. This proposed amendment would require, with the filing of the second supplemental petition, full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. Such payment would have to be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within such prescribed time if indicated. The new subsection would also provide that a second supplemental petition will not be considered except in one of the following circumstances: (1) If it is filed within two years from the date of notice to the petitioner of the decision on the first supplemental petition; (2) if it is filed within 60 days following an administrative or judicial decision with respect to the entries involved in the penalty case which reduces the loss of duties upon which the mitigated penalty amount was based; or (3) if the Commissioner in his discretion determines that the acceptance of a second supplemental petition is warranted. In sub-section (c) of § 171.33, the term "second supplemental petition" would be defined to include an offer in compromise made under the provisions of 19 U.S.C. 1617 prior to the commencement of a civil action to enforce the penalty claim.

In addition, the proposed amendments would substitute the words "from which further relief is requested" for "on the initial petition for relief" in §§ 171.33(a)(1) and (2), and 172.33(a) (1) and (2).

Nothing in these amendments should be construed as limiting or precluding the opportunity afforded under Treasury Order 219–2 (41 FR 8192, February 25, 1976) to seek an appeal to the Secretary of the Treasury.

Other Amendments

Sections 134.52, 148.19, 162.75, and 162.79, Customs Regulations (19 CFR 134.52, 148.19, 162.75, 162.79), contain provisions relating to liabilities incurred under section 592. It is proposed to make minor, technical amendments to these sections to conform them to the amendments made by Pub. L. 95–410.

For the purpose of conformity with the amendments made by Pub. L. 95–410, it is further proposed to remove sections 162.41 (a) and (b), Customs Regulations (19 CFR 162.41(a) and (b)), and to redesignate § 162.41(c) as new § 162.80, Customs Regulations (19 CFR 162.80).

Section 162.78, Customs Regulations (19 CFR 162.78), provides that the person named in a pre-penalty notice may make presentations to Customs in response to the pre-penalty notice. Section 162.78(a) prescribes the time limits for making presentations and § 162.78(b) pertains to extensions of the time limits. It is proposed to amend § 162.78(b) to state that, upon request, an extension may be granted if the Commissioner of Customs determines that the case involves an issue which is a proper matter for submission to Customs Headquarters under internal advice procedures (see § 177.11(b)(2), Customs Regulations (19 CFR 177.11(b)(2)).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

These amendments are proposed under the authority of R. S. 251, as amended, R. S. 5294, as amended, section 9, 24 Stat. 81, as amended, sections 623, 624, 641, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624, 1641, 46 U.S.C. 7, 320).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this document will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 134

Customs duties and inspection, Imports.

19 CFR Part 148

Customs duties and inspection, Imports.

19 CFR Part 162

Customs duties and inspection, Imports, Administrative practice and procedures, Law enforcement, Penalties, Seizures and forfeitures, Prior disclosure.

19 CFR Part 171

Customs duties and inspection, Imports, Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 172

Customs duties and inspection, Imports, Administrative practice and procedure, Liquidated damages.

Proposed Regulations Amendments

It is proposed to amend Parts 134, 148, 162, 171, and 172, Customs Regulations (19 CFR Parts 134, 148, 162, 171, 172), in the following manner:

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.52 [Amended]

It is proposed to amend the first sentence of § 134.52(d) by substituting "monetary penalty" for "forfeiture value."

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

It is proposed to revise § 148.19 to read as follows:

§ 148.19 False or fraudelent statement.

A passenger who makes any false or fraudulent statement or engages in other conduct within the purview of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), whereby a Customs officer is or may be induced to pass an article free of duty or at less than the proper amount of duty, shall be deemed to have violated 19 U.S.C. 1592. In any such case the article involved shall be seized only

if one or more of the conditions set forth in section 162.75 of this chapter are present, if it is available for seizure at the time the violation is detected, and if such seizure is otherwise practicable, unless the article is in the possession of on innocent holder for value who has full right to possession as against any party to the Customs violation. If seizure is not made, a claim for monetary penalty, determined in accordance with 19 U.S.C. 1592, shall be assessed against the passenger. Whether the article is seized or a monetary penalty assessed, the duty estimated to be due thereon shall be demanded of the passenger as soon as possible after discovery of the violation. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

§ 162.41 [Removed and Reserved]

§ 162.80 [Added]

1. It is proposed to amend Part 162 by removing § 162.41 and by redesignating § 162.41(c) as new § 162.80. Section 162.41 would be marked "[Reserved]."

2. It is proposed to amend § 162.71 by adding a new paragraph (e) to read as follows:

§ 162.71 Definitions.

* * * * *

(e) *Discloses the circumstances of the violation.* When used in § 162.74(a), the term "discloses the circumstances of the violation" means the act of providing to Customs a written statement which:

(1) Identifies the class or kind of merchandise involved in the violation;

(2) Identifies the importation included in the disclosure by entry number or by indicating each Customs port of entry and the approximate dates of entry;

(3) Specifies the material false statements or material omissions made; and

(4) Sets forth to the best of the violator's knowledge, the true and accurate information or data which should have been provided in the entry documents.

3. It is proposed to revise § 162.74 to read as follows:

§ 162.74 Prior disclosure.

(a) *In general.* A prior disclosure is made if the person concerned discloses the circumstances of a violation (as declined in § 162.71(e)) of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), in writing to a district director before, or without knowledge of, the commencement of a formal investigation of that violation, and makes a tender of any actual loss of duties in accordance with paragraph (h) of this section. A disclosure to Customs of information concerning a violation which the appropriate Customs officer is satisfied was made before, or without knowledge of, the commencement of a formal investigation, but which does not otherwise meet these requirements will be considered as an extraordinary factor under the guidelines for mitigation of penalties assessed under 19 U.S.C. 1592.

(b) *Time of prior disclosure: Time of receipt.* (1) A prior disclosure is deemed to have been made at the time of receipt by Customs of the documents which disclose the violation;

(2) If the documents are mailed, they are to be sent by certified mail, return-receipt requested;

(3) If the documents are delivered by hand, the person delivering the documents is to request a receipt from Customs, stating the time and date of receipt; and

(4) The documents, whether mailed or hand-delivered, should be addressed to the immediate attention of the district director.

(c) *Referral for investigation.* Any disclosure of a violation shall be referred immediately by the district director to the appropriate field office of the Office of Investigations. Upon completion of its investigation, the field office shall immediately return the disclosure, together with its report, to the district director for appropriate action.

(d) *Commencement of formal investigation.* A formal investigation of a violation is considered to be commenced:

(1) In the case of a referral by an import specialist or other Customs officer of a matter involving the disclosing party and the disclosed information for investigation of a possible violation of 19 U.S.C. 1592, on the date recorded in writing as the date on which the matter was referred to the Office of Investigations;

(2) In the case of referral by an import specialist or other Customs officer of a request for value, classification, or other technical investigation, on the date recorded in writing by an investigating agent in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(3) In the case of an investigation prompted by an individual other than a Customs officer with regard to the disclosing party and the disclosed information, on the date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which the information was received;

(4) In all other cases, on the earliest of the following:

(i) The date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(ii) The date on which an investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation;

(iii) The date on which an investigating agent requested specific books and records of the person relating to the disclosed information.

(e) *Expansion of formal investigation.* A formal investigation is deemed to have commenced as to additional violations (outside the scope of the original investigation but committed by the same party) on the earliest of the following:

(1) The date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the additional violations;

(2) The date on which an investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of additional violations; or

(3) The date on which an investigating agent requested specific books and records of the person relating to the additional violations.

(f) *Proof of lack of knowledge.* A person who claims a lack of knowledge of the commencement of a formal investigation has the burden to prove that lack of knowledge. A person shall be deemed to have had knowledge of the commencement of a formal investigation of a violation if within a

period of three years before any claimed prior disclosure of the violation:

(1) An investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation; or

(2) An investigating agent requested specific books and records of the person relating to the disclosed information.

(g) *Penalty claims not requiring formal investigation.* A prior disclosure may not be made after a determination by an authorized Customs officer that there is reasonable cause to believe that there has been a violation of 19 U.S.C. 1592 and that a claim for monetary penalty shall be issued without commencement of a formal investigation. Such determination shall be evidenced as follows:

(1) By the issuance of a pre-penalty notice:

(2) By the issuance of a penalty notice if a pre-penalty notice is not required;

(3) In the case of violations involving merchandise accompanying persons entering the United States, by verbal notification to the person of the officer's finding of a violation; or

(4) In the case of the seizure of merchandise under 19 U.S.C. 1592, by the act of seizure.

(h) *Tender of actual loss of duties.* A person who discloses the circumstances of the violation shall tender any actual loss of duties at the time of disclosure or within 30 days after the district director notifies the person in writing of his calculation of the actual loss of duties. The district director may extend the period if he determines there is good cause to do so.

(i) *Undisclosed violations.* Undisclosed violations discovered by Customs as the result of an investigation of a prior disclosure of another violation shall not be entitled to treatement under the prior disclosure provisions.

(j) *Minor violations.* The district director shall not refer a disclosed violation for investigation or establish a penalty case if:

(1) The disclosed violation involves a loss of duties of $500 or less;

(2) Any actual loss of duties has been deposited;

(3) There is no evidence that the violation was fraudulent; and

(4) There are no other compelling reasons for a penalty proceeding, such as history of similar violations.

§ 162.75 [Amended]

4. It is proposed to amend § 162.75(d)(3) by substituting "compliance made with the decision" for "the monetary penalty paid."

5. It is proposed to amend § 162.78(b) by adding the following between the first and second sentences:

§ 162.78 Presentations responding to pre-penalty notice.

* * * * *

(b) * * * In addition, an extension may be granted if, upon request of the alleged violator, the Commissioner of Customs determines that the case involves an issue which is a proper matter for submission to Customs Headquarters under internal advice procedures (See § 177.11(b)(2)).* * *

§ 162.79 [Amended]

6. It is proposed to amend the second sentence of § 162.79(b)(2) by substituting "section 592(d), Tariff Act of 1930, as amended (19 U.S.C. 1592(d))," for "section 162.79(b)."

7. Proposed new § 162.80 (redesignated from § 162.41(c)) reads as follows:

§ 162.80 Liability for duties; liquidation of entries.

(a)(1) When an entry is the subject of an investigation for possible violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), or of a penalty action established under that section, the district director, subject to the provisions of paragraph (c)(1)(ii) of this section, may liquidate the entry and collect duties before the conclusion of the investigation or final disposition of the penalty action if he determines that liquidation would be in the interest of the Government.

(2)(i) An entry not liquidated within 1 year from the date of entry or final withdrawal of all merchandise covered by a warehouse entry shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent unless the time for liquidation is extended by the district director because—

(A) Information needed by Customs for the proper appraisement or classification of the merchandise is not available.

(B) The importer, his consignee, or agent requests an extension and demonstrates good cause why the extention should be granted, or

(C) The 1-year liquidation period is suspended as required by statute or court order.

(ii) An entry not liquidated within 4 years from the date of entry or final withdrawal of all merchandise covered by a warehouse entry shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent unless liquidation continues to be suspended by statute or court order. In that event, the entry shall be liquidated within 90 days after removal of the suspension.

(iii) The district director promptly shall notify the importer or consignee concerned and any authorized agent and surety of the importer or consignee in writing of any extension or suspension of the liquidation period.

(b) When merchandise not covered by an entry is subject to section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise.

(c) Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

PART 171—FINES, PENALTIES, AND FORFEITURES

§ 171.1 [Removed and Reserved]

1. It is proposed that § 171.1 be removed and marked "[Reserved]."

§ 171.2 [Reserved]

§ 171.24 [Redesignated From § 171.2]

2. It is proposed that 171.2 be redesignated as 171.24 and be amended by substituting "Department of Justice" for "United States attorney" in the first and second sentences. Section 171.2 would be marked "[Reserved]."

§ 171.33 [Amended]

3. It is proposed to amend § 171.33(a)(1) and (2) by substituting "from which further relief is requested" for "on the initial petition for relief."

4. It is proposed to further amend § 171.33 by adding a new paragraph (c) to read as follows:

171.33 Supplemental petitions for relief.

* * * * *

(c) *Second supplemental petition.* (1) Only one further supplemental petition may be filed appealing a decision made with respect to an initial supplemental petition. The second supplemental petition will not be accepted unless accompanied or preceded by full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. Such payment must be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within

such time prescribed, if any. The second supplemental petition should be filed with the district director who initiated the case. For the purpose of this section, the term "second supplemental petition" shall include an offer in compromise under 19 U.S.C. 1617 made prior to the commencement of a civil action to enforce the penalty claim.

(2) A second supplemental petition will not be considered except in one of the following circumstances:

(i) If it is filed within 2 years from the date of notice to the petitioner of the decision on the first supplemental petition;

(ii) If it is filed within 60 days following an administrative or judicial decision with respect to the entries involved in the penalty case which reduces the loss of duties upon which the mitigated penalty amount was based; or

(iii) If the Commissioner of Customs in his discretion determines that the acceptance of a second supplemental petition is warranted.

PART 172—LIQUIDATED DAMAGES

§ 172.33 [Amended]

1. It is proposed to amend § 172.33(a) (1) and (2) by substituting "from which further relief is requested" for "on the initial petition for relief."

2. It is proposed to further amend § 172.33 by adding a new paragraph (c) to read as follows:

172.33 Supplemental petitions for relief.

* * * * *

(c) *Second supplemental petition.* (1) Only one further supplemental petition may be filed appealing a decision made with respect to an initial supplemental petition. The second supplemental petition will not be accepted unless accompanied or preceded by full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. Such payment must be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within such time prescribed, if any. The second supplemental petition should be filed with the district director who initiated the case.

(2) A second supplemental petition will not be considered except in one of the following circumstances:

(i) If it is filed within 2 years from the date of notice to the petitioner of the decision on the first supplemental petition;

(ii) If it is filed within 60 days following an administrative or judicial decision which reduces the loss of duties upon which the mitigated penalty amount was based; or

(iii) If the Commissioner of Customs in his discretion determines that the acceptance of a second supplemental petition is warranted.

Appendix A to Part 171—Customs Regulations, Revised Penalty Guidelines, 19 U.S.C. 1592

A monetary penalty incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592; hereinafter referred to as section 592) may be remitted or mitigated under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), if it is determined that there exist such mitigating circumstances as to justify remission or mitigation. The guidelines below will be used by the Customs Service in arriving at a just and reasonable assessment and disposition of liabilities arising under section 592 within the stated limitations. It is intended that these guidelines shall be applied by Customs officers in pre-penalty proceedings and in determining the monetary penalty assessed in the penalty notice.

(A) Violations of Section 592; Materiality

Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, a violation of section 592 occurs when a person, through fraud, gross negligence, or negligence, enters, introduces, or attempts to enter or introduce any merchandise into the commerce of the United States by means of any document, written or oral statement, or act which is material and false, or any omission which is material; or when a person aids or abets any other person in the entry, introduction, or attempted entry or introduction of merchandise by such means. A document, statement, act, or omission is material if it has the potential to alter the classification, appraisement, or admissibility of merchandise, or the liability for duty, or if it tends to conceal an unfair trade practice. There is no violation if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of a pattern of negligent conduct.

(B) Degrees of Culpability

There are three degrees of culpability under section 592: negligence, gross negligence, and fraud.

(1) *Negligence.* A violation is determined to be negligent if it results from an act or acts (of commission or omission) done through either the failure to exercise the degree of reasonable care and competence expected from a person in the same circumstances in ascertaining the facts or in drawing inferences therefrom, in ascertaining the offender's obligations under the statute, or in communicating information so that it may be understood by the recipient. As a general rule, a violation is determined to be negligent if it results from the offender's failure to exercise reasonable care and competence to ensure that a statement made is correct.

(2) *Gross Negligence.* A violation is determined to be grossly negligent if it results from an act or acts (of commission or omission) done with actual knowledge of or wanton disregard for the relevant facts and with indifference or disregard for the offender's obligations under the statute, but without demonstrable intent to defraud the revenue of violate the laws of the United States.

(3) *Fraud.* A violation is determined to be fraudulent if it results from an act or acts (of commission or omission) deliberately done with demonstrable intent to defraud the revenue or to otherwise violate the laws of the United States.

(C) Assessment of Penalties

(1) *Issuance of Pre-Penalty Notice.* (a) As provided in § 162.77, Customs Regulations (19 CFR 162.77), if the district director has reasonable cause to believe that a violation of section 592 has occurred and determines that further proceedings are warranted, he shall issue to each person concerned a notice of his intent to issue a claim for a monetary penalty. In issuing such pre-penalty notice, the district director shall make a tentative determination of the degree of culpability and the amount of the proposed claim. A pre-penalty notice is not required if the violation involves a non-commercial importation or if the proposed claim does not exceed $1,000.

(b) In determining the amount of the proposed claim, the district director shall take into account the gravity of the offense, the amount of loss of revenue, the extent of wrongdoing, and other factors bearing upon the seriousness of the violation, but in no case shall the assessed penalty exceed the statutory ceilings prescribed in section 592. Penalties equivalent to the ceilings stated in paragraph (D) regarding disposition of cases may be appropriate in cases involving serious violations, i.e., violations involving actions both fraudulent and flagrant, violations involving a high loss of revenue, and quota evasions. To be serious, a violation need not result in a loss of revenue. The violation may be serious because it affects the admissibility of merchandise or the enforcement of other laws, as in the case of quota evasions, false statements to conceal the dumping of merchandise, or violations of exclusionary orders of the International Trade Commission. The ceiling set forth in paragraph (D) may be exceeded only if permitted by statute and approved by the Chief, Commerical Fraud and Negligence Penalties Branch, Headquarters, Customs Service.

(c) Violations where the loss of revenue is nonexistent or minimal and which have an insignificant impact on enforcement of the laws of the United States may justify a proposed penalty in a fixed amount not related to the value of merchandise, but an amount believed sufficient to have a deterrent effect, i.e., violations involving the subsequent sale of merchandise or vehicles entered for personal use; violation involving failure to comply with declaration or entry requirements which do not change the admissibility or entry status of merchandise, its appraised value or classification; violations involving the illegal diversion to domestic use of instruments of international

traffic; and local point-to-point traffic violations. This category also includes violations in which the falsity or omission is revelant only to the assessment of duties, but in which it is finally determined that the falsity or omission did not result in any loss of duties, i.e., failure to report commissions paid which are ultimately determined to be non-dutiable; or a false statement as to the relationship of the parties if the fact of the relationship is determined not to affect appraisement. Generally, a penalty in a fixed amount ranging from $100 to $500 would be appropriate in cases where there are no prior violations of the same kind. Fixed sums ranging from $500 to $10,000 may be appropriate, however, in the case of multiple or repeated violations.

(d) In determining the amount of the proposed penalty, the district director shall also take into account any mitigating, aggravating, or extraordinary factors that are clearly established by the evidence available at the time.

(2) *Issuence of Penalty Notice.* (a) Following issuance of the Pre-penalty notice, and in consideration of the issuance of the penalty notice pursuant to § 162.79, Customs Regulations (19 CFR 162.79), the district director shall weigh any evidence presented by the alleged violator with respect to the circumstances of the violation. In determining the amount to be included in the penalty notice, the district director shall give consideration to all available evidence with respect to the existence of material false statements or omissions, the degree of culpability, the existence of a prior disclosure, the seriousness of the violation, and the existence of mitigating, aggravating, or extraordinary factors. In general, the degree of culpability stated in pre-penalty notice shall not be increased in the penalty notice. If, subsequent to the issuance of a pre-penalty notice and upon further review of the evidence, the district director determines that a higher degree of culpability exists, the pre-penalty notice should be concelled and a new pre-penalty notice issued indicating the higher degree of culpability and increased penalty amount proposed, with supporting evidence reflected therein. If, however, less than 3 months remain before expiration of the statute of limitations, the higher degree of culpability and higher penalty amount may be indicated in the notice of penalty. Alternatively, the district director shall consider whether a lower degree of culpability is warranted by the evidence. The penalty notice shall contain other changes in the information provided in the pre-penalty notice.

(b) No penalty case shall be initiated for revenue-loss violation, if the district director is certain that the violation has resulted from negligence, the combined actual and potential loss of revenue from entries within that district is $500 or less, and the circumstances make it certain it is a violation which does not extend to other districts. In cases in which the loss of revenue is between $500 and $1,000, the district director may initiate a penalty case if, in his consideration of all the circumstances, the claim for monetary penalty is warranted as a deterrent for future violations. Any actual loss of revenue shall be collected pursuant to § 162.79b, Customs Regulations (19 CFR 162.79b).

(c) No penalty noitice shall be issued in a case involving gross negligence or negligence where a prior disclosure has been made and there is no actual loss of revenue.

(D) Disposition of Cases

(1) *In General.* In mitigating claims for monetary penalty, the district director or appropriate Customs official shall consider all the information in the petition and all available evidence, taking into account any mitigating, aggravating, and extraordinary factors in determining the final assessed penalty. All factors used by the district director or appropriate Customs official in determining the penalty should be stated in this decision. If a penalty in a fixed amount is deemed not be appropriate (see (C) (1) (c)), disposition in revenue-loss and non-revenue-loss cases shall proceed in the manner set forth below.

(2) *Violations Determined to be Fraudulent.* Absent extraordinary factors justifying further relief, a penalty for a fraudulent violation shall be mitigated as follows:

(a) For revenue-loss violations, to an amount ranging from a minimum of five times the loss of revenue to a maximum of the lesser of the domestic value of the merchandise or eight times the loss of revenue. However, a penalty equal to the domestic value of the merchandise may be warranted due to the existence of aggravating factors.

(b) For non-revenue-loss violations, to an amount ranging from 50 to 80 percent of the dutiable value of the merchandise. However, a penalty equal to the domestic value of the merchandise may be warranted due to the existence of aggravating factors.

(3) *Violations Determined to be Grossly Negligent.* Absent extraordinary factors justifying further relief, a penalty for a grossly negligent violation shall be mitigated as follows:

(a) For revenue-loss violations, to an amount ranging from a maximum of two and one-half times the loss of revenue to a maximum of the lesser of the domestic value of the merchandise or four times the loss of revenue;

(b) For non-revenue-loss violations, to an amount ranging from 25 to 40 percent of the dutiable value of merchandise.

(4) *Violations Determined to be Negligent.* Absent extraordinary factors justifying further relief, a penalty for a negligent violation shall be mitigated as follows:

(a) For revenue-loss violations, to an amount ranging from a minimum of one-half the loss of revenue to a maximum of the lesser of the domestic value of the merchandise or two times the loss of revenue.

(b) For non-revenue-loss violations, to an amount ranging from five to 20 percent of the dutiable value of the merchandise.

(5) *Cancellation of Claim.* The district director shall cancel a claim for monetary penalty whenever it is determined that an essential element of the violation has not been established by the available evidence.

(6) *Remission of Claim.* If, following consultation with the regional counsel, the district director determines by clear and convincing evidence that the statute of limitations would be available as a defense to enforcement of a claim for monetary penalty, then the district director shall remit such claim. If the district director believes that a claim for monetary penalty should be remitted for a reason not set forth in these guidelines, he shall first obtain approval from the Chief, Commercial Fraud and Negligence Penalties Branch, Headquarters, Customs Service.

(E) Prior Disclosure; Disposition of Cases

(1) In non-revenue-loss cases and potential-revenue loss cases involving a prior disclosure where the degree of culpability is determined to be negligence or gross negligence, the claim for monetary penalty is to be remitted in full.

(2) In non-revenue-loss cases involving a prior disclosure where the degree of culpability is determined to be fraud, the claim for monetary penalty shall be equal to ten percent of the dutiable value of the merchandise. There shall be no further mitigation in the absence of extraordinary factors.

(3) In actual-revenue-loss cases involving a prior disclosure where the degree of culpability is determined to be negligence or gross negligence, the claim for monetary penalty shall be equal to the interest computed from the date of liquidation on the amount of the actual loss of revenue resulting from the violation.

(4) In revenue-loss cases involving a prior disclosure where the degree of culpability is determined to be fraud, the claim for monetary penalty shall be equal to 100 percent of the total actual and potential loss of revenue resulting from the violation.

(F) Mitigating Factors

The following factors shall be considered in mitigation of the penalty, provided that sufficient evidence establishes their existence. The list is not exclusive.

(1) *Contributory Customs Error.* This factor includes misleading or erroneous advice given by a Customs official only if it appears that the violator reasonably relied upon the information. If the claimed erroneous advice was not given in writing, the violator has the burden of establishing this claim by a preponderance of the evidence. The concepts of comparative negligence may be utilized in determining the weight to be assigned to this factor.

(2) *Cooperation with the Investigation.* In order to obtain the benefits of this factor, the violator must exhibit cooperation beyond that expected from a person under investigation for a Customs violation. Some examples of the cooperation contemplated include assisting Customs officers to an unusual degree in auditing the books and records of the violator, and assisting Customs in obtaining additional information relating to the subject violation or other violations. Merely providing the books and records of the violator may not be considered cooperation justifying mitigation.

(3) *Immediate Remedial action.* This factor includes the payment of the actual loss of duties prior to the issuance of a penalty notice and within 30 days of the

determination of the duties owed. In certain extreme circumstances, this factor may include the removal of an offending employee. The correction of organizational or procedural defects will not be considered a mitigating factor. It is expected that any importer or other involved individual will seek to remove or change any condition which contributed to the existence of a violation.

(4) *Inexperience in Importing.* Inexperience is a factor only if it contributes to the violation and the violation is not due to fraud or gross negligence.

(5) *Prior Good Record.* For the violator to benefit from this factor, the violation must have occurred as a result of negligence or gross negligence, and the violator must be able to show a consistent pattern of importations without violation of section 592, or any other statute prohibiting false or fraudulent importation practices.

(G) Aggravating Factors

Certain factors may be determined to be aggravating factors in arriving at the final mitigated penalty decision. Examples of aggravating factors include obstructing the investigation, withholding evidence, providing misleading information concerning the violation, and prior substantive violations of section 592 for which a final administrative finding of culpability has been made.

(H) Extraordinary Factors Justifying Further Relief

(1) The four factors specified below may be considered in connection with further relief. Such relief may be accorded for extraordinary factors not specified below only upon the concurrence of the Chief, Commercial Fraud and Negligence Penalities Branch, Headquarters.

(a) *Inability to obtain jurisdiction over the violator or inability to enforce a judgement against the violator.*

(b) *Inability to Pay the Mitigated Penalty.* The party claiming the existence of this factor must present documentary evidence in support thereof, i.e., copies of income tax returns, current financial statements, and independent audit reports.

(c) *Extraordinary Expenses.* This factor may include such expenses as those incurred in providing one-time computed runs solely for submission to Customs to aid it in analyzing a case involving an unusual number of entries, with each entry involving several factors, i.e., violations involving item 807, Tariff Schedules of the United States. Usual accounting and legal expenses (both general and Customs), or the cost incurred in instituting remedial action would not be considered extraordinary expenses.

(d) *Customs Knowledge.* Additional relief will be granted if it is determined that Customs had actual knowledge of a violation and failed to inform the violator so that it could have taken earlier corrective action. In such cases, if a penalty is to be assessed involving repeated violations of the same kind, and if it is determined that the violations were not the result of fraud, the maximum penalty amount for violations occurring after the date on which actual knowledge was obtained by Customs will be limited to the lesser of two times the loss of revenue or five percent of dutiable value if the continuing violations were the result of gross negligence, or the lesser of one time the loss of revenue or two percent of dutiable value if the violations were the result of negligence. This factor shall not be applicable when a substantial delay in the investigation is attributable to the violator.

(2) *Providing Evidence or Information concerning the Violation.* Additional relief will be granted if a person discloses the circumstances of a violation by providing evidence or information which is not in Customs possession or knowledge and/or which had not been requested by a Customs officer, although the disclosure does not meet the requirements for a prior disclosure in § 162.74, Customs Regulations (19 bCFR 162.74). If the appropriate Customs officer is satisfied that the disclosure was made before, or without knowledge of, the commencement of a formal investigation, the maximum mitigated penalty for the disclosed violation will be limited as follows:

(a) In the case of fraudulent violations, two times the loss of revenue or, if the violation did not result in a loss of revenue, 20 percent of the dutiable value of the merchandise;

(b) In the case of grossly negligent violations, one-half of the loss of revenue or, if the violation did not result in a loss of revenue, five percent of the dutiable value of the merchandise;

(c) In the case of negligent violations, one-qauarter of the loss of revenue or, if the violation did not result in a loss of revenue, two and one-half percent of the dutiable value of the merchandise.

(I) Customhouse Brokers

A customhouse broker shall be subject to the above quidelines only if he is determined to have (1) committed a fraudulent or grossly negligent violation; or (2) committed a negligent violation and shared in the financial benefits of the violation to an extent over and above the prevailing brokerage fees. If the broker committed a negligent violation without sharing in the financial benefits over and above the prevailing brokerage fees, the penalty should be mitigated to a flat sum not to exceed $250. A broker is not negligent if he acts with reasonable care (as measured by the prevailing standards of the profession) in the preparation and presentation of the entry or the entry summary, and reasonably relies on the information or documents supplied to him by the actual owner, consignee, shipper, or their agent.

(J) Arriving Travelers

(1) *Liability.* Assessment of penalties and determination of degrees of culpability for violations by an arriving traveler must be determined in accordance with the above guidelines.

(2) *Limitations on Liability.* (a) In the absence of a referral for criminal prosecution, monetary penalties assessed in the case of a first-offense, non-commercial, fraudulent violation by an arriving traveler will generally be limited to an amount ranging from a minimum of three times the loss of revenue to a maximum of five times the loss of revenue, provided the loss of revenue is also paid.

(b) No penalty cases shall be initiated against an arriving traveler if the violation is not fraudulent, the loss of revenue is $100 or less, and there are no prior violations of section 592 or other statutes prohibiting false or fraudulent importation practices. However, all lawful duties shall be collected.

(K) Violations of Laws Administered by Other Federal Agencies

Violations of laws administered by other federal agencies (such as Foreign Assets Control, Agriculture, Fish and Wildlife) should be referred to the appropriate agency for its recommendation. Such recommendation, if promptly tendered, will be given due consideration, and may be followed provided the recommendation would not result in a disposition inconsistent with these guidelines.

William von Raab,

Commissioner of Customs.

Approved: October 15, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-30183 Filed 11-2-82; 8:45 am]

BILLING CODE 4820-02-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 431]

Arroyo Seco Viticultural Area; Proposed Establishment

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is considering the establishment of an American viticultural area in California know as "Arroyo Seco." This proposal is the result of a petition from the Arroyo Seco Winegrowers and Vintners, an organization composed of bonded wineries and grape-growers with vineyards within the proposed viticultural area. The establishment of viticultural areas and the use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from, and will enable consumers to better identify the wine they purchase.

DATE: Written comments must be received by December 20, 1982.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385, Attention: Notice No. 431.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Telephone: 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historic or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographic characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which are found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition to establish a viticultural area located within Monterey County, California, to be known as Arroyo Seco. The proposed area is a triangular-shaped area adjacent to the Arroyo Seco Creek which flows into the Salinas River near Soledad. The total area comprising the Arroyo Seco viticultural area is 28.5 square miles. The petitioner, Arroyo Seco Winegrowers and Vintners, is an association composed of grape-growers and bonded wineries which have vineyards within the proposed area. Their petition is based on the following information:

(a) Arroyo Seco is the name given to a land grant and rancho existing in the vicinity of the proposed viticultural area. Arroyo Seco, meaning "dry creek" is the name of the creek flowing through the viticultural area.

More recently, Arroyo Seco has become known as a grape-growing region. Vineyards were first planted in the area in 1962 by Mirassou Sales, a San Jose Winery. In 1963, Wente Brothers of Livermore, California, planted vineyards along the Arroyo Seco Creek which are commonly known as Wente's Arroyo Seco Vineyards. Since 1963, many other vineyards have been planted in the Arroyo Seco region and that term has been used in numerous magazines, newspapers, and wine publications in describing wines from this region.

(b) Wine grapes were first planted in the vicinity of Arroyo Seco between 1830 and 1840 at the nearby Mission Soledad. Winegrowing, however, never became popular throughout Monterey County because it was considered a "poor area" for viticulture. Strong winds off Monterey Bay and the arid climate of the Salinas River Valley deterred the planting of wine grapes in Monterey County. However, since the late 1800's, the Salinas Valley has been widely planted with vegetables, and it is known as the "salad bowl of the world."

During Prohibition, only 400 acres of vineyards survived in Monterey County, and this acreage was halved in the years following Repeal.

It was not until the early 1960's that vineyards were planted in the Arroyo Seco region of Monterey County. Three wineries, Paul Masson, Wente Brothers, and Mirassou, feeling the effects of urbanization in Santa Clara and Alameda Counties, began searching for new areas in California in which to plant vineyards. These wineries noted the conclusion of a report prepared by professors Maynard Amerine and A. J. Winkler of the University of California at Davis. Their report concluded than Monterey County contained Region I and II climatic areas and was suited to the growing of premium quality grapes. Regarding soils within Monterey County, the report contained the specific conclusion: "A number of soils in different areas of the Salinas Valley are adapted for grapes. Yet the greatest promise is offered by the Greenfield series of soils [now classified as Chular, Arroyo Seco and possibly other soil series] that occupies the lower gentle slopes on the terrace west of the Salinas River, extending from about opposite Gonzales to and including the Arroyo Seco Valley."

Acting on the recommendations contained within the Amerine-Winkler report, Paul Masson and Mirassou planted vineyards between Soledad and Greenfield in 1962. The following year, Wente Bros. planted vineyards along the Arroyo Seco Greek west of Greenfield. The first wines were produced from Arroyo Seco grapes in 1966.

The success of these first vineyards in the Salinas Valley prompted other grape-growers to plant within the Valley. Since 1962, nearly 34,000 acres of vineyards have been planted in Monterey County. The proposed Arroyo Seco viticultural area contains approximately 8,500 acres of premium varietal grapes including Pinot Banc, Riesling, Gewurztraminer, Chardonnay, Gamay, Cabernet Sauvignon, Petit Sirah, and Sauvignon Blanc. A majority of grapes from the Arroyo Seco district are shipped to wineries out of the region for processing; however, there are currently two bonded wineries within the viticultural areas. An added benefit of planting in Monterey County is that phylloxera is not present in the soil allowing the planting of vinifera grapes on their own rootstock.

(c) Topography of the Arroyo Seco viticultural area distinguishes it from surrounding areas. The Arroyo Seco area is sloping bench land surrounding the Arroyo Seco Creek. The highest elevations of over 600′ occur on the Sierra de Salinas to the west, foothills of the Santa Lucas Mountains. A sloping ridgeline of between 500′ and 300′ in elevation separates Arroyo Seco from areas immediately to the south. From these elevations, the area slopes gradually downward to the lowest points of 180′ elevation on the north along the Arroyo Seco Creek, and 220′ elevation on the west along the Salinas River. It is this sloping bench land high above the Salinas River which provides adequate drainage and freedom from frost for vineyards within the Arroyo Seco viticultural area.

The proposed viticultural area also includes land immediately adjacent to the Arroyo Seco Creek where the creek enters the Sierra de Salinas.

(d) The climate of the Arroyo Seco area is unique in the amount of rainfall, temperature range, and the variability of the winds.

The major climatic influences are the Pacific Ocean and Monterey Bay. To the west of Arroyo Seco, the Santa Lucas Mountains block the damaging Pacific rains from the area. Winds off the

Pacific Ocean, however, blow down the Salinas River Valley, cooling the valley and providing a moderate climate. These winds blow almost every afternoon during the growing season, and attain velocities of 15–30 miles per hour. Within the Salinas Valley, the juxtaposition of the Sierra de Salinas to the Arroyo Seco Valley causes the winds to be stronger east of U.S. Highway 101. A pocket-like effect is created within the Arroyo Seco Valley which has milder wind currents. Therefore, the eastern boundary of most of the viticultural area is Highway 101.

The cooling effects of the wind make the northern Salinas Valley quite cold. Gonzales is classified as Region I on the California Davis scale with 2350 degree days. In the Arroyo Seco area, the climate is considered Region II. Soledad, to the immediate north, registers 2880 degree days while Wente's Arroyo Seco Vinyards average between 187 and 2250 degree days. The cooling effect of the wind diminishes further south. King City averages 3150 degree days, placing it in Region III while San Miguel is classified as Region IV. The growing season in the Arroyo Seco region is approximately 245 days.

Rainfall is sparse in the proposed Arroyo Seco area. Soledad averages just 9.5 inches per year, less than received to the north where Salinas Averages 13.7 inches and Gonzales 12.3 inches per year. Because of the sparse rainfall, all vinyards within the Arroyo Seco region irrigate, using water from the Arroyo Seco Creek rather than from the Salinas River.

(e) The soils in the Arroyo Seco area consist of a series of gravelly and fine sandy loams well suited to the cultivation of grapes. The proposed viticultural area consists of an alluvial fan formed by well drained soils with slopes ranging from 0 to 9 percent. Principal soil series include Mocho, Lockwood, Arroyo Seco, Rincon, Elder, and Chular. The prominent soils, Chular and Arroyo Seco, are coarse sandy loams derived from decomposed granite washed down from the Gavilan Mountains. These soils are gravelly and low in lime content similar to the vinyards in the Medoc and Graves districts of Bordeaux, and to the better vinyards in the Palatinate.

(f) The boundaries of the proposed Arroyo Seco viticultural area are based on a combination of climate, physical features, soils and irrigation sources. The proposed boundaries and the appropriate U.S.G.S. maps are fully described in the regulatory language. ATF notes that it has received a petition for an adjacent viticultural area immediately south of the proposed Arroyo Seco area.

Public Participation

ATF requests comments from all interested persons concerning the proposed viticultural area. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed viticultural area should submit his or her request, in writing, to the Director within the 45-day comment period. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioner or other persons to use an appellation of origin, "Arroyo Seco," on wine labels and in wine advertising. ATF has determined that this rule neither imposes new requirements on the public nor removes existing privileges available to the public. Adoption of this proposed rule will not result in any economic or administrative costs to the public, but will grant to the petitioner or other persons an intangible economic benefit. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and wine.

Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9 is amended by adding § 9.59 as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

* * * * *

9.59 Arroyo Seco.

Par. 2. Subpart C is amended by adding § 9.59. As added, § 9.59 reads as follows:

§ 9.59 Arroyo Seco.

(a) *Name.* The name of the viticultural area described in this section is "Arroyo Seco."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Arroyo Seco viticultural area are four U.S.G.S. quadrangle maps. They are entitled:

(1) "Greenfield, Cal.", 7.5 minute series, edition of 1956;

(2) "Paraiso Springs, Cal.", 7.5 minute series, edition of 1956;

(3) "Soledad, Cal.", 7.5 minute series, edition of 1955; and

(4) "Sycamore Flat, Cal.", 7.5 minute series, edition of 1956 (photoinspected 1972).

(c) *Boundaries.* The Arroyo Seco viticultural area is located within Monterey County, California. The beginning point is found on the "Sycamore Flat, California," U.S.G.S. map at the junction of Arroyo Seco Road and the Carmel Vally Road (indicated as the Jamesburg Road on the map).

(1) Then east following Arroyo Seco Road to the Southwest corner of Section 22, T. 19 S., R. 5 E.

(2) Then east following the southern boundaries of Sections 22, 23, 24, 19, and 20 to the southeastern corner of Section 20, T. 19 S., R. 6 E.

(3) Then northeast in a straight line for approximately 1.3 miles to the summit of Pettits Peak.

(4) Then northeast in a straight line for approximately 1.8 miles to the point where the 400' contour line intersects the northern boundary of Section 14, T. 19 S., R. 6 E.

(5) Then east following the 400' contour line to a point immediately west of the Reservoir within the Posa de los Ositos Land Grant.

(6) Then following the ridge line in a northeasterly direction for approximately 7.5 miles to U.S. Highway 101 at the intersection of Underwood Road.

(7) Then east following Underwood Road to its intersection with the Posa de los Ositos Land Grant boundary.

(8) Then north following the Posa de los Ositos land Grant boundary to the west bank of the Salinas River.

(9) Then northwest following the west bank of the Salinas River to its intersection with the southern boundary of Section 17, T. 18 S., R. 7 E.

(10) Then due west for approximately 2.0 miles following the southern boundary of Section 17, and continuing to U.S. Highway 101.

(11) Then following U.S. Highway 101 in a northwesterly direction to its intersection with Paraiso Road.

(12) Then south following Paraiso Road to the intersection with Clark Road.

(13) Then south in a straight line for approximately 1.8 miles to the northeast corner of section 5, T. 19 S., R. 6 E.

(14) Then due south following the eastern boundaries of Sections 5, 8, and 17, to the intersection with Arroyo Seco Road.

(15) Then southwest in a straight line for approximately 1.0 mile to Bench Mark 673.

(16) Then west in a straight line for approximately 1.8 miles to Bench Mark 649.

(17) Then northwest in a straight line for approximately 0.2 mile to the northeast corner of Section 23, T. 19 S., R. 5 E.

(18) Then west following the northern boundaries of Sections 23 and 22 to the northwest corner of Section 22, T. 19 S., R. 5 E.

(19) Then south in a straight line for approximately 1.0 mile to the point of beginning.

Signed: September 8, 1982.

Stephen E. Higgins,

Acting Director.

Approved: October 6, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-30177 Filed 11-2-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 430]

Linganore Viticultural Area; Proposed Establishment

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area encompassing parts of Frederick and Carroll Counties in north central Maryland to be know as "Linganore." This proposal is the result of a petition submitted by Mr. John (Jack) T. Aellen, Jr., proprietor of a bonded winery in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments must be received by December 3, 1982.

ADDRESSES: Send written comments or requests for a public hearing to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385, (Attn: Notice No. 430).

Copies of the petition, the proposed regulations, maps with the boundaries of the proposed viticultural area marked, and any written comments will be available for public inspection during normal business hours at the: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, N.W, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. The revised regulations permit the establishment of definite viticultural areas and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used on wine labels and in wine advertisements as appellations of origin.

Section 4.24a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the petition;

Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on the United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area located in north central maryland and encompassing parts of Frederick and Carroll Counties as

viticultural area. The proposed viticultural area is to be known as "Linganore." The petition was submitted by Mr. John (Jack) T. Aellen, Jr., proprietor of a bonded winery known as Berrywine Plantations, Inc.

The proposed viticultural area lies east of the town of Frederick. It encompasses an area of approximately 90 square miles or 57,000 acres. There is one winery, operated by the petitioner, with a 38 acre vineyard in the proposed viticultural area. Including the vineyard of the winerey, there are approximately 52 acres planted to grapes for commercial purposes in the proposed viticultural area. The acreage devoted to grape-growing is widely dispersed throughout the proposed viticultural area. Approximately 19.5% of the total commercial grape acreage in the State of Maryland in 1980 was planted in the proposed viticultural area. In addition, there are small vineyards, generally under one acre, used for private purposes by the owners, scattered throughout the proposed viticultural area.

The boundries of the proposed viticultural area may be found on five U.S.G.S. quadrangle (Topographic) maps, 7.5 minute series, scale 1:24,000—Walkersville, Libertytown, Damascus, Winfield, and Union Bridge. The specific viticultural area boundaries proposed by the petitioner are detailed in the proposed regulations at § 9.63(c).

Viticultural/Geographical Features

The petitioner claims the proposed viticultural area is distinguishable from the surrounding area on the basis of climate, soil, geology, and other physiographical features. The petitioner submitted evidence on the following in support of this claim.

(a) *Climate.* The petitioner submitted United States Soil Conservation Service maps which depict climatic data for the proposed viticultural area and the surrounding area. The proposed viticultural area has an average annual rainfall of 40–42 inches, temperature of 55–60 degrees F., and a frostfree season of 170–180 days. The area to the west of the proposed viticultural area has an average annual rainfall of 36–40 inches, temperature of 50–55 degrees F., and a frostfree season of 160–170 days. The area to the east of the proposed viticultural area has an average annual rainfall of 40–44 inches, temperature of 55–60 degrees F., and a frostfree season of 170–180 days. The proposed viticultural area is generally warmer, wetter, and has a longer frostfree season than the area to the west; and is slightly cooler, dryer, and has a shorter frostfree season than the area to the east.

In addition, using the same heat summation criteria as used by Amerine and Winkler under their climatic region concept, the proposed viticultural area would be classified as Region 3 while the area to the west would be classified as Region 2. That is, the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days, for each day in the period April–September of any given year is generally 3,001–3,500 for the proposed viticultural area and 2,5001–3,000 for the area to the west.

To summarize, the petitioner contends the proposed viticultural area possesses a unique set of growing conditions which distinguish it from the surrounding area. In addition, the petitioner contends the climatic conditions associated with the proposed viticultural area have a marked influence on the amount and distribution of heat and moisture received by grapes during the growing season. This, in turn, affects the development and balance of sugar, acid, and other constituents of grapes grown in the proposed viticultural area.

(b) *Geologic features.* The geomorphological characteristics of the proposed viticultural area generally correspond to distinguishable geological features which define a "piedmont," i.e., an area lying along or near the foot of a mountain range. The proposed viticultural area lies to the east of Catoctin Mountain, part of the "Blue Ridge" mountain range, and a limestone valley, which surrounds the town of Frederick and lies between Catoctin Mountain and the proposed viticultural area. The area lying to the east of the proposed viticultural area is part of the coastal plain.

(c) *Soils.* The soil in the proposed viticultural area is primarily of the "Manor" series. It is found throughout the proposed viticultural area in various soil associations. The major soil associations are Manor-Glenelg, Conestoga-Manor, Manor-Edgemont-Brandywine, Manor-Linganore-Montalto, and Manor-Linganore-Urbana.

Manor soil is a two to eight foot deep gravelly loam containing much silt and small specs of mica. It is well to excessively drained and tends to be "droughty" in years of low rainfall. However, it is underlaid with shale bedrock, which tends to have a high water table, that partially offsets the effects of low rainfall.

The natural pH of the soils in the proposed viticultural area is between 5.1 to 6.5, i.e., strongly acid to slightly acid. The petitioner claims this is ideal for the growing of grapes.

The types of soil found in the proposed viticultural area are also found in the area to the east of the proposed viticultural area. However, the types of soil found in the area to the west of the proposed viticultural area, beginning around the town of Frederick, are different from those found in the proposed viticultural area.

(d) *Watershed.* The proposed viticultural area is served by the Monocacy River drainage system. Linganore Creek is the only Monocacy River tributary in the proposed viticultural area and has a sizeable drainage basin of its own. The boundaries of the proposed viticultural area correspond, as much as possible, with the boundaries of the Linganore Creek drainage basin or watershed. The boundaries of the Linganore Creek watershed have been determined by the United States Soil Conservation Service and designated as MD-MA-Pot-54.The proposed viticultural area encompasses an area which is geographically associated on the basis of watershed criteria. The surrounding areas are served by watersheds which no not serve the proposed viticultural area.

Evidence Relating to Name and Boundaries

The petitioner claims the proposed viticultural area is locally and/or nationally known by the name "Linganore" and the boundaries of the viticultural area are as specified in the petition. The petitioner submitted historical or current evidence consisting of the following to support these claims.

(a) Excerpts from Scharf's "History of Western Maryland" which describe an area known as "Linganore District, No. 19." This area constitutes approximately one-fifth of the area proposed in the petition. In addition, these excerpts indicate the name "Linganore" has been applied to this area since the mid-1700's.

(b) Excerpts from Kenny's "The Origin and Meaning of Indian Place Names of Maryland" which indicate the name "Linganore" is of Indian origin and was used on two U.S.G.S. maps in 1909 to designate a village and a creek.

(c) Excerpts from the Frederick County telephone book which show listings for Linganore High School, associations and clubs on Lake Linganore, and individuals residing along Linganore Road.

(d) United States Soil Conservation Service maps which depict the boundaries of the Linganore Creek watershed.

(e) A map which depicts the location of commercial and private vineyards in the proposed viticultural area.

Discussion

ATF feels that evidence submitted by the petitioner indicates establishment of "Linganore" as a viticultural area may be warranted. Accordingly, we are proposing in this document the establishment of this grape-growing region as a viticultural area.

However, we are not entirely convinced the boundary proposed by the petitioner is the most appropriate for the viticultural area. We recognize the dispersed nature of the acreage devoted to viticulture may be the primary factor contributing to the petitioner's selection of a boundary for the viticultural area. Nevertheless, since a high proportion of the acreage encompassed by this boundary is either viticulturally unsuitable or used for purposes other than viticulture, other possible boundaries may be more appropriate. Accordingly, consideration will be given to other possible boundaries.

Public Participation

All interested persons are invited to participate in this proposed rulemaking by submitting written comments containing such data, views, or recommendations as they may desire. Comments should be specific, pertain to the issues proposed in this rulemaking, and provide the factual basis supporting data, views, or recommendations. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the boundaries of the viticultural area are as specified in the petition. In addition, comments are requested on alternative boundaries for the viticultural area. Comments concerning alternative boundaries should include data on the geographical and viticultural characteristics which the commenter believes distinguishes the area encompassed from the surrounding area.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine, on the basis of written comments, our own research, and in the light of any other circumstances, whether this viticultural area should be established and which boundaries are appropriate. In addition, ATF may modify, through the rulemaking process, any viticultural area which may result from this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed "Linganore" viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel of other offices of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.63. As amended, the table of sections reads as follows:

Sec.

* * * * *

9.63 Linganore.

Par. 2. Subpart C is amended by adding § 9.63 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.63 Linganore.

(a) *Name.* The name of the viticultural area described in this section is "Linganore."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Linganore viticultural area of five U.S.G.S. topographic maps. They are—

(1) "Walkersville Quadrangle, Maryland—Frederick Co.", 7.5 minute series, 1953 (Photorevised 1979);

(2) "Libertytown Quadrangle, Maryland", 7.5 minute series, 1944 (Photorevised 1971);

(3) "Damascus Quadrangle, Maryland", 7.5 minute series, 1944 (Photorevised 1979);

(4) "Winfield Quadrangle, Maryland", 7.5 minute series, 1950 (Photorevised 1979); and

(5) "Union Bridge Quadrangle, Maryland", 7.5 minute series, 1953 (Photorevised 1971).

(c) *Boundaries.* The Linganore viticultural area is located in north central Maryland and encompasses parts of Frederick and Carroll Counties. From the beginning point lying at the confluence of Linganore Creek and the Monocacy River, on the "Walkersville Quadrangle" map, the boundary runs—

(1) South-southeasterly 5,000 feet in a straight line to the point lying

approximately 1,000 feet south of Interstate Highway 70 at the intersection of two unnamed light duty roads in the town of Bartonsville;

(2) Then east-southeasterly 15,500 feet in a straight line to the point lying at the intersection of Mussetter Road and latitude line 39 degrees 22 minutes 30 seconds;

(3) Then east-northeasterly 8,125 feet in a straight line to the point lying at the intersection of Mill Road and State Highway 144;

(4) Then easterly along State Highway 144 to the point of intersection with State Highway 27, approximately midway between the towns of Ridgeville and Parrsville;

(5) Then northeasterly along State Highway 27 to the point of intersection with State Highway 26 in the town of Taylorsville;

(6) Then northerly 2,750 feet in a straight line to the point on a hill identified as having an elevation of 850 feet;

(7) Then northwesterly 21,000 feet in a straight line to the point lying at the intersection of State Highway 31 and latitude line 39 degrees 30 minutes;

(8) Then westerly 15,625 feet along latitude line 39 degrees 30 minutes to the point of intersection with Copper Mine Road;

(9) Then northwesterly along Copper Mine Road to the point of intersection with longitude line 77 degrees 15 minutes;

(10) Then southerly 5,250 feet along longitude line 77 degrees 15 minutes to the point of intersection with latitude line 39 degrees 30 minutes;

(11) Then southwesterly 46,750 feet in a straight line to the point of beginning.

Signed: September 10, 1982.

Stephen E. Higgins,

Acting Director.

Approved: October 6, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-30178 Filed 11-2-82; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 429]

Merritt Island Viticultural Area, Proposed Establishment

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of California to be known as "Merritt Island." This proposal is the result of a petition submitted by Mr. Chris Bogle, Secretary, Bogle Vineyards, Incorporated. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin will help wineries better designate the specific grape-growing areas where their wines came from and will help wine consumers better identify the wine they purchase.

DATE: Written comments must be received by December 20, 1982.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385, Attn: Notice No. 429.

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The regulations also allow the name of approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1978, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition to establish a viticultural area in Yolo County, California, to be known as "Merritt Island." The petition was submitted by Mr. Chris Bogle of Bogle Vineyards, Incorporated, who operates the only winery within the proposed area. The proposed area consists of a man-made island of approximately 5,000 acres, which resulted from land reclamation of the Sacramento (river) Delta. This area is located six miles south of the City of Sacramento, California, and is the first island forming the alluvial fan of the Sacramento Delta.

The petitioner claims that commercial grape-growing, in the proposed area, first began in 1969. Currently there are 425 acres of wine grapes planted, with additional acres of new plantings. There eight varieties of wine grapes being cultivated, the principle variety is *Chenin Blanc*. The other varieties are *Grey Riesling, Petite Sirah, Semillion, Cabernet Sauvignon, Sauvignon Blanc*, and *Merlot*. There are five vineyard operators within the proposed area. The petitioner has 156 acres of wine grapes planted. Bogle vineyards qualified with ATF as a bonded winery in March 1979 and since has bottled "estate bottled wines" and "varietal wines."

Evidence Relating to the Name

The petitioner furnished information which establishes the name Merritt Island as applying to the proposed area, as far back as November 16, 1879, on an official map of Yolo County, California. The proposed area and name is also prominently identified on a U.S.G.S. map (Clarksburg Quadrangle) submitted with the petition.

Geographical Evidence

The petition contained geographical and climatic information which distinguishes the proposed area from surrounding areas, based on the fact that:

(a) The proposed area consists of an island, bounded on the west and north by Elk Slough, Sutter Slough on the south, and the Sacramento River on the east.

(b) The type of soil primarily consists of Columbian Sandy Loam, while areas to the east consist of Sierra loam type soils, areas to the west consist of adobe and clay type soils, and areas to the south consist of Peat Dirt (an organically structured soil).

(c) The climate of Merritt Island is tempered by cooling southwesterly breezes from the Carquinez Straits near San Francisco. The influence of this breeze creates a 10 degree Fahrenheit cooler median temperature difference from the City of Sacramento, located six miles north. The climate of the islands to the south are often influenced by fog cover from San Francisco Bay, whereas, Merritt Island very seldom receives this fog cover since it is the northern most island in the Sacramento Delta.

Boundaries

The proposed viticultural area is located in Yolo County, California, six miles south of the City of Sacramento. Merritt Island is encircled by three bodies of water; the Sacramento River on the east, Elk Slough on the north and west, and Sutter Slough on the south.

The California Department of Public Works identifies the boundaries of the proposed area as "District No. 150 of the Sacramento River Flood Control Project."

The exact boundaries are described in the regulations portion of this document.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a "major rule" since it will not result in—

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provision of the Regulatory Flexibility Act relating to an initial regulatory flexibility analysis (5 U.S.C. 603) is not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioner or other persons to use an appellation of origin, "Merritt Island," on wine labels and in wine advertising. ATF has determined that this rule neither imposes new requirements on the public nor removes existing privileges available to the public. Adoption of this proposed rule will not result in any economic or administrative costs to the public, but will grant to the petitioner or other persons an intangible economic benefit. This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 27 CFR Part 9

Administrative practice procedures, Consumer protection, Viticultural areas, Wine.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. ATF particularly requests comments and information concerning: possible alternative boundaries; and viticultural and geographical evidence which may distinguish the proposed area from surrounding areas.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of any person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit a request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

Drafting Information

The principal author of this document is Norman P. Blake, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.68 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.68 Merritt Island.

Par. 2. Subpart C is amended by adding § 9.68 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.68 Merritt Island.

(a) *Name.* The name of the viticultural area described in this section is "Merritt Island."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Merritt Island viticultural area are two U.S.G.S. maps, 7.5 minute series. They are entitled:

(1) "Clarksburg Quadrangle, California," 1967 (Photorevised 1980); and

(2) "Courtland Quadrangle, California," 1978.

(c) *Boundaries.* The Merritt Island viticultural area includes approximately 5,000 acres, located in Yolo County, California, six miles south of the City of Sacramento. The boundaries of the Merritt Island viticultural area, using landmarks and points of reference found on the U.S.G.S. maps submitted with the petition, are as follows: starting at the most southernly point, the intersection of Sutter Slough with the Sacramento River, west along the course of Sutter Slough for 0.54 mile until it intersects Elk Slough; northeast along the course of Elk Slough for 9.58 miles to the community of Clarksburg and the intersection of the Sacramento River; southwesterly along the course of the Sacramento River for 7.8 miles to the beginning point.

Signed: September 3, 1982.

W. T. Drake,

Acting Director.

Approved: October 5, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-30179 Filed 11-2-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment and Opportunity for Public Hearing on Modified Portions of the Iowa Permanent Regulatory Program

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

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments that are intended to satisfy program deficiencies identified in the Iowa permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Iowa program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed for the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., December 6, 1982, to be considered in the Director's decision on whether the proposed program amendments satisfy the identified program deficiencies and are consistent with SMCRA and 30 CFR Chapter VII.

A public hearing on the proposed amendments has been scheduled for 5:00 p.m., November 30, 1982, at the address listed below under "**ADDRESSES.**"

Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and telephone number listed below by November 18, 1982. If no person has contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The public hearing will be held at the Holiday Inn, Capitol Plaza, 1050 6th Avenue, Des Moines, Iowa 50324. Written comments and requests to speak at the public hearing should be sent to: Richard Rieke, Field Office Director, Missouri Field Office, Office of Surface Mining, Scarritt Building, 818 Grant Avenue, Kansas City, Missouri 64106; Telephone: (816) 374-3920.

Copies of the Iowa Program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240;

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Field Office Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-3920.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 1980, OSM received a proposed regulatory program from the State of Iowa. On October 16, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 68673-68675). The State of Iowa resubmitted its revised regulatory program on December 15, 1980, and after a subsequent review, the Secretary approved the program subject to the correction of three minor deficiencies. The Secretary's decision was published in the January 21, 1981 **Federal Register** (46 FR 5885-5892). The Approval was made effective April 10, 1981.

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 **Federal Register** (46 FR 5885-5892).

Submission of Revisions

On October 1, 1981, OSM received from the Iowa Department of Soil Conservation (DSC), revisions to its parmanent program intended to satisfy conditions indentified in the January 21, 1981 **Federal Register** as "a" and "c".

OSM published a notice in the **Federal Register** on February 10, 1982, announcing receipt of these provisions and inviting public comment on whether the provisions submitted satisfied the two conditions. On may 26, 1982 (47 FR 22950-22954), the Secretary announced his decision to approve the amendments and to remove conditions "a" and "c".

On June 3, 1982, the Iowa DSC submitted to OSM a statutory amendment, Iowa Senate Bill 2660, which revised the Iowa Surface Coal Mining Act to satisfy condition "b" identified in the Januray 21, 1981 **Federal Register**

OSM published a notice in the **Federal Register** on July 7, 1982, announcing receipt of the provision and inviting public comment on whether it satisfied the condition. On September 8, 1982 (47 FR 39482-39483), the Secretary announced his decision to approve the amendment and remove condition "b".

On December 21, 1981, OSM notified the Iowa DSC that a review of Iowa's permanent regulatory program rules revealed that several important rules had been deleted and that the Iowa regulatory program was therefore deficient. (See Iowa Administrative Record Document Number IA-188.)

Apparently, Iowa deleted these rules in order to comply with actions taken by OSM to suspend certain rules in 30 CFR Chapter VII as a result of litigation on the permanent program rules (*In re Permanent for Surface Mining Regulation Litigation*, No. 79-1144 (D.D.C. 1980) aff'd 617 F. 2d 807 (D.C. Cir. 1980)). When Iowa chose to delete the corresponding rules from its program, it also deleted portions of the rules that were not suspended.

Summary of Program Amendments

Following is a description of the provisions submitted by the State on September 28, 1982, intended to correct the deficiencies noted in the December 21, 1981 letter from OSM. Under the authority of Iowa Code section 467.4(1), Chapter 4 of the Iowa Administrative Code on "Surface Mining and Reclamation Operations," was amended. The amended rules are summarized as follows:

1. Subrule 4.522(11) dealing with hydrologic balance, water quality standards, and effluent limitations, and

which adopts by reference 30 CFR 816.42 as promulgated March 13, 1979, is modified so that paragraph (a), subparagraphs (1) and (7), do not apply to the reclamation phase of mining, and paragraph (b) does not apply to total suspended solid discharges.

2. Subrule 4.522(15) dealing with hydrologic balance and sedimentation ponds, and which adopts by reference 30 CFR 816.46 as promulgated March 13, 1979, is modified to delete all but the first sentences from paragraphs (b), (c), and (h) of the federal regulations, and the following words from paragraph (d): "and shall have a discharge rate to achieve and maintain the required theoretical detention time."

3. Subrule 4.522(41) dealing with water control measures for coal processing waste banks, and which adopts by reference 30 CFR 816.83 as promulgated March 13, 1979, is modified to adopt by reference an amended rule adopted by the Office of Surface Mining on November 20, 1980, at 45 FR 76934.

4. Subrule 4.522(56) dealing with backfilling and grading for covering coal, acid and toxic-forming materials, and which adopts by reference 30 CFR 816.103 as promulgated March 13, 1979, is modified so that in lieu of subparagraph (a)(1) which was suspended, the Iowa DSC applies Sections 515(b)(14) and 516(b)(10) of SMCRA and 30 CFR 816.48.

5. Subrule 4.522(65) dealing with revegetation, and which adopts by reference 30 CFR 816.116 as promulgated March 13, 1979, is modified as amended by the Office of Surface Mining on August 4, 1980 (45 FR 51549).

6. Subrule 4.523(15) dealing with hydrologic balance and sedimentation ponds, and which adopts by reference 30 CFR 817.46 as promulgated March 13, 1979, is modified to delete all but the first sentences from paragraphs (b), (c), and (h) and the following words from paragraph (d): "and shall have a discharge rate to achieve and maintain the required theoretical detention time."

7. Subrule 4.523(38) dealing with water control measures for coal processing waste banks, and which adopts by reference 30 CFR 817.83 as promulgated March 13, 1979, is modified to adopt by reference an amended rule adopted by the Office of Surface Mining on November 20, 1980 (45 FR 76935).

8. Subrule 4.523(60) dealing with the standards for success of revegetation, and which adopts by reference 30 CFR 817.116 as promulgated March 13, 1979, is modified as amended by the Office of Surface Mining on August 4, 1980 (45 FR 51549).

9. Subrule 4.55(1) and subrule 4.55(5) dealing with special requirements for prime farmlands and prime farmland revegetation are modified so that the suspension of paragraph (c), subrule 4.55(1), and paragraphs (b) and (c), subrule 4.55(5), is made only to the extent that those paragraphs require actual crop production to measure revegetation sucess.

The following two provisions were not submitted in response to OSM's December 21, 1981 letter, but are additional amendments submitted by the State for consideration as program amendments.

10. Subrule 4.311(2), paragraph (e), subparagraph (1) dealing with maps and plans is modified to change the scale of maps required for the permit area from "1:1200 or larger" to "1:2400 or larger."

11. Subrule 4.322(13) dealing with cross sections, maps and plans, is modified in paragraph (k) to change the scale of topographic maps required for the existing land surface of proposed permit areas from "1:1200 or larger" to "1:2400 or larger" and to change the required contour interval from "two foot or less" to "five foot or less." Paragraph (1) of the same subrule is changed to modify the scale requirement for cross sections from "1:1200 or larger" to 1:2400 or larger."

The provisions submitted by Iowa on September 28, 1982, are available in full text for public review at the addresses listed above.

Accordingly, the Director seeks public comment on whether the final adopted Iowa rules satisfy the deficiencies described in OSM's letter to Iowa dated December 21, 1981 (IA–188) and whether the additional amendments proposed by Iowa are consistent with SMCRA and 30 CFR Chapter VII.

Additional Determinations

National Environmental Policy Act. Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, environmental assessment, or FONSI need be prepared on this rulemaking.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State programs, actions, or amendments. Therefore, this proposed program amendment is exempt from the requirement to prepare a Regulatory Impact Analysis and regulatory review by OMB.

List of Subjects in 30 CFR Part 915

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

Dated: October 28, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 82-30268 Filed 11-2-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 935

Public Comment and Opportunity for Public Hearing on Proposed Modifications to the Ohio Regulatory Program

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

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of program amendments submitted by Ohio to the Ohio Permenent Regulatory Program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the information about the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., e.s.t. on December 10, 1982, to be considered in the Secretary's decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendment has been scheduled for December 8, 1982. Any person interested in making an oral presentation at the hearing should contact Ms. Nina Rose Hatfield at the address or telehpone number listed below by November 19, 1982. If no person has contacted Ms. Hatfield by this date to express an interest in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: The public hearing will be held between 1 p.m. and 5 p.m. in Room 202 of the Ohio Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227. Written comments and requests for an opportunity to speak at the public hearing should be sent to Ms. Nina Rose Hatfield, Field Office Director, at the above address for the Ohio Field Office.

Copies of the Ohio program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and at the OSM headquarters office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224, Telephone: (614) 265–6633;
Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Programs Assistance, Office of Surface Mining Reclamation and Enforcement, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On January 22, 1982, the State of Ohio resubmitted to the Department of the Interior its permanent regulatory program under SMCRA. The resubmission followed an initial disapproval, notice of which was published in the **Federal Register** October 1, 1980 (45 FR 64962–64971). After opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Ohio program meets the requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies.

Accordingly, the Secretary of the Interior conditionally approved the Ohio program subject to the correction of eleven minor deficiencies. Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688–34718). The approval was effective on August 16, 1982.

On October 13, 1982, Ohio submitted materials proposing five rule changes which, if approved by the Director, OSM, would be incorporated into the Ohio regulatory program (Administrative Record No. OH ——). The proposed rules would amend the Ohio Administrative Code (OAC):

1501: 13–1–02 Definitions
1501: 13–1–07 Applicability
1501: 13–4–03, 04 and 05 Permit Application Requirements

The materials submitted by Ohio are available for public review at the addresses listed above. The Director seeks comment on whether the materials submitted should be approved and incorporated into the Ohio regulatory program.

Additional Determinations

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

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

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

4. *Indexing Requirements.*

List of Subjects in 30 CFR Part 935

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

Dated: October 29, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–30267 Filed 11–2–82; 8:45 am]
BILLING CODE 4310–05–M

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30 CFR Part 925

Public Comment Procedures and Opportunity for Public Hearing on Modified Portions of the Missouri Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for requesting a pubic hearing on the substantive adequacy of certain program amendments submitted by the State of Missouri as modifications to the Missouri permanent regulatory program (hereinafter referred to as the Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments are submitted (1) to satisfy a condition imposed by the Secretary of the Interior on the approval of the Missouri program, and (2) as further modifications to the Missouri program.

This notice sets forth the times and locations that the Missouri program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed for the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., December 6, 1982, to be considered in the decision on whether to approve or disapprove the proposed program amendments.

A public hearing on the proposed modifications will be held only if requested. If no one requests a public hearing, none will be held. If only one person requests a public hearing, a public meeting, rather than a public hearing may be held, and the results of the meeting included in the Administration Record. If a hearing is requested and scheduled, a notice announcing the time and location of the hearing will be published in the **Federal Register.** Requests for a public hearing should be directed to Richard Rieke at the address and phone number listed below by 4:00 p.m., November 30, 1982.

ADDRESSES: Written comments and requests for a hearing should be sent to: Mr. Richard Rieke, Field Office Director, Missouri Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

Copies of the Missouri program, the proposed modifications to the program, a listing of any scheduled public meetins and all written comments received in response to the notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 513, 1100 L Street, NW., Washington, D.C. 20240.
Missouri Department of Natural Resources, Land Reclamation Commission, 1026 D Northeast Drive, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Field Office Director, Missouri Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION:

Background

The Missouri program was approved on November 21, 1980 (45 FR 77017–77028). The approval was conditioned on the correction of 23 minor deficiencies. The 23 deficiencies were included in three conditions, (a), (b), and (c). Condition (a) consisted of (a)(1) through (a)(21). In accepting the Secretary's conditional approval, Missouri agreed to correct deficiencies (a) and (b) by April 1, 1981, and deficiency (c) by October 1, 1981.

To correct deficiency (a), Missouri submitted fully enacted rules dated December 3, 1981. Missouri submitted enacted rules dated March 12, 1981, to correct deficiency (b), and an opinion from the State Attorney General to correct deficiency (c). After providing an opportunity for public review and comment, the Secretary determined that the amendments submitted by Missouri corrected the deficiencies in the program, with the exception of the last element of condition (a)(1). The Secretary removed the first six elements of conditions (a)(1), conditions (a)(2) through (a)(21), and conditions (b) and (c) on May 11, 1982 (47 FR 20116–20119). The Secretary also extended the deadline for Missouri to meet the last element of condition (a)(1) to October 15, 1982. In that notice, OSM also identified a number of minor errors in the cross-references throughout the Missouri amendments. OSM notified Missouri by letter dated April 7, 1982, that although the errors did not affect the substance of the regulations, they could be misleading and should be corrected.

Submission of Amendments

Missouri has now submitted rules, by letters dated September 7, 1982, and October 13, 1982 (Administrative Record MO–248), intended to satisfy the last element of condition (a)(1), correct the cross-references errors noted in OSM's April 7, 1982 letter, and make additional amendments.

The proposed rules are summarized as follows:

(1) To correct the last element of condition (a)(1), an amendment was made to 10 CSR 40–8.030(13)(A) to define the term "final order or decision" to allow injunctive relief in accordance with Section 521(c)(A) of SMCRA.

(2) An amendment was made to 10 CSR 40–8.030(6)(B) 1. and (C) to correct references.

(3) An amendment was made to 10 CSR 40–8.030(7) (A) and (D) to correct references.

(4) An amendment was made to 10 CSR 40–8.030(8)(A) 1. to correct references.

(5) An amendment was made to 10 CSR 40–8.030(8)(E) to delete the phrase "and within the time limit set forth in this rule," because a 60-day period is specified.

(6) An amendment was made to 10 CSR 40–8.030(9)(A) 2. and (B) to correct references.

(7) An amendment was made to 10 CSR 40–8.030(10)(A) to correct references and include the phrase "with the Commission" to indicate where to file an application for review and request a hearing on a notice or order.

(8) An amendment was made to 10 CSR 40–8.050(8) to allow SOAP contractors to subcontract with other qualified laboratories.

(9) An amendment was made to 10 CSR 40–8.060 to renumber Sections (7)–(10) as Sections (5)–(8).

The full text of the proposed program amendments submitted by Missouri on September 7 and October 13, 1982, is available for public inspection at the addresses listed above. The Secretary seeks public comment on the adequacy of the proposed amendments. If approved, the amendments will become part of the Missouri program.

Additional Determinations

National Environmental Policy Act. Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, environmental assessment, or FONSI need be prepared on this rulemaking.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this proposed rule will not have a significant economic impact on substantial number of small entities.

Executive Order 12291. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State programs, actions or amendments. Therefore, this proposed program amendment is exempt from the requirement to prepare a Regulatory Impact Analysis and regulatory review by OMB.

List of Subjects in 30 CFR Part 925

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

Dated: October 29, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-30314 Filed 11-2-82; 8:45 am]

BILLING CODE 9310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 300

Assistance to States for Education of Handicapped Children

AGENCY: Education Department.

ACTION: Modification of notice of proposed rulemaking.

SUMMARY: On August 4, 1982, the Secretary proposed amended regulations for the Assistance to States for Education of Handicapped Children program. In light of public comment on the proposed regulations, the Secretary (1) withdraws the provisions in the six specified areas of the August 4 proposal as identified below, (2) specifies current regulatory provisions which would be restored in the six areas, (3) extends the period for comment on the proposed regulations to allow for comment on modifications occasioned by the withdrawals, and (4) announces his intention to publish a single revised Notice of Proposed Rulemaking (NPRM) for this program after a review of comments received.

DATES: Comments must be submitted on the August 4 proposed rules, including the modifications described in this notice, on or before December 3, 1982.

ADDRESS: Written comments should be addressed to Dr. Ed Sontag or Ms. Shirley A. Jones, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohoe Building (Room 4000), Washington, D.C. 20202. Telephone (202) 426–6114.

FOR FURTHER INFORMATION CONTACT: Dr. Ed Sontag or Ms. Shirley A. Jones, Telephone (202) 426–6114.

SUPPLEMENTARY INFORMATION: Pub. L. 94–142, enacted on November 29, 1975, substantially revised Part B of the Education of the Handicapped Act (20 U.S.C. 1401, 1411 *et seq.*). Part B authorizes formula grants to States and, through States, to local educational agencies and intermediate educational units to assist them in the education of

handicapped children. The purposes of the Act, as amended by Pub. L. 94–142, are: To ensure that a free appropriate public education is made available to all handicapped children, to ensure that the rights of handicapped children and their parents are protected, to assist States and localities to provide for the education of handicapped children, and to assess and ensure the effectiveness of efforts to educate those children.

On August 4, 1982, the Secretary published an NPRM to amend the regulations governing the implementation of Part B of the Act. 47 FR 33836. Comments on the proposed regulations were invited for a 90-day period ending on November 2. In addition, eleven public hearings were held at sites throughout the country to obtain the views of interested persons. The last two hearings were concluded on October 6.

On September 29, the Secretary announced the withdrawal of the August 4 proposals in six areas. The table below sets out the effect of that withdrawal. Beneath a description of each of the six areas are two columns. The left-hand column lists those provisions of the August 4 NPRM which the Secretary no longer proposes to adopt. The right-hand column lists those provisions of the current regulations in 34 CFR Part 300 which the Secretary would restore in place of the provisions withdrawn from the August 4 proposal.

1. Parental consent prior to evaluation or initial placement

Withdraw from August 4 proposal	*Restore current provisions*
Section 300.145(c)	Section 300.500 (definition of consent). Section 300.504(b) and (c).

2. Least restrictive environment

Withdraw from August 4 proposal	*Restore current provisions*
Section 300.160	Section 300.550 through Section 300.556.
Section 300.161	Section 300.305
Section 300.113	Section 300.306

3. Related services

Withdraw from August 4 proposal	*Restore current provisions*
Section 300.4(b)(10)	Section 300.13.
Guidelines 1 and 2 after Section 300.4.	

4. Timelines

Withdraw from August 4 proposal	*Restore current provisions*
Section 300.18(b)	Section 300.343(c).
Section 300.20(b)	Section 300.342(b)(2).
Section 300.122(c)	Section 300.534(b).
Section 300.141	Section 300.152(a) through (c).
Section 300.152(a) and (b)	Section 300.508(a)(3).

5. Attendance of evaluation personnel at individualized education program (IEP) meetings

Withdraw from August 4 proposal	*Restore current provisions*
Guideline 1 after Section 300.124.	Section 300.344(b).
	Section 300.348(b)

6. Qualifications of personnel

Withdraw from August 4 proposal	*Restore current provisions*
	Section 300.12.
	Section 300.532(e) (under proposed Section 300.158(g)(2)).
	Section 300.540.
	Section 300.380(b).

The Secretary invites interested persons to comment on the proposed regulations, as modified in the manner described above. The Secretary will accept comments through December 3, 1982. The purpose of this extended comment period is to continue to ensure as much public participation in the rulemaking process as possible. The Secretary is committed to a process that permits a full discussion of the issues raised in the implementation of this most important program. Comments on any aspect of the proposed regulations will be welcomed.

In addition to soliciting further written comments at this time, the Secretary has determined to seek the widest possible consultation with parents, educators, and other parties involved in the education of handicapped children. Interested persons and organizations are encouraged to write or call the Education Department contact persons identified in this notice to arrange for meetings or conference calls for this purpose.

After the comment period closes and the comments are analyzed, the Secretary intends to publish a new Notice of Proposed Rulemaking setting forth all appropriate revisions to the current regulations. This is not expected to occur until late winter or early spring, 1983. Public comment on the August 4 NPRM has already brought to light a number of opportunities to improve upon that document in areas other than the six areas described above. For example, the Department is considering such matters as (1) how to ensure that parents have adequate and timely information about the evaluation and educational placement of their handicapped children, (2) how to facilitate the full involvement of parents in the education of their children, (3) how to ensure that children are evaluated through the use of a multidisciplinary approach in all appropriate cases, and (4) how to ensure that appropriate criteria and procedures are used to determine whether a child has a specific learning disability.

It is the Secretary's judgment, in light of the intense interest and concern which the August 4 proposal has elicited, that all appropriate revisions to that document should be published in a single, new Notice of Proposed Rulemaking. Public comment will be solicited on the new NPRM prior to the adoption of any final regulations for the program.

(Catalog of Federal Domestic Assistance No. 84.027, Assistance to States for Education of Handicapped Children)

Dated: November 1, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-30359 Filed 11-2-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A 6-FRL 2181-8]

Approval and Promulgation of Implementation Plans; Oklahoma Regulation 1.4 Air Resources Management-Permits Requirements and Major Sources-Nonattainment Area Procedures

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: This notice proposes approval to two parts of Regulation 1.4's revision to the Oklahoma State Implementation Plan. The revision to Air Resources Management-Permits Required (1.4.1–1.4.3) and Major Sources-Nonattainment Areas (1.4.5) was submitted by the Governor on April 12, 1982. The section on Prevention of Significant Deterioration (PSD) Requirements (1.4.4) will be published in a separate **Federal Register** issue. The revision fulfills the provisions of Section 173 of the Clean Air Act by incorporating the Permit requirements into the regulation. It also sets forth legally enforceable procedures for the review of new sources and modifications which would locate in a nonattainment area.

On August 17, 1982, the United States Court of Appeals for the District of Columbia Circuit held that EPA may not use the plantwide definition of source in nonattainment areas in the *Natural Resources Defense Council* vs. *Gorsuch* ruling No. 81–2208.

Oklahoma's revision to Regulation 1.4 retains the dual definition of source and therefore is not affected by the decision.

DATES: Interested persons are invited to submit comments on this proposed action on or before December 3, 1982.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State submittal are available for inspection during normal business hours at the address above and at the following location: Oklahoma State Dept. of Health, Air Quality Service, N.E. 10th and Stonewall, Oklahoma City, Oklahoma 73105.

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith, State Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–9853.

SUPPLEMENTARY INFORMATION: On April 12, 1982, the Governor of Oklahoma submitted a SIP revision to Regulation 1.4. EPA reviewed the State's submittal and developed an evaluation report,[1] which is based on the minimum criteria established in 40 CFR 51.18 Review of new sources and modifications. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

Regulation 1.4's revision and the letter of commitment from the State dated April 30, 1982, adequately provides for the preconstruction review of a major new source or major modification which would locate in a nonattainment area. The State committed that:

1. sources proposing to locate in an attainment area where monitoring data indicates the area is in fact nonattainment (1.4.5(c)(1)(C)(ii)), will be required to apply LAER, demonstrate that all other sources are in compliance, and offset;

2. section 1.4.5(d)(2) is interpreted to mean that only secondary emissions are exempt from the conditons of 1.4.5(c)(1)(C)(vi) and 1.4.5(e)(1)(A), (B) and (C) and not the source as a totality;

3. copies of the public notification for permits will be sent to EPA and to all other local air pollution control agencies as required by 40 CFR 51.18(h)(4); and

4. whenever the word "enforceable" appears in a definition (1.4.5(b)(1–20)), they will interpret it to include "federally enforceable".

The State has agreed to submit a letter of clarification stating that because they use actual emissions to demonstrate reasonable further progress (RFP) towards attainment they also use actual emissions to determine credit for emission reductions. In the 1979 SIP, EPA approved Section 1.4.5(e)(1)(D)(ii) which enables a source to use the total allowable emissions in the region for offsets and to represent RFP toward attainment. But, under the States RFP reporting section (page 4–138, 1979 SIP), it states that "The report shall contain an updated emission inventory on an actual ton-per-year basis for the entire county or nonattainment area."

On August 7, 1980, at 45 FR 52728, EPA noted that many Part D SIP revisions based their attainment demonstrations on the actual emissions of the sources in a nonattainment area rather than the sources allowable emissions. This means that to be consistent with RFP, sources must reduce their actual, rather than their allowable, emissions. Otherwise, sources could claim credit for offsets in situations where the offset would actually interfere with RFP.

EPA is proposing approval of Regulations 1.4's revision because it fulfills the provisions of Section 173 of the Act and adequately provides for the preconstruction review of a major new source of major modification which would locate in a nonattainment area.

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 SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

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

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

Dated: October 8, 1982.

Frances E. Phillips,

Regional Administrator.

[FR Doc. 82-30197 Filed 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

[1] EPA Review of Oklahoma Regulation 1.4.1–1.4.3 (Air Resources Management-Permits Required) and 1.4.5 (Major Sources-Nonattainment Areas).

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40 CFR Part 180

[PH-FRL 2237-2; OPP-300068]

Alpha-(p-Nonylphenyl)-Omega-Hydroxypoly(Oxyethylene); Proposed Exemptions From the Reqirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to expand the upper range of moles of ethylene oxide in alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene) when used as an inert ingredient in pesticide formulations. This proposed regulation was requested by the GAF Corporation.

DATE: Written comments must be received on or before December 3, 1982.

ADDRESS: Written comments to: Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Roland Blood (703–557–7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of the GAF Corporation, the Administrator proposes to amend 40 CFR 180.1001(c) and (d) by expanding the upper range of moles of ethylene oxide in the exempted inert ingredient, alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene) from 30–90 moles to 30–100 moles.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Alpha-(*p*-nonlyphenyl)-omega-hydroxypoly (oxyethylene), produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4–14 or 30–100.

Name and address of requestor: GAF Corporation, 1361 Alps Road, Wayne, NJ 07470.

Basis for approval: This surfactant is cleared under 180.1001(c) and (e) with no limitations. This minor increase in ethylene oxide content from 30–90 to 30–100 moles is not toxicologically significant.

Based on the above information, and review of its use, it has beeen found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request on or before December 3, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number "[OPP–300068]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: October 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1001 (c) and (d) be amended by modifying the listing for alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene) to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene); produced by the condensation of 1 mole of nonylphenol-(nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–100.	.....	Surfactant.
* * * * *		

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(p-nonylphenyl)-omega-hydroxypoly(oxyethylene); produced by the condensation of 1 mole of nonylphenol-(nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–100.	.....	Surfactant.
* * * * *		

[FR Doc. 82–29977 Filed 11–2–82; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 180

[PH–FRL 2236–4; OPP–300069]

Methyl Bis (2-hydroxyethyl) Alkyl Ammonium Chloride; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule exempts methyl bis (2-hydroxyethyl) alkyl ammonium chloride from the requirement of a tolerance, where the carbon chain (C_8–C_{18}) is derived from coconut, cottonseed, soya, or tallow acids, when used as an adjuvant in pesticide formulations. This proposed regulation was requested by the Armak Company.

DATE: Written comments must be received on or before December 3, 1982.

ADDRESS: Written comments to: Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Roland Blood (703–557–7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of Armak Company, the Administrator proposes to amend 40 CFR 180.1001(c) by including methyl bis (2-hydroxyethyl) alkyl ammonium chloride.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Methyl bis (2-hydorxyenthyl) alkyl ammonium chloride.

Name and address of requestor: Armak Company, 300 South Wacker Drive, Chicago, IL 60606.

Basis for approval: Other exempted surfactants are derived from these edible oils; e.g. *N,N*-bis(2-hydroxyethyl) alkyl amine.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is

proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended which contains this inert ingredient, may request on or before December 3, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP-300069]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: October 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore it is proposed that 40 CFR 180.1001(d) be amended by adding and alphabetically inserting methyl bis (2-hydroxyethyl) alkyl ammonium chloride to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Insert ingredients	Limits	Uses
• • • • •		
Methyl bis (2-hydroxyethyl) alkly ammonium chloride, where the carbon chain (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.		
• • • • •		

[FR Doc. 82-29979 Filed 11-2-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Subtitle A

Federal Flood Insurance Prohibition for Undeveloped Coastal Barriers; Proposed Identification

Correction

In FR Doc. 82-29152, beginning at page 47026, in the issue of Friday, October 22, 1982, make the following corrections:

1. On page 47026, in the heading of the document, "Underdeveloped" should have read "Undeveloped".

2. On page 47027, in the first column, first full paragraph, line 11, "Coatal" should have read "Coastal".

BILLING CODE: 1505-01-M

Notices

Federal Register
Vol. 47, No. 213
Wednesday, November 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

Forms Under Review by Office of Management and Budget

October 29, 1982.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions of reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of response; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper Statistical Clearance Officer (202) 447-6201.

New

• Forest Service
New England Woodland Ownership Study
Non-recuring
Individuals or households, farms and businesses or other institution: 1,175 responses; 469 hours; not applicable under 3504(h)
Tom Birch (717)489-3029
• Food and Nutrition Service
Private Sector Inventory System for Processing USDA Donated Foods
On occasion, monthly and annually
Businesses or other institutions: 51,350 responses; 6,425 hours; not applicable under 3504(h)
Gwena Kay Tibbits (703) 756-3660

Revised

• Farmers Home Administration
7 CFR 1930-C, Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients
FmHA 444-8, 444-27A, 1930-5, 1930-6 1930-7, 1930-8, 1944-25, 1944-27, 1944-29
On occasion
Individuals, state or local governments, businesses or other institutions: 426,070 responses; 629,541 hours; not applicable under 3504(h)
Jeanine Johnson (202) 382-1611
• Farmers Home Administration
7 CFR 1944-E, Rual Rental Housing Loan Policies, Procedures, and Authorization
FmHA 1944-7, 1944-33, 1944-34, 1944-35
On occasion
Businesses or other institutions: 23,800 responses; 143,625 hours; not applicable under 3504(h)
Jeanine Johnson (202) 382-1611
Agricultural Marketing Service
Valencia Oranges Grown in Arizona and Designated Part of California—Marketing
Order 908
On occasion, weekly, daily annually
Businesses or other institutions: 108,836 responses; 14,612 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

Extension

• Forest Service
Fuelwood and Post Production in Selected States
Annually
Individuals or households and businesses or other institutions: 8,587 responses; 859 hours; not applicable under 3504(h)
James Bones (202) 447-2600
• Federal Grain Inspection Service
Application and Agreement for Contract Service
FGIS-4
Annually
Businesses or other institution: 15 responses; 4 hours; not applicable under 3504(h)
Kenneth Weaver (202) 382-0252
• Forest Service
Outfitter/Guied Application—Land Occupancy, Grazing
FS-2700-21
Annually
Businesses or other institutions: 1,000 responses; 500 hours; not applicable under 3504(h)
Bob Wier (202) 447-2196
• Food and Nutrition Service
Distribution of Donated Foods to Family Units
FNS-152
Monthly
State or local government: 1,296 responses; 2,498 hours; not applicable under 3504(h)
Sandy Robinson (703) 756-3660
• Agricultural Stabilization and Conservation Service
Report of Tobacco Production and Disposition
MQ-108
On occasion
Farms: 1,000 responses; 170 hours; not applicable under 3504(h)
Thomas Burgess (202) 447-2715
• Agricultural Stabilization and Conservation Service
Application for Duplicate Marketing Card
MQ-117
On occasion
Farms: 1,200 responses; 300 hours; not applicable under 3504(h)
Thomas Burgess (202) 447-2715
• Agricultural Stabilization and Conservation Service
Dealer's Record (Tobacco)
MQ-79
Weekly and as needed
Businesses or other institutions: 5,000 responses; 1,250 hours; not applicable under 3504(h)
Thomas Burgess (202) 447-2715
• Agricultural Stabilization and Conservation Service
Application for Approval of Facilities for Shelling, Crushing or Other Services for
CCC Collateral
CCC-1057
Nonrecurring
Farms and businesses or other institutions: 48 reponses; 8 hours; not applicable under 3504(h)
Bob Ray (202) 382-9106
• Agricultural Marketing Service

Quarterly Report of Manufacutre and Sales of Snuff, Smoking and Chewing Tobacco
TB–39
Quarterly
Businesses or other institutions: 200 responses; 200 hours; not applicable under 3504(h)
Larry L. Crabtree (202) 447–3489
• Agricultural Marketing Service
Tobacco Stocks Report
TB–26
Quarterly
Businesses or other institutions: 800 responses; 800 hours; not applicable under 3504(h)
Larry L. Crabtree (202) 447–3489

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82–30185 Filed 11–2–82; 8:45 am]

BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

[Docket No. 37392; Order No. 82–10–82]

Transatlantic, Transpacific and Latin American Service Mail Rates Investigation; Order Fixing Final Service Mail Rates

By Order 82–6–89, served June 23, 1982, we directed all interested persons to show cause why we should not establish the international service mail rates [1] proposed therein as the final rates of compensation for the period July 1 through December 31, 1982.

Notices of Objection were filed by Trans World Airlines, Inc., The Flying Tiger Line Inc. and Eastern Air Lines, Inc. Answers were filed by TWA and Flying Tiger. American Airlines, Inc. filed a Motion for leave to file an otherwise unauthorized document and its Answer.[2] Eastern did not file an answer.

TWA's objection is primarily concerned with the period of applicability of the rates. The carrier argues that we have calculated unprecedented reductions in the rates based mainly on a short period of fuel price reductions. It states that the respite from historic upward pressures on fuel prices has been short-lived as fuel costs have already bottomed out and resumed their upward climb. It requests that we return to quarterly rate reviews and make the proposed rates applicable only from July 1 through September 30, 1982.

Flying Tiger and American make the same proposal citing basically the same reasons as TWA. Flying Tiger also requests that we accept its late filed answer.[3]

Upon consideration of the pleadings and review of the fuel cost data reported through August 1982, we have decided to deny the carriers' requests to make the rates applicable only for the third quarter of 1982. We are not persuaded by the argument relating to our fuel costs projections. Contrary to TWA's claim, that fuel costs had bottomed out and resumed their upward climb, the following table clearly shows that while there were rises in the Atlantic and Latin America in June, fuel prices have continued their downward movement through August, the latest month for which data are available.[4]

CY 1982	Atlantic [1]	Pacific [1]	Latin America [1]
January	111.41	116.16	112.45
February	112.42	116.28	110.86
March	110.52	114.78	110.08
April	107.18	113.26	110.19
May	104.70	112.24	103.59
June	105.37	111.74	104.33
July	104.75	112.29	103.07
August	104.67	111.99	100.92

[1] Cents.

These data reinforce the reasonableness of our October 1 fuel price projections of 104.34, 111.19 and 108.43 cents, respectively.

We would also like to reiterate, as we stated in Order 81–8–164 and 82–3–95, that: "* * * mail rates are not established based on changes in fuel costs alone. While fuel represents about 40 percent of the mail-related operating costs, changes in nonfuel costs also affect the final rate determinations. Moreover, even though fuel cost projections may not track exactly actual fuel costs, the salient issue here is the reasonableness of the rates. If the rates reflect adequately the underlying costs of the service provided, then the rates are deemed to be fair and reasonable."

We find that no one has submitted any material that shows that either our fuel price projections, the rates, or the period of applicability are unreasonable.

Accordingly:

1. We make final the tentative findings and conclusions set forth in Order 82–6–89;

2. The fair and reasonable final rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to the carriers for the transporation by aircraft of space-available mail, military ordinary mail and all other mail over their respective routes in the Atlantic, Pacific, and Latin American rate areas,[5] the facilities used and useful therefor, and the services connected therewith, for the period from July 1 through December 31, 1982, are those set forth in the attached Appendix;

3. The fair and reasonable temporary rates of compensation for the transportation of mail by aircraft in international services for the period January 1, 1983, until further Board order shall be the final rates established for the period July 1 through December 31, 1982; and

4. The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79–7–17.

5. A copy of this order shall be served upon all parties to this proceeding.

We shall publish a notice of this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–30206 Filed 11–2–82; 8:45 am]

BILLING CODE 36320–01–M

Application of International Air Associates, Inc., for Charter Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of International Air Associates, Inc. in Docket 41075 (order 82–10–114).

SUMMARY: The Board is instituting an investigation to determine the fitness of International Air Associates, Inc. to engage in the interstate and overseas and the foreign charter air transportation of property and mail.

DATES: Persons wishing to file petitions for leave to intervene in the International Air Associates, Inc. Fitness Investigation shall file their petitions in Docket 41075 by November 12, 1982 and shall serve such filings on all persons listed below.

ADDRESSES: Petitions for leave to intervene should be filed in Docket and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, copies of such filings should be served on International Air Associates; the

[1] An Appendix containing the rates was filed with the original.

[2] We grant the motion and accept the answer of American.

[3] We accept the late filed answer of Flying Tiger.

[4] It should be noted that the latest fuel cost data available at the time our projections were made was for the month of April 1982.

[5] The Atlantic, Pacific, and Latin American rate areas are delineated in Attachments 1, 2, and 3, respectively, to Order 79–7–17.

mayor and airport manager of Miami, Fl; and the Florida Department of Transportation, Bureau of Aviation; and on any other persons filing petitions.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5919.

SUPPLEMENTARY INFORMATION: The complete test of Order 82–10–114 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–10–114 to that address.

By the Bureau of Domestic Aviation: October 28, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-30207 Filed 11-2-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 1:00 pm and will end at 6:00 pm, on November 30, 1982, at the Best Western Classic Hotel, 6815 Menaul, N.E., Albuquerque, New Mexico 87110. The purpose of this meeting is to discuss follow-up to block grant projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Hon. Roberto A. Mondragon, Lieutenant Governor's Office, State Capitol, Room 425, Santa Fe, New Mexico 87503, (505) 827–2513; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio TX 78204, (512) 730–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 29, 1982.

John I. Binkley,

Advisory Committee Management Office.

[FR Doc. 82-30212 Filed 11-2-82; 8:45]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEC/ISAC Liaison Subcommittee of the President's Export Council; Open Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade. The DEC/ISAC Liaison Subcommittee was formed by the Council to co-ordinate exchanges of information between organizations concerned in U.S. exports.

TIME AND PLACE: November 19, 1982. 9:00 a.m.–3:00 p.m. The meeting will be held at the Departmental Auditorium Building, Conference Room B, between 12th and 14th Streets on Constitution Avenue, N.W., Washington, D.C.

AGENDA: The meeting will focus on state government trade promotion activities. State government officials and legislators are being invited to share information on state trade development programs. Presentations will be made by a panel of state legislators, and by representatives from state government organizations, including the National Association of State Development Agencies and the National Governors' Association. Other presentations by government and private sector speakers will cover such topics as: Export Trading Companies, state export financing programs, and small and minority business concerns.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Elisabeth Maatsch, Room 3213, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–1125.

Dated: October 29, 1982.

Henry Misisco,

Acting Director, Office of Policy and Coordination.

[FR Doc. 82-30211 Filed 11-2-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Softwood Lumber Products From Canada

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether producers, manufacturers, or exporters in Canada of certain softwood lumber products receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of certain softwood lumber products are materially injuring, or threatening to materially injure, a U.S. industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before November 22, 1982, and we will make ours on or before December 31, 1982.

EFFECTIVE DATE: November 3, 1982.

FOR FURTHER INFORMATION CONTACT: Roland MacDonald, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–4036.

SUPPLEMENTARY INFORMATION:

Petitions

On October 7, 1982, we received a petition from the United States Coalition for Fair Canadian Lumber Imports on behalf of a number of trade associations and producers in the United States softwood forest products industries. The petitioner alleges that manufacturers, producers, or exporters in Canada of certain forest products receive benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). The petitioner further alleges that imports of this product are materially injuring, or threatening to materially injure, a U.S. industry.

Canada is a "country under the Agreement" within the meaning of

section 701(b) of the Act; accordingly, Title VII of the Act applies.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on certain forest products from Canada and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Canada of certain softwood forest products, as specified in the "Scope of Investigations" section of this notice, receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If the investigations proceed normally, we will make our preliminary determinations by December 31, 1982.

Scope of Investigations

The products covered by these investigations are softwood lumber, softwood shakes and shingles, and softwood fence. For a further description of these products, see the appendix to this notice.

Allegation of Subsidies

The petitioner alleges that producers, manufacturers, or exporters in Canada of softwood forest products receive benefits that constitute subsidies, including:

1. The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.
2. The provision of goods or services at preferential rates.
3. The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.
4. The assumption of costs or expenses of manufacture, production, or distribution.

The petitioner alleges that the above benefits are realized through a number of agencies and types of programs, including:

- Assumption of stumpage costs
- Regional development incentives programs
- Federal and provincial government agreements
- Enterprise Development Program
- Forest Industry Renewable Energy
- Program for export market development
- Federal Business Development Bank
- Export Development Corporation
- Transportation
- Canadian Forestry Service
- Manpower
- Small business loans
- Taxation measures
- Other provincially funded programs

At this time, the Department has of course made no determination as to whether any of the alleged benefits, including stumpage, in fact constitutes subsidies.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by November 22, 1982, whether there is a reasonable indication that imports of softwood lumber products from Canada are materially injuring, or threatening to materially injure a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed to conclusion.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

APPENDIX—Description of Products

For purposes of these investigations:

1. The term "*software lumber*" covers those products included in the *Tariff Schedules of the United States Annotated (1982) (TSUSA)* in items 202.03–202.30 (rough, dressed, or worked softwood lumber) specifically excluded are drilled and treated lumber, wood siding, and edge-glued or end-glued wood not over 6 feet in length or over 15 inches in width. "Rough lumber" is "lumber just as it comes from the saw; whether in its original sawed size or edged, resawn, crosscut, or trimmed to smaller sizes." "Dressed lumber" is "lumber which has been dressed or surfaced by planing on at least one edge or face." "Worked lumber" is "lumber which has been matched (tongue-and-grooved), shiplapped (rabbeted or lapped joint), or patterned on a matching machine, sticker, or molder."

2. The term "*softwood shakes and shingles*" "refers to wood products most frequently made from red cedar, that are used for roofing or siding." Softwood shakes, "approved durable wood of random widths ranging from 4 inches to 14 inches come in four types: Hand-split and resawn, taper split, straight-split and taper sawn." "Softwood shingles are tapered pieces of approved durable wood, sawed both sides, of random width ranging from 3 inches to 14 inches and in lengths of 16 inches, 18 inches or 24 inches: for purposes of this investigation, the term softwood skakes and shingles refers only to those products designated in *Tariff Schedules of the United States Annotated (1982) (TSUSA)*, as item 200.85.

3. The term "*software fence*" refers to three types of fences: picket, stockade, and rail. Picket fences are made of wood pickets nailed to horizontal back rails which are fastened to the supporting posts. The pickets vary in length and thickness, lengths range from 24" to 92", and thickness varies from ½" to 3". The species of wood fences is usually cedar for the post and conifers or softwoods for the backrails and pickets. Rail fences consist of line post and horizontal rails. Cedar is generally used for the line posts and cedar or conifers or northern softwoods are used for the rails. Stockade fences vary in height from 3 feet to 10 feet. Widths are usually 7 feet or 8 feet. Line posts are generally cedar, and stockade sections are made from northern softwoods. This investigation covers softwood fences both assembled and unassembled, which fall under *TUSUA* item 200.75.

[FR Doc. 82-30208 Filed 11-2-82; 8:45 am]

BILLING CODE 3510-25-M

Joint Business-Department of Commerce Hearings on the Export Administration Act of 1979

The Export Administration Act establishes the export control policy of the United States and empowers the President and the Secretary of Commerce to implement that policy. Thus, the Act contains the statutory authority for regulating exports for national security, foreign policy and short supply reasons. The Export Administration Act is reviewed by Congress prior to its periodic amendment and extension. The 1979 Act expires on September 30, 1983. Congress will probably begin its extension review of the Act early next year.

Prior to the congressional review, and in an effort to assist that review, the Administration will develop its position on the Export Administration Act. In preparing its position, the Administration wishes to take into

account the widest possible range of private sector views on this key export legislation. Therefore, the Department of Commerce, in cooperation with the business community as represented by the Export Administration Subcommittee of the President's Export Council, will hold a series of informal public hearings across the nation. The purpose of these hearings will be to solicit the views of the public on the specific provisions of the current Act. The hearings will also seek to obtain public reaction to some of the suggested changes of the Act that have come to the attention of the Government and the business community.

Individuals wishing to attend the meetings in order to offer views and recommendations for changes in the current Act should prepared a brief written statement. Prepared statements are preferred because of the scope and complexity of the issues involved. Each participant will be limited to no more than a five minute paper or synopsis of a longer paper, with an additional 15 minutes for panel questions. Statements will be read before a mixed panel of senior government officials and private sector representatives. The panels will be chaired by prominent local executives from the business community.

Those desiring to appear before the panel must contact the District Office individual noted below for each respective meeting. General questions about the purpose of the meetings may be directed to Paige Bryan, Commerce Department, ITA, Room 3898–B, Washington, D.C. 20230 (202/377–1455). Requests to appear must be received no later than three days prior to the scheduled meeting. The hearing calendar is as follows:

Cities, Date and District Office Director

Atlanta, November 16, Daniel Paul (404) 881–7000
Boston, November 19, Francis O'Connor (617) 223–2312
Dallas, November 30, Carmon Stiles (214) 767–0542
Chicago, December 2, Joseph Christiano (312) 353–4450
Seattle, December 7, Eric Silberstein (206) 442–5616
San Francisco, December 9, Betty Neuhart (415) 556–5860

Meeting locations will be assigned individually by the appropriate District Office. Contact the individual listed above for details in each case. There will be two sessions for each hearing: (1) Morning (9:30 a.m.–12:00 noon) and (2) afternoon (2:00 p.m.–5:00 p.m.). For the benefit of individuals participating in these hearings, copies of the Export Administration Act will be available from the Commerce Department District Office. The Act also appears in the Export Administration Regulations, under "Legislative Authority," p.i. and in the United States Code at 50 U.S.C. App. 2401 et seq. We encourage anyone with an interest in the export control program to attend these hearings and express his views.

Lionel H. Olmer,

Under Secretary of Commerce for International Trade.

David C. Scott,

Chairman, Export Administration, Subcommittee of the President's Export Council.

October 25, 1982.

[FR Doc. 82-30260 Filed 11-2-82; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Land Remote Sensing Satellite Advisory Committee; Meeting

AGENCY: National Earth Satellite Service, NOAA.

ACTION: Notice of partially closed meeting.

SUMMARY: The Land Remote Sensing Satellite Advisory Committee was established on August 12, 1981, by the Secretary of Commerce to advise on matters pertinent to the Department's responsibilities for the establishment and management of the civil operational land remote sensing satellite program. The Working Group on Commercialization, a subcommittee of the Advisory Committee, was formed to review and evaluate sensitive submissions from U.S. industry potentially interested in acquiring the U.S. civil remote sensing satellites.

DATES: The partially closed meeting will convene November 18, 1982, at 9:00 a.m. and adjourn at approximately 2:00 p.m. on November 19, 1982. The meeting will be closed from 9 a.m. to 1:00 p.m. on November 18 and from 9:00 a.m. to 10:30 a.m. on November 19; other times will be open.

ADDRESS: The meeting will be held in Conference Room 6802, Herbert C. Hoover Building (formerly the Main Commerce Building), 14th Street and Constitution Avenue, Washington, D.C. (The public entrance is on 14th Street between Constitution Avenue and E Street.)

AGENDA: Part of the meeting is being closed to discuss proposals by U.S. industry, including potential contractors, to acquire or operate elements of the U.S. civil remote sensing satellites including the Landsat system. Discussions of these documents are likely to disclose trade secrets and commercial and financial data submitted to the Government in confidence. The Committee's agenda has three parts: (1) Report of the Working Group on Commercialization and examination of commercial documents submitted in confidence to the Government and the Advisory Committee. (This entire session will be closed from 9:00 a.m. to 1:00 p.m. on November 18, 1982) (2) General discussion of issues and alternatives surrounding commercialization of U.S. civil remote sensing satellite systems. (This session is open to public attendance and will be held from 1:00 p.m. to approximately 5:00 p.m. on November 18, 1982. A summary of the Working Group report will be presented before general discussion begins.) (3) Development of recommendations to the Secretary of Commerce concerning commercialization of the U.S. civil remote sensing satellites. (This session will be closed from 9:00 a.m. to 10:30 a.m. on November 19, 1982, to avoid disclosure of sensitive commercial information during discussions of possible recommendations. The remainder of this session will be open to the public from 10:30 a.m. until adjourned by the Chairman at approximately 2:00 p.m.)

PUBLIC PARTICIPATION: During open sessions approximately 60 seats will be available for the public, including 10 seats reserved for media representatives on a first-come, first-served basis. If time permits, the Chairman will solicit oral comments from attendees. Written statements may be submitted at any time before or after the meeting and should be directed to Dr. John H. McElroy, Assistant Administrator for Satellites, NOAA, Washington, D.C. 20233. Minutes of the open part of the meeting will be available on written request after certification by the Committee Chairman 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Richard J. Keating, (301) 763–5904, or the Committee Staff Officer, Ms. Peggy J. Harwood, (301) 763–7822. They are located in the Office of External Relations, National Earth Satellite Service, NOAA, (Sx3) Washington, D.C. 20233.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the delegate of the General Counsel, formally determined

on October 15, 1982, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that certain matters to be discussed at this meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the discussions are likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, matters that are within the purview of 5 U.S.C. 552b(c)(4). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Records Inspection Facility, Room 6628, Department of Commerce.)

Dated: October 29, 1982.

Francis J. Balint,

Director, Office of Information and Management Systems.

[FR Doc. 82–30174 Filed 11–2–82; 8:45 am]

BILLING CODE 3510–08–M

[Modification No. 1 to Permit No. 298]

Marine Mammal Permit Applications; Granting of Extension

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Display Permit No. 298 issued to Adriatic Sea World, Lungomare Della Republica, 47036 Riccione, Italy, on July 16, 1980 (45 FR 48682), is hereby modify to extend the period of authorized taking for two years.

Accordingly, Section B–3 is deleted and replaced by:

"3. This permit is valid with respect to the taking authorized herein until December 31, 1984."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: October 28, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service

[FR Doc. 82–30271 Filed 11–2–82; 8:45]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Public Meeting Dates for the Western Pacific Fishery Management Council, as published in the **Federal Register**, October 29, 1982 (47 FR 49065–49066), have been changed as follows:

From: December 2–3, 1982

To: December 6–7, 1982.

All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1608, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: October 29, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82–30205 Filed 11–2–82; 8:45 am]

BILLING CODE 3510–22–M

Committee for the Implementation of Textile Agreements

Man-Made Fiber Apparel Products From Taiwan; Amendment of Import Control Levels

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the bilateral agreement with Taiwan to:

(1) Increase the specific ceiling for man-made fiber headwear in Category 659pt. (T.S.U.S.A. numbers 703.0500 and 703.1000) from 3,245,519 pounds to 3,291,466 pounds, including four percent swing; and

(2) Establish a specific limit for man-made fiber headwear in Category 659pt. (only T.S.U.S.A. number 703.1515) at 1,700,000 pounds, including four percent swing.

In addition, 15 percent shift is being applied to Category 659pt. (T.S.U.S.A. numbers 703.0500 and 703.1000) from Category 659pt. (T.S.U.S.A. number 703.1515) resulting in an increase in the former level from 3,245,519 pounds to 3,785,186 pounds and a decrease in the latter from 1,700,000 pounds to 1,206,280 pounds.

All of the foregoing adjustments apply to the agreement year which began on January 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 F.R. 13172), as amended on April 23, 1980 (45 F.R. 27463), August 12, 1980 (F.R. 53506), December 24, 1980 (45 F.R. 85142), May 5, 1981 (46 F.R. 25121), October 5, 1981 (46 F.R. 48963), October 27, 1981 (46 F.R. 52409), February 9, 1982 (47 F.R. 5926), and May 13, 1982 (47 F.R. 20654)).

SUMMARY: Under the terms of the bilateral textile agreement of June 8, 1978, as amended, concerning cotton, wool, and man-made fiber textile products from Taiwan, letters dated October 28, 1982 have been exchanged between the American Institute in Taiwan and the Coordination Council for North American Affairs amending the agreement to increase the existing specific limit for Category 659pt. T.S.U.S.A. numbers 703.0500 and 703.1000), establish a new specific limit for Category 659pt. (only T.S.U.S.A. number 703.1515), and apply four percent swing to both levels. In addition, it was agreed that special shift of up to 15 percent may be applied to either part of Category 659, provided that an equal quantity is deducted from the other part.

EFFECTIVE DATE: November 3, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 17, 1981 a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (46 F.R. 61497) which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 659pt. (T.S.U.S.A. numbers 703.0500 and 703.1000), produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. The letter published below to the Commissioner of Customs amends the letter of December 14, 1981 to increase the existing level for man-made fiber textile products in Category 659pt. (T.S.U.S.A. numbers 703.0500 and 703.1000) to 3,785,186 pounds and establish a level of restraint for Category 659pt. (only T.S.U.S.A. number

703.1515) at the adjusted level of 1,206,280 pounds for the agreement year which began on January 1, 1982.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 1, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 14, 1981 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, poroduced or manufactured in Taiwan.

Effective on November 3, 1982, paragraph 1 of the directive of December 14, 1981 is amended to increase the level of restraint for man-made fiber textile production Category 659pt. (T.S.U.S.A. numbers 703.0500 and 703.1000) to 3,785,186 pounds [1] and to establish and additional level of restraint of 1,206,280 pounds [1] for Category 659pt. (only T.S.U.S.A. number 703.1515).

Man-Made fiber textile products in Category 659pt. (only T.S.U.S.A. number 703.1515) which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

Man-Made fiber textile products in Category 659pt. (only T.S.U.S.A. number 703.1515 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-30412 Filed 11-2-82; 10:13 am]

BILLING CODE 3510-25-M

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1981.

Consumer Products Safety Commission

[CPSC Docket No. 82-4]

Edgewood Chenille Co., Inc.; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of a prehearing conference.

DATE: This notice announces a prehearing conference to be held in the matter of Edgewood Chenille Company, Incorporated on November 16, 1982 at 10:00 a.m.

ADDRESS: The prehearing conference will be in Room 4A-35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6800.

Notice of Prehearing Conference

Please take notice that a prehearing conference in this proceeding will be held at 10:00 a.m., on November 16, 1982 in room 4A-35, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland for the purposes outlined in 16 C.F.R. 1025.21(a) the issues to be considered in the proceeding are:

(1) Whether Edgewood, as of July 6, 1979, obtained information which reasonably supports the conclusion that its product contained a defect which could create a substantial product hazard within the meaning of the Consumer Product Safety Act (CPSA);

(2) If Edgewood obtained the information set forth in Paragraph 1 above, whether this constituted a violation of Section 15 (b) of the CPSA, 15 U.S.C. 2064(b) by reason of Edgewood's failure to inform the Commission;

(3) Whether Edgewood violated Section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by Section 15(b) of the CPSA, and

(4) Whether any of the remedies available under Section 20 of the CPSA, 15 U.S.C. 2069, should be ordered in the public interest.

Dated: October 28, 1982.

Sheldon D. Butts,

Acting Secretary Consumer Product Safety Commission.

[FR Doc. 82-30209 Filed 11-2-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 1, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Air-to-Air Missile Requirements will meet in Room 5D1021, The Pentagon, Washington, DC, on November 18, 1982. The purpose of the meeting will be to review findings of the committee and to discuss solutions for the task statement questions. The meeting will convene at 9:00 a.m. and adjourn at 5:30 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-30413 Filed 11-2-82; 10:19 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Time Oil Company; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives the notice required by 10 CFR 205.199J(c) that it has signed a Consent Order with Time Oil Company (Time). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted in the Consent Order, for the period August 19, 1973 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). Time has agreed to pay the amount of $1,187,500.00.

As required by the regulation cited above, ERA will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. ERA will consider any comments received before determining whether to make the Consent Order final.

COMMENTS: To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this notice. Address comments to: Time Oil Company, Consent Order Comments, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (Sixth floor), San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Richard Cohn, Attorney, Economic Regulatory Administration, Department of Energy, 333 Market Street (Sixth floor), San Francisco, California 94105 (415) 974–7110.

Copies of the Consent Order may be received free of charge by request in person or by written request to: Time Oil Company, Consent Order Request, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (Sixth floor), San Francisco, California 94105.

SUPPLEMENTARY INFORMATION: Time is a Washington State based corporation which refined crude oil and sold refined petroleum products during the time period August 19, 1973 through January 27, 1981. During the period price controls were in effect, Time marketed petroleum products primarily in the western United States.

ERA conducted an audit of Time's books and records relating to the firm's compliance with the Regulations. During the audit, several regulatory questions and issues were raised and a Notice of Probable Violation was issued. Except for matters specifically excluded from the proposed Consent Order (such as obligations which may arise under the final "entitlements list" for January 1981), this Consent Order resolves all civil issues, whether or not previously raised in an enforcement proceeding, concerning the allocation and sale of crude oil or refined products by the firm or its subsidiaries.

Neither ERA nor Time has retreated from the positions that they have taken previously on the issues addressed by this Consent Order, and each believes that its positions on these issues are meritorious. The parties desire, however, to resolve the issues raised without resort to complex, lengthy, and expensive compliance actions. ERA believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of its audit of Time and that the Consent Order is in the public interest.

The Consent Order requires Time to make a payment of $1,187,500.00 to DOE within ten (10) days of the effective date of this Consent Order. DOE will distribute $325,000.00 of the funds to the Defense Fuel Supply Center. The remaining funds, totalling $862,500.00, will be distributed proportionately to the treasurers of those States within which Time sold covered petroleum products during the period November 1973–January 1981. DOE has allocated these funds to the States on the basis of Time's retail sales volumes of gasoline, which comprised the majority of Time's sales of covered petroleum products, in the following amounts: California $258,491.00; Hawaii $10,523.00; Idaho $18,716.00; Montana $9,315.00; Nevada $28,118.00; Oregon $115,143.00; and Washington $422,194.00.

The Consent Order also provides details concerning the conclusion of ERA's audit of Time. Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Time has waived its right to an administrative or judicial appeal. The Consent Order does not constitute an admission by Time nor a finding by ERA of a violation of any federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on the thirtieth day following publication of this notice will be considered by ERA before determining whether to adopt the Consent Order as a final order. Modifications of the Consent Order that, in the opinion of ERA, significantly change the terms or impact of the Consent Order will be published for comment. If, after considering the comments it has received, DOE determines to issue the Consent Order as a final order, the Consent Order will be made final and effective by notice to Time. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of the action taken on this Consent Order and an appropriate explanation of that action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in San Francisco, California, this 15th day of October 1982.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82-30308 Filed 11-1-82; 3:10 pm]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF83-2-000]

Basin Exploration and Mining Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 28, 1982

On October 5, 1982, Basin Exploration and Mining Company, of 200 East South Temple, Salt Lake City, Utah 84111, 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 facility will be a 2,650 kW hydroelectric installation located near Ephraim City in Sanpete County, Utah. Applicant states that no other hydroelectric facilities owned by the applicant located within one mile of the site. 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 rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice 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. 82-30227 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-43-000]

Centel Corp.; Filing

October 29, 1982

Take notice that on October 19, Centel Corporation (Centel) tendered for filing a proposed Service Schedule 82-D (Off Peak Power Service) to be available to its Interconnected Generating Municipal customers consisting of Anthony, Attica, Beloit, Hoisington, Kingman, Pratt,

Russell, Washington, Osborne, and Stockton, Kansas.

Service Schedule 82–D (Off Peak Power Service) is for power and energy available to the Municipals during the off peak months, October through May. This is a new service not previously made available by Centel.

Centel proposes an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30228 Filed 11–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5153–001]

Cheyenne Board of Public Utilities, Cheyenne, Wyoming; Surrender of Preliminary Permit

October 29, 1982.

Take notice that the Cheyenne Board of Public Utilities, Cheyenne, Wyoming, Permittee for the proposed Hog Park Drop Project No. 5153, has requested that its preliminary permit be terminated. The permit was issued on Junary 27, 1982, as would have expired on June 30, 1983. The project would have been located on Hog Park Creek near Hog Park Reservoir in Carbon County, Wyoming.

The Permittee filed its request on September 30, 1982, and the surrender of the preliminary permit for Project No. 5153 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30247 Filed 11–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5154–001]

Cheyenne Board of Public Utilities, Cheyenne, Wyoming; Surrender of Preliminary Permit

October 29, 1982

Take notice that the Cheyenne Board of Public Utilities, Cheyenne, Wyoming, Permittee for the proposed Lake Owen to Middle Crow Creek Pipeline Project No. 5154, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired on June 30, 1983. The project would have been located on a pipeline running from Lake Owen to Middle Crow Creek in Albany County, Wyoming.

The Permittee filed its request on September 30, 1982, and the surrender of the preliminary permit for Project No. 5154 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30248 Filed 11–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4895–001]

Cheyenne Board of Public Utilities, Cheyenne, Wyo.; Surrender of Preliminary Permit

October 29, 1982

Take notice that the Cheyenne Board of Public Utilities, Cheyenne, Wyoming, Permittee for the proposed Granite Springs Dam Hydroelectric Project No. 4895, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired on June 30, 1983. The project would have been located on the Middle Crow Creek in Laramie County, Wyoming.

The Permittee filed its request on September 30, 1982, and the surrender of the preliminary permit for Project No. 4895 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30249 Filed 11–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5155–001]

Cheyenne Board of Public Utilities, Cheyenne, Wyo.; Surrender of Preliminary Permit

October 29, 1982.

Take notice that the Cheyenne Board of Public Utilities, Cheyenne, Wyoming, Permittee for the proposed Water Treatment Plant No. 2, Project No. 5155, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired on June 30, 1983. The project would have been located on the Middle Crow Creek in an existing pipeline from Crystal Reservoir in Albany County, Wyoming.

The Permittee filed its request on September 30, 1982, and the surrender of the preliminary permit for Project No. 5155 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30250 Filed 11–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5151–000]

Cheyenne Board of Public Utilities Cheyenne, Wyo.; Surrender of Preliminary Permit

October 29, 1982.

Take notice that the Cheyenne Board of Public Utilities, Cheyenne, Wyoming, Permittee for the proposed Rob Roy Dam Hydroelectric Project No. 5151, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired on July 31, 1983. The project would have been located on the Douglas Creek in Albany County, Wyoming.

The Permittee filed its request on September 30, 1982, and the surrender of the preliminary permit for Project No. 5151 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30251 Filed 11–2–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5152–001]

Cheyenne Board of Public Utilities, Cheyenne, Wyo.; Surrender of Preliminary Permit

October 29, 1982.

Take notice that the Cheyenne Board of Public Utilities, Cheyenne, Wyoming, Permittee for the proposed Hog Park Dam Project No. 5152, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired June 30, 1983. The project would have been located on Hog Creek in Carbon County, Wyoming.

The Permittee filed its request on September 30, 1982, and the surrender of the preliminary permit for Project No.

5152 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30252 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-21-000]

Colorado Interstate Gas Co.; Application

October 29, 1982

Take notice that on October 14, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP83-21-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application 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 application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30237 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-82-007, et al.]

Columbia Gulf Transmission Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

October 28, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 12, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
10/1/82	Columbia Gulf Transmission Corp.	RP81-82-007	Report.
10/8/82	Arkansas Louisiana Gas Co.	RP80-53-005	Do.
10/8/82	Great Lakes Gas Transmission Co.	RP81-97-003	Do.
10/8/82	Transcontinental Gas Pipe Line Corp.	RP77-26-005	Do.
10/12/82	Michigan Wisconsin Pipe Line Co.	RP73-14-012	Petition and plan.

[FR Doc. 82-30229 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-3-000]

Consolidated Gas Supply Corp.; Application

October 29, 1982.

Take notice that on October 1, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-3-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain gas transmission and appurtenant facilities, the deletion of an existing delivery point and the establishment of two new delivery points for the sale and delivery of gas for resale from Applicant to The East Ohio Gas Company (East Ohio), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to purchase from East Ohio and to operate a 4.12-mile segment of East Ohio's 30-inch Line No. TPL-3, with related equipment and appurtenant facilities located between the Ohio River at Clarington in Salem Township, Monroe County, Ohio, and Consolidated's Mullett No. 2 Measuring Station in Switzerland Township, Monroe County, Ohio, and related rights of way and fee properties. Applicant states that it has entered into an Agreement with East Ohio dated September 10, 1982, which provides for transfer of these facilities at East Ohio's net book value within sixty days of receipt of approval of this proposal by the Public Utility Commission of Ohio and the Commission.

Applicant further proposes to change its delivery points to East Ohio to reflect the acquisition and relocation of measuring facilities from Clarington to its new Mullett No. 2 Measuring Station by deleting the Clarington Connection, establishing Mullett No. 2 Measuring Station as a delivery point and establishing a new delivery point to East Ohio off Line No. TPL-3, to be known as the Quarto Connection.

Applicant states that no changes in rates or additional sales or services are proposed. Applicant further states that the total cost of the proposed acquisition would be approximately $2,183,158.00 and would be financed from funds on hand and from funds to be obtained from its parent corporation, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30238 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1765-000]

Elio Argentati; Application

October 28, 1982.

Take notice that on October 21, 1982 Elio Argentati filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Director—Upper Peninsula Power Company
Vice President and Director—Upper Peninsula Generating Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30230 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-148-001]

Gasdel Pipeline System Incorporated Transcontinental Gas Pipe Line Corp.; Petition To Amend

October 29, 1982.

Take notice that on September 23, 1982,[1] Gasdel Pipeline System Incorporated (Petitioner), 80 Park Plaza, Newark, New Jersey 07101, filed in Docket No. CP82-148-001 a petition to amend the order issued July 9, 1982, in Docket No. CP82-148-000 pursuant to Section 7(c) of the Natural Gas Act so as to delete the authorization granted to Petitioner to transport natural gas from East Cameron Block 336 (EC 336), offshore Louisiana, for Public Service Electric and Gas Company (PSE&G), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that the order issued July 9, 1982, among other things, authorized Petitioner to transport gas for PSE&G from EC 336, and other offshore Louisiana delivery points. Petitioner is now seeking deletion of the part of the transportation authorization granted by the July 9, 1982, order with respect to the transportation of PSE&G's EC 336 gas.

Petitioner asserts that on October 16, 1981, Petitioner and Transco filed in Docket No. CP82-23-000 a joint application for a authorization to construct and operate certain pipelines and appurtenant facilities for the purpose of connecting natural gas production in EC 336. It is further asserted that by order of July 9, 1982, such application was granted.

It is claimed that on September 1, 1982, Transco, Petitioner and Texas Eastern Transmission Corporation filed a joint petition to amend the order of July 9, 1982, in Docket No. CP82-23-000. Petitioner states that as a result of that petition, it is now seeking the subject deletion since in the event the Commission approves the Petition in Docket No. CP82-23-000 Petitioner would no longer need the transportation authority with respect to the EC 336.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.12 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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 proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30239 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[1] The application was originally tendered for filing on September 23, 1982. However, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 24, 1982; thus filing was not completed until the latter date

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[Project No. 4123-000]

Kern County Water Agency; Commission Action Lifting Preliminary Permit Suspension

October 29, 1982.

On August 20, 1981 [16 FERC ¶62,246] the Director, Office of Electric Power Regulation, issued an order issuing a preliminary permit to Kern County Water Agency for the Hobo Project No. 4123-000. Fluid Energy Systems Inc. and the North Kern Water Storage District appealed the order issuing preliminary permit. On October 21, 1981, the Commission issued a notice of intent to act, suspending the effective date of the preliminary permit until further Commission action on the appeals.

On July 8, 1982, the Commission issued an order denying appeals. Since the Commission has acted on the appeals, the preliminary permit is no longer suspended, and the Kern County Water Agency is authorized to continue the work prescribed under the preliminary permit. Accordingly, the

expiration date of the preliminary permit is extended to May 30, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30240 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-488-000]

Louisiana Resources Co.; Application of Approval of Rates

October 29, 1982

Take notice that on September 24, 1982, Louisiana Resources Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. ST82-488-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.123(b)(2) of the Commission's Regulations for approval of its rates for the transportation of natural gas on behalf of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement with United dated September 23, 1982, Applicant proposes to transport gas by exchange with United from a point on Applicant's system in Cameron Parish, Louisiana, to various points on United's system. It is further asserted that each party has agreed to transport by exchange on behalf of the other up to 15 billion Btu of gas per day. Applicant states that the wellhead gas received by each party for the account of the other would not be equal, thus both Applicant and United have agreed that excess wellhead gas received by either party would be delivered for the account of the other at certain balancing points listed in the Agreement.

It is further stated that no measurable costs would be incurred in providing such an exchange service, thus the parties have established a two-tier rate schedule. It is proposed that the rate for redelivery of gas by Applicant through the exchange of gas at the wellhead shall be zero cents per million Btu; and the rate of redelivery of gas by Applicant at the balancing points shall be zero cents per million Btu if the quantity of gas is less than or equal to 5,000 Mcf per day and 22.25 cents per million Btu if the quantity of balancing gas exceeds 5,000 Mcf per day. It is asserted that these rates are fair and equitable and are not in excess of an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation services.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30241 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-465-000]

Louisiana Resources Co.; Application for Approval of Rates

October 29, 1982.

Take notice that on September 16, 1982, Louisiana Resources Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. ST82-465-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and § 284.123(b)(2) of the Commission's Regulations for approval of its rates for the transportation of natural gas on behalf of Faustina Pipe Line Company (Faustina), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation and exchange agreement with Faustina dated August 18, 1981, as amended on September 13, 1982, Applicant proposes to transport and exchange gas on behalf of Faustina from a point on Applicant's system in Cameron Parish, Louisiana, to a point of interconnection with the facilities of Applicant and Superior Oil Company also in Cameron Parish, Louisiana. It is further stated that Applicant has agreed to transport by exchange approximately 15,000 Mcf of gas per day on behalf of Faustina.

Applicant proposes a transportation rate of 22.25 cents per million Btu transported and redelivered to Faustina. It is submitted that this rate is fair and equitable and does not exceed the amount which is reasonably comparable to the rates and charges which an interstate pipeline would be permitted to charge for similar transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211).

All protests filed with the Commission will be considered by it is determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30242 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-14-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

October 28, 1982

Take notice that on October 8, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-14-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing sales of gas to its utility customers for sale to large volume end-users through October 26, 1984, in accordance with the provisions of two new rate schedules, the Flexibility Pricing-Pipeline Option (FPO) rate schedule, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to its utility customers under conditions and prices which it maintains would assist those customers in maintaining, regaining, and increasing sales to certain large volume end-use consumers. It is averred that the proposed FPO and LCVS rate schedules would enable Applicant and its customers to remain competitive with alternate fuel in certain large volume markets. It is stated that the rate schedules would provide flexibility in pricing so that the price of natural gas would be competitive with the fluctuating price of alternate fuels.

The proposed Rate Schedule FPO is said to be for general application to large end-use customers on a group basis, while proposed Rate Schedule LVCS is said to address specific competitive situations on an end-use consumer-by-consumer basis. Applicant proposes that proposed Rate Schedule FPO apply to all volumes sold by its utility customers to those end-users possessing alternate fuel capability as designated and defined by Paragraph 9 of the General Terms and Conditions of Applicant's FERC Gas Tariff, Third Revised Volume No. 1, as being in Applicant's Priorities 6, 7 and 8.

Applicant proposes to set and revise the FPO rates at its own discretion. it is further stated that the price would be no less than Applicant's variable cost of delivering the gas and no higher than that increment above Applicant's commodity rate equal to the reduction below the commodity rate. Applicant states that it would set the rates, within these two constraints, at the highest level competitive with alternate fuel. It is explained that the rates charged under this schedule may be different for each of Applicant's customers.

The LVCS rate schedule is proposed to apply to individual contractural arrangements made by utilities to compete with alternate fuels. End-use consumers would be eligible for these individual contracts if their requirements are in excess of 199 Mcf per day and they possess alternate fuel capability. It is alleged that rates for gas sold under the LVCS schedule would be determined by negotiation between Applicant's utility customers and their industrial end-users, subject to Applicant's approval. It is stated that the negotiated rates to be charged end-users would equal or exceed Applicant's variable cost of delivering gas.

Applicant avers that the availability of these rate schedules to the utilities would increase sales and minimize potential lost sales and consequently reduce Applicant's take-or-pay obligations and that such a reduction would result in a lower cost of service to all its utility customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30231 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-16-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

October 28, 1982.

Take notice that on October 12, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-16-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to use a new rate schedule for sales of gas to its utility customers for resale to end user ammonia plants in accordance with the provisions of a new Ammonia Fertilizer (AF-1) rate schedule to be effective from October 27, 1982, through October 26, 1983, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the AF-1 rate schedule would enable Applicant to sell natural gas to its utility customers under conditions and prices which would assist those customers in maintaining and regaining sales to their ammonia plant consumers. Applicant indicates that the AF-1 rate schedule would be available to ammonia plants, served by Applicant's utility customers, designated and defined as Priority 1(e) feedstock and process users in the manufacture of ammonia fertilizer pursuant to Paragraph 9 of the General Terms and Conditions of Applicant's FERC Gas Tariff, Third Revised Volume No. 1. It is averred that the proposed rate schedule is currently applicable to six fertilizer plants served by Applicant's utility customers. These plants and their locations are said to be Allied Chemical and Dye Corp., in LaPlatte, Nebraska; C. F. Industries, Inc., in Fremont, Nebraska; Cominco American, Inc., in Beatrice, Nebraska; Farmland Industries, Inc., in Fort Dodge, Iowa; St. Paul Ammonia Products, Inc, in St. Paul, Minnesota; and Terra Chemicals International, Inc., in Sioux City, Iowa.

Applicant avers that these ammonia plants are engaged in the production of fertilizer for farm use and that the use of natural gas for feedstock is necessary for the production of this fertilizer and comprises the major cost component of production, representing approximately 80-85 percent of the total cost. Applicant states that certain factors exist which may cause the immediate shutdown of these referenced fertilizer plants with the resultant loss to Applicant of 22,000,000 Mcf of natural gas sales during the next twelve months. Applicant further states that the major factors adversely affecting the ammonia plant operations are: (1) The high production cost of the ammonia fertilizer, (2) reduced demand for the product with or without the implementation of the proposed Rate Schedule AF-1, and (3) competition from low-priced imported ammonia. Applicant also states that these ammonia plants would cease to operate without the proposed price relief. Termination of operations at these plants would result in the unemployment of over 900 persons and adversely impact the communities and states in which the plants operate, according to Applicant.

Applicant states that retention of the ammonia plant sales would also benefit its customers by providing recovery of costs and by reducing its take-or-pay obligations. Applicant states that its rates would be nearly 3.8 cents per Mcf higher if sales to the ammonia producers were lost, as compared to the level of rates which would result under the proposed Rate Schedule AF-1. Northern estimates that it would also be exposed

to approximately $56 million in increased take-or-pay obligations if the full 22,000,000 Mcf of sales to ammonia producers are lost. This 22,000,000 Mcf would include 2,500,000 Mcf of boiler fuel not eligible for inclusion in the proposed rate.

Applicant proposes to use the proposed Rate Schedule AF-1 to allow its utility customers a 50.0 cents per Mcf discount for gas ultimately resold to eligible ammonia producers. In order to qualify for the proposed rate schedule, Applicant's utility customers would have to secure all necessary state and local regulatory approvals to pass the 50.0 cents discount directly through to the ammonia producers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30232 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6089-002]

Rainsong Co.; Dismissing Filing

October 29, 1982.

On June 7, 1982, the Director of the Division of Hydropower Licensing ("Director") issued and order setting forward the date of acceptance of Rainsong Company's ("Rainsong") exemption application for the Skate Creek Project No. 6089 from March 15, 1982, the original date of filling, to March 18, 1982. Rainsong filed a timely appeal of this action requesting the Commission to reverse the Director's action, so that its exemption application would be deemed accepted as of its original filing date.

The Commission has recently determined that certain staff actions, such as the Director's acceptance of an application for filing, are interlocutory and that a filing challenging such actions is premature.[1] Therefore, pursuant to 18 CFR 385.2001, 47 *FR* 19014, 19048 amending 18 CFR Part I, the June 1, 1982 filing of HRC is hereby rejected without prejudice to the issues specified therein being raised again after final action on the the application has been taken.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30243 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[1] *J.R. Ferguson and Associates, et al.*, 20 FERC ¶ 61.132 (August 2, 1982).

[Docket Nos. CI76-701-001, et al.]

Texaco, Inc., et al.; Applications To Amend Certificates To Establish Entitlement to Section 109 Price [1]

October 29, 1982.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to Section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's rights to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd v. FERC*, 649 F2d.376, 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 November 12, 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, .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 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 ft³	Pressure base
CI76-701-001, Dec. 17, 1981	Texaco, Inc.	Sea Robin Pipeline Company	(1)	
CI77-563-001, Mar. 30, 1982	Shell Oil Company	Western Gas Interstate Company	(1)	
CI78-38-001, Sept. 20, 1982	Conoco, Inc.	do	(1)	
CI78-475-001, Oct. 1, 1982	Texaco, Inc.	Transcontinental Gas Pipe Line Corporation	(2)	
CI78-478-001, Oct. 1, 1982	do	El Paso Natural Gas Company	(2)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-479-002, Oct. 1, 1982	....do	....do	(²)	
CI78-480-001, Oct. 1, 1982	....do	....do	(²)	
CI78-482-003, Oct. 1, 1982	....do	Transcontinental Gas Pipe Line Corporation	(²)	
CI78-483-001, Oct. 1, 1982	....do	El Paso Natural Gas Company	(²)	
CI78-484-001, Oct. 1, 1982	....do	....do	(²)	
CI78-487-001, Oct. 1, 1982	....do	....do	(²)	
CI78-687-001, Dec. 17, 1981	....do	Columbia Gas Transmission Corporation	(¹)	
CI79-208-001, Dec. 17, 1981	....do	Texas Gas Transmission Corporation	(¹)	
CI79-282-001, June 10, 1982	Tenneco Exploration, Ltd.	Tennessee Gas Pipeline Company	(¹)	
CI79-405-001, Sept. 27, 1982	Cities Service Company	Texas Eastern Transmission Corporation	(²)	
CI79-445-001, Dec. 17, 1981	Texaco, Inc.	Texas Gas Transmission Corporation	(¹)	
CI79-634-001, Dec. 17, 1981	....do	Natural Gas Pipeline Company of America	(¹)	
CI80-55-001, July 29, 1981	Exxon Corporation	Columbia Gas Transmission Corporation	(¹)	
CI80-237-001, July 29, 1981	....do	....do	(¹)	
CI80-365-001, Sept. 15, 1982	Conoco, Inc.	Michigan Wisconsin Pipe Line Company	(¹)	
CI81-29-002, Aug. 24, 1981	General American Oil Company of Texas	United Gas Pipe Line Company and Southern Natural Gas Company.	(¹)	
CI81-69-000, Sept. 15, 1981	Texas Gas Exploration Corporation	Texas Eastern Transmission Corporation	(²)	
CI82-234-002, June 25, 1982	Amoco Production Company	Texas Gas Transmission Corporation	(¹)	

[1] Applicant's notice of change in rate filing is being construed as a petition to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order issued in *Tenneco Exploration, Ltd.* v. *FERC*, 649 F2d. 376.

[2] Applicant proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order issued in *Tenneco Exploration, Ltd.* v. *FERC*, 649 F2d. 376

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. 82-30233 Filed 11-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-550-000]

Transcontinental Gas Pipe Line Corp.; Application

October 29, 1982

Take notice that on September 24, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-550-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation of up to 70,000 dekatherms (dt) equivalent of natural gas per day for Elizabethtown Gas Company (Elizabethtown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Elizabethtown would purchase quantities of natural gas from Consolidated Gas Pipeline Company (Con Gas), and that Con Gas would make available a maximum of 70,000 dt equivalent of gas per day to Applicant for the account of Elizabethtown. Applicant indicates it would redeliver thermally equivalent quantities of gas, less quantities retained for compressor fuel and line loss make-up, to Elizabethtown at Appicant's existing delivery points to Elizabethtown.

Applicant proposes to charge Elizabethtown 7.0 cents per dt equivalent delivered and initially to retain 0.7 percent of the quantities received for compressor fuel and line loss make-up.

Applicant further requests that the authorization granted herein be limited to a term commencing on November 1, 1982 and ending on October 31, 1984.

It is indicated that Elizabethtown would use the subject gas as additional peak day gas required for high priority markets on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30244 Filed 11-2-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-545-000]

Transcontinental Gas Pipe Line Corp.; Application

October 29, 1982.

Take notice that on September 21, 1982,[1] Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-545-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of a gas transportation agreement between it, Columbia Gulf Transmission Company and Columbia Gas dated August 5, 1982, it would transport on a firm basis up to 9,000 dekatherms equivalent of natural gas per day for Columbia Gas. Applicant further states that it would receive such quantities of gas at an existing point of interconnection located at the

[1] The application was originally tendered for filing on September 21, 1982, however the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 23, 1982; thus, filing was not completed until the latter date.

production platform in High Island Block A–471, offshore Texas, and redeliver thermally equivalent volumes of natural gas to Columbia Gas at the interconnection between Applicant's facilities and 16-inch High Island Block A–448 facilities jointly owned by Applicant and Columbia Gulf.

Applicant proposes to charge Columbia Gas an initial monthly demand charge of $15,030 based on a contract demand quantity of 9,000 dekatherms equivalent of gas per day.

Applicant states that the subject transportation agreement would remain in force for a primary term of ten years from the date of initial deliveries and from year to year thereafter unless and until terminated by either party upon not less than one year's written notice. Applicant submits that the proposed service would enable Columbia Gas to receive into its system gas to help maintain adequate and reliable supplies for its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). 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. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is rquired, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30245 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-11-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 28, 1982.

Take notice that Transcontinental Gas Pipe Line Corproation (Transco) on October 22, 1982, tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. The proposed changes would increase revenues from jurisdictional sales, transportation and storage service by approximately $117 million annually based upon the 12-month period ended June 30, 1982, as adjusted. The proposed effective date of this rate change is November 22, 1982.

Transco states that the principal causes of the rate increase are (1) increases in operating and maintenance expenses; (2) an increase in rate base due primarily to increased take or pay payments estimated to be made during the test period ending March 31, 1983; (3) an increased in the overall rate of return and related income taxes; and (4) a reduction in projected sales due to competitive factors.

In addition, Transco agrees to adjust the filed rates to reflect the actual amount of advance payments for gas and prepayments for gas outstanding on March 31, 1983, provided, however, that such adjustment shall not increase the original filed rates, as adjusted for intervening tracking changes.

Copies of the filing were served upon the Company's jurisdictional customers and interested State Commissions.

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 2 14 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before November 12, 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. 82-30234 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-57-000, et al.]

United Gas Pipe Line Co.; Settlement Conference

October 28, 1982.

Take notice that on November 3, 1982, at 10:00 a.m., there will be a settlement conference in this proceeding. On the day of the conference, the conference room number will be posted by 9:15 a.m. on the second floor bulletin board of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. If no hearing room is available at the Federal Energy Regulatory Commission, the conference will be moved to Hearing Room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30235 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-22-000]

Wyoming Interstate Company, Ltd.; Application

October 29, 1982.

Take notice that on October 14, 1982, Wyoming Interstate Company, Ltd. (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP83–22–000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application 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 application should on or before November 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C.20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to makes the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30246 Filed 11-2-82; 8:45]

BILLING CODE 6717-01-M

[Docket No. GP82-59-000]

Wyoming Oil and Gas Conservation Commission, NGPA Section 107 Determination, Amoco Production Company, Champlin 242 Amoco D No. 1 Well, JD No. 82-23136; Petition To Reopen Final Well Category Determination and To Withdraw Application

Issued October 28, 1982.

On September 27, 1982, Amoco Production Company (Amoco) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen a final well category determination made by the Wyoming Oil and Gas Conservation Commission (Wyoming) under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980) for the Amoco Production Company's Champlin 242 Amoco D No. 1 Well. Amoco seeks to withdraw its application for such determination. The determination for the subject well became final on April 29, 1982, by operation of § 275.202(a) of the Commission's regulations, before the date on which Amoco's petition for reopening and withdrawal was made.

According to § 271.703(b)(3) of the Commission's regulations, "recompletion tight formation gas" is defined as natural gas which is produced from a designated tight formation, through a well which was not completed for production from such formation before July 16, 1979. Wyoming issued an affirmative determination that gas produced from the subject well, located in Carbon County, Wyoming, qualified as recompletion tight formation gas. Amoco now states that since production resulting from the testing of the subject well was sold in September of 1978, the well was completed for production in the Mesaverde Formation, a designated tight formation, before July 16, 1979, and thus cannot qualify under § 271.703(b)(3). Thus, Amoco requests that the Commission withdraw the determination under section 107(c)(5) of the NGPA for Champlin 242 Amoco D No. 1 Well.

With respect to the question of refunds arising out of Amoco's request for withdrawal of the application for the well category determination, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, within 30 days after publication of this notice in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a protest or petition to intervene in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 214. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30236 Filed 11-2-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-296; PH-FRL 2235-3]

Certain Companies; Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to establishment and/or amendments of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and food items.

ADDRESS: Written comments to the Product Manager cited in each petition at the address given below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF-296]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and food additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and food items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 1F2553. In the **Federal Register** of October 19, 1981 (46 FR 51282), EPA announced that BFC Chemical Inc., 4311 Lancaster Pike, Wilmington DE 19805, had submitted pesticide petition (PP) 1F2553 proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the insecticide bendiocarb (2,3-dimethyl-1,3-benzondioxol-4-ol methyl carbamate) in or on the raw agricultural commodities corn fodder, corn forage, and corn grain at 0.05 part per million (ppm). The petition has been amended to include tolerances for fat, meat and meat byproducts of cattle,

goats, horses, sheep and poultry at .05 ppm; milk and eggs at .05 ppm; kidney of cattle, goats, horses, poultry and sheep at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with an electron detector. (PM–12, Jay Ellenberger, 703–557–2386).

FAP 2H5368. BFC Chemical Inc. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide bendiocarb in or on the commodity corn oil at .1 ppm. (PM–12, Jay Ellenberger, 703–557–2386).

PP 2F2679. In the **Federal Register** of June 16, 1982 (47 FR 26019), EPA announced that Union Carbide Corporation, T.W. Alexander Drive, Research Triangle Park, NC 27709, had submitted PP 2F2679 proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites 2-methyl 2-(methylsulfonyl)proprionaldehyde O-(methylcarbamoyl)oxime and 2-methyl 2-(methylsulfonyl)proprionaldehyde O-(methylcarbamolyl) oxime in or on the commodities field corn, fodder and forage at 0.6 ppm and field corn grain at 0.05 ppm. The petition has been amended to include tolerances on eggs at 0..02 ppm; and fat, meat and meat byproducts of poultry at 0.04 ppm. The proposed analytical method for determining residues is by gas chromatography using a flame photometric detector. (PM–12, Jay Ellenberger, 703–557–2386).

PP 2F2753. Union Carbide Corp. Proposes amending 40 CFR 180.324 by establishing tolerances for residues of herbicide bromoxynil in or on the raw agricultural commodities corn fodder, forage, grain, and sorghum fodder, forage, and grain at 0.10 ppm. The proposed analytical method for determining residues is gas chromatography with 63 Ni electron capture detector. (PM–25, Robert Taylor, 703–557–1800).

PP 2F2752. FMC Corp., Agricultural Chemical Group, 2000 Market Street, Philadelphia PA 19103. Proposes amending 40 CFR 180.378 by establishing a tolerance for the residues of insecticide permethrin (3 phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw agricultural commodity mushrooms at 5.0 ppm. The proposed analytical method for determining residues is by gas chromatography. (PM–17, Franklin D. R. Gee, 703–557–2690).

PP 2F2749. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR 180.378 by establishing a tolerance for the residues of the insecticide permethrin in or on the raw agricultural commodity sunflowers at 2.0 ppm. The proposed analytical method for determining residues is by gas chromatography. (PM–17, Franklin D. R. Gee, 703–557–2690).

PP 2F2751. The Dow Chemical Co., P.O. Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.144 by establishing a tolerance for the combined residues of the insecticide tricyclohexyltin hydroxide and its organotin metabolites (calculated as tricyclohexyltin hydroxide) in or on the raw agricultural commodity cottonseed at 1.0 ppm. The proposed analytical method for determining residues is by atomic absorption spectometry. (PM–12, Jay Ellenberger, 703–557–2386).

PP 2F2754. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.400, by establishing a tolerance for the residues of the insecticide flucythrinate in or on the raw agricultural commodity pears at 0.05 ppm. The proposed analytical method for determining residues is by gas chromatography. (PM–17, Franklin D. R. Gee, 703–557–2690).

PP 2E2756. Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. Proposes amending 40 CFR Part 180 by establishing a tolerance for residues of fungicide *B*-[[1,1'-biphenyl]-4-yloxy)-alpha-(1,1-dimethylethyl-1 *H*-1,2,4-triazole-1-ethanol in or on the raw agrcultural commodity bananas (whole) at 0.5 ppm. The proposed analytical method for determining residues is by gas chromatography employing a nitrogen-specific alkali flame detector. (PM–21, Henry Jacoby, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136)), (sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)).

Dated: October 18, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc 82–29627 Filed 11–2–82; 8:45 am]

BILLING CODE 6560–50–M

[PH-FLR 2236–7; PF–298]

Stauffer Chemical Co., Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Stauffer Chemical Company has submitted a pesticide petition proposing to exempt from the requirement of a tolerance the residues of the herbicide *O,O*-diethyl (*-O*-phenylphosphorothioate) when applied to crops in accordance with good agricultural practices.

ADDRESS: Written comments to: Process Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petition is pending before the agency. The comments are to be identified by the document control number [PF–298]. All written comments filed in response to this notice will be available for public inspection in the Process Coordination Branch from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Roland Blood (703–557–770) at the address given above.

SUPPLEMENTARY INFORMATION: : EPA gives notice that the Agency has received pesticide petition 2E2742 submitted by the Stauffer Chemical Company, 1828 L St., NW., Washington, D.C. 20033 proposing to amend 40 CFR 180.1066 by establishing an exemption from the requirement of a tolerance for residues of the herbicide *O,O*-diethyl (*-O*-phenylphosphorothioate) when applied in accordance with good agricultural practices to crops prior to harvest at a minimum rate of 1 pound per acre in accordance with the Federal Food, Drug, and Cosmetic Act.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated: October 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–29988 Filed 11–2–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–196]

American Federal Savings & Loan Association, Anadarko, Okla.; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: October 26, 1982

Notice is hereby given that on July 23, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board") acting pursuant to authority delegated to him by the Board, approved Post-Approval

Amendment No. 1 to the mutual-to-stock conversion application of American Federal Savings and Loan Association, Anadarko, Oklahoma ("Association"). The application has been approved by the Board by Resolution No. 80–575, dated September 3, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–30213 Filed 11–2–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–188 (Correction)]

Brady Savings & Loan Association Brady, Tex.; Notice of Final Action Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Dated: September 17, 1982.

Notice is hereby given that on September 17, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 2 to the mutual-to-stock conversion application of Brady Savings and Loan Association, Brady, Texas ("Association"). The application had been approved by the Board by Resolution No. 80–799–B, dated December 12, 1980. Copies of the application and all amendment thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20052, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–30217 Filed 11–2–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–199]

Freedom Savings & Loan Association, Tampa, Fl.; Notice of Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Dated: October 26, 1982.

Notice is hereby given that on October 14, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 4 to the mutual-to-stock conversion application of Freedom Savings and Loan Association, Tampa, Florida ("Association"). The application had been approved by the Board by Resolution No. 80–98, dated March 27, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–30216 Filed 11–2–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–198]

Home Federal Savings & Loan Association of Atlanta, Atlanta, Ga.; Notice of Final Action Approval of Conversion Applications

Dated October 26, 1982.

Notice is hereby given that on September 1, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association of Atlanta, Atlanta, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–30215 Filed 11–2–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–197]

Home Federal Savings & Loan Association of the Rockies, Fort Collins, Colo.; Notice of Final Action Approval of Conversion Applications

Dated: October 26, 1982.

Notice is hereby given that on July 13, 1982, the Federal Home Loan Bank Board, Office of General Counsel of the acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association of the Rockies, Fort Collins, Colorado, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–30214 Filed 11–2–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Agreements filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within *20* days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 10066–3.

Filing Party: Hopewell Darneille, III, Bowman Conner Touhey & Thornton, 2828 Pennsylvania Avenue, NW., Washington, D.C. 20007.

Summary: Agreement No. 10066–3 extends the U.S. East and West Coast-Colombia Equal Access Agreement between Delta Steamship Lines, Inc., and Flota Mercante Grancolombiana, S.A., one additional year past its current February 21, 1983 expiration date.

Agreement No.: 10460.

Filing Party: Robin H. Beeckman, Esquire, Garvey, Schubert, Adams & Barer, 1000 Potomac Street, NW., Washington, D.C. 20007.

Summary: Agreement No. 10460 establishes a nonexclusive equipment interchange agreement between Hapag-Lloyd and Totem Ocean Trailer Express, Inc., providing for the interchange of empty and loaded equipment in the Europe-United States trade.

By Order of the Federal Maritime Commission.

Dated: October 29, 1982.

[FR Doc. 82-30186 Filed 11-2-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Maximum Allowable Cost (MAC) Limits and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: The Pharmaceutical Reimbursement Board (PRB) proposes revised maximum allowable cost limits on the drugs specified below and announces a public hearing with regard to these proposed limits.

DATES: Hearing: December 14, 1982 (10 a.m.–12 noon). To assure consideration, comments and requests to appear at the hearing should be submitted by December 3, 1982.

ADDRESS: Address comments in writing to: Administrator, Pharmaceutical Reimbursement Board, Health Care Financing Administration, Department of Health and Human Services, Room 1–D–5, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to BPP–252–PN. All comments received by December 3, 1982 will be considered and will be maintained for public inspection in the Pharmaceutical and Medical Services Reimbursement Branch, Bureau of Program Policy, HCFA.

Public hearing: Persons or organizations wishing to make presentations at the public hearing must send at least 20 copies of the proposed oral presentation in its entirety, together with all supporting studies and materials and the names and addresses of proposed participants, to the Board's Executive Secretary by December 3, 1982. The Board will grant every request to appear if the presentation is relevant to the proposed MAC limits.

Place of the hearings: Room 171, 1st Floor, Altmeyer Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION, CONTACT: Charles Spalding (301) 594–5403.

SUPPLEMENTARY INFORMATION:

Background

The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration for the purposes of setting MAC limits on certain multiple source drugs for which reimbursement is provided under Medicaid, Medicare and other programs administered by the Department. In making a determination on the lowest unit price at which a drug may be widely and consistently available from any formulator or labeler, the Board has relied on two sources—a HCFA survey and the *Drug Topics Red Book*. The HCFA survey is a summary, updated monthly, of pharmacy invoice prices obtained by HCFA under contract with IMS America. The HCFA survey price is based on the 70th percentile of invoice prices from a panel of 1,000 pharmacies nationwide. *Drug Topics Red Book*, published annually and updated monthly, is an authoratitive and recognized listing of advertised prices.

Proposed Revised Limits for Doxepin HCL

In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board proposes the following revised MAC limits:

Doxepin HCL, 10 mg—$0.1030 per capsule
Doxepin HCL, 25 mg—$0.1328 per capsule
Doxepin HCL, 50 mg—$0.1869 per capsule
Doxepin HCL, 100 mg—$0.3382 per capsule

The Board believes that these proposed limits reflect the lowest rates at which the doxepin HCL products can be widely and consistently available.

The Board originally identified doxepin HCL as a multiple source drug for which significant amounts of Federal funds are expended and for which there are significantly different prices. Currently, Pfizer and the Pennwalt Corporation are the only two manufacturers that produce the doxepin HCL products. On December 11, 1978, the Board published a final notice in the Federal Register (43 FR 57972) establishing doxepin HCL limits of $0.0950, $0.1161, and $0.1765 per capsule for the 10, 25, and 50 mg capsules, respectively, based upon the prices and availability of these products from wholesalers. In addition, on August 29, 1979, the Board published a final notice (44 FR 50651) establishing a MAC limit of $0.2900 per capsule for doxepin HCL, 100 mg. On August 5, 1982, the Pennwalt Corporation petitioned the Board to establish new higher MAC limits for doxepin HCL 10, 25, 50, and 100 mg capsules as a result of the Pennwalt price increases for these products due to take effect on January 1, 1983. Pennwalt indicated to the Board that, despite substantial cost increases in manufacturing and marketing, prices for its doxepin products have not been increased since their entry into the market in 1974. Pennwalt also indicated that its price increases will still provide an across-the-board savings on doxepin of 17 percent when compared to the therapeutically equivalent product manufactured by Pfizer.

The Board reviewed the Pennwalt petition on September 15, 1982, and based on the understanding that small and medium size independent pharmacies have purchased these products in the past and that doxepin HCL will continue to be available to these pharmacies at the increased prices, voted to propose the MAC limits specified above based upon the new higher prices of doxepin HCL from the Pennwalt Corporation. The Pennwalt petition is available for inspection in the Pharmaceutical and Medical Services Reimbursement Branch, Bureau of Program Policy, HCFA.

Impact Analyses

Executive Order 12291

We have determined that this proposed notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed notice will not change expenditures by over $100 million per year; cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant

adverse effects on business or employment. These proposed determinations would set forth a specific unit price at which each of these drugs is widely and consistently available. At the proposed MAC limits listed above, we believe the following costs savings would apply:

Drug	Strength (mg)	Cost savings per year
Doxepin HCL	10	$34,700
Do.	25	44,900
Do.	50	105,800
Do.	100	10,900
Total		195,300

We estimate that these price increases would still provide an overall savings on doxepin HCL of 17 percent when compared to the Pfizer product. For these reasons, we believe no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

This proposed notice does not meet the criteria set forth in the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)) for preparing a regulatory flexibility analysis since we do not believe that it would result in a significant economic impact on a substantial number of small pharmacies or other business entities. The MAC process is fundamentally designed to assure wide and consistent availability of the drug products subject to MAC limits. In every case, the Board has reviewed data which have enabled the Board to determine that small and medium size pharmacies are able to acquire these drug products at or below the proposed MAC limits.

(Secs. 1814(b), 1861(v)(1)(A), and 1902(a)(30) of the Social Security Act; 42 U.S.C. 1395f(b), 1395x(v)(1)(A), and 1396a(a)(30)).

Dated: October 26, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 82-30320 Filed 11-2-82; 9:49 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

District Managers; Wyoming State Office; Redelegation of Authority

Pursuant to the authority contained in the Redelegation of Authority published in the **Federal Register** on January 25, 1980, as **Federal Register** Document 80-2428, I hereby redelegate to the Area Managers the authority to take actions on behalf of the State Director in their respective areas of responsibility in all matters listed in Section 1.9(m) of Bureau Order No. 701 dated July 23, 1964, as amended, except for "major cases." "Major cases" is defined as those requiring environmental impact statements or being processed under the Bureau's "Expenses, Rights-of-way (ROW) processing" subactivity. This action is taken so the Bureau may be more responsive to the public demand by having the Resource Areas as the focal point for routine right-of-way grants on public lands.

Effective Date. This redelegation will become effective December 1, 1982.

P. D. Leonard,

Acting State Director.

[FR Doc. 82-30169 Filed 11-2-82; 8:45 am]

BILLING CODE 4310-84-M

Federal-State Coal Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to change the meeting date and location.

SUMMARY: In the **Federal Register** of October 12, 1982, at page 44887, there appeared a notice concerning a meeting of the Federal-State Coal Advisory Board. This notice is to amend the date and location of the meeting. All other items in the October 12 notice are still applicable.

DATE: The advisory board meeting has been rescheduled to December 3, 1982.

ADDRESS: The meeting will be held at the Marriot Hotel-City Center, 1701 California Street, Denver, Colorado 80202, (303) 825-1300.

FOR FURTHER INFORMATION CONTACT: Tom Walker or Myra Musialkiewicz, Division of Coal, Tar Sand and Oil Shale, Bureau of Land Management (540), 18th and C Streets, NW., Washington, D.C. 20240, telephone (202/FTS) 343-4636.

Dated: October 29, 1982.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 82-30184 Filed 11-2-82; 8:45 am]

BILLING CODE 4310-84-M

Grazing Management in the Lander Resource Area, Rawlins District, Wyoming; Notice of Availability of Final Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM, U.S. Department of the Interior, has prepared a final environmental impact statement on grazing management in portions of Fremont, Sweetwater, Carbon, and Natrona counties, Wyoming, and has made copies of the document available for public review and comment.

The final statement analyzes environmental impacts that would result from proposed grazing management. The statement further analyzes the environmental impacts that would result from the implementation of each of four alternatives to that proposal. The alternatives are Elimination of Livestock Grazing, Enhanced Livestock Grazing, No Action, and Management Based on Available Forage Data.

All comments were considered. Those which raised questions or issues concerning the effects of the Proposed Action or alternatives, presented new data, or questioned facts or the analyses were responded to in the final EIS.

For further information contact: Bob Tigner, Team Leader, Bureau of Land Management, Box 670, Rawlins, Wyoming 82301, telephone (307) 324-7171.

Elbert W. Spencer,

Acting District Manager.

[FR Doc. 82-30165 Filed 11-2-82; 8:45 am]

BILLING CODE 4310-84-M

[W-80369]

Noncompetitive Sale of Public Lands In Park County, Wyoming; Realty Action

October 25, 1982.

The following described land has been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at fair market value.

Sixth Principal Meridian, Wyoming

T. 51 N., 104 W.,
Sec. 1, lot 19.
The area described contains 2.5 acres.
Fair market value—$4,000.

The land is to be sold noncompetitively to Michael C. and Shauna Poulsen. The purpose of this sale is to resolve an occupancy trespass. The terms and conditions applicable to the sale are:

1. A reservation to the United States of the right to construct ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945;

2. All mineral deposits in the lands so patented, and to it, or persons

authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Subject to those rights of Texas International Petroleum Corporation, its successors and assigns, under oil and gas lease W–41371 issued October 1, 1973 pursuant to the Act of February 25, 1920 (30 U.S.C. 181, et seq.).

Detailed information concerning the sale is available for review at the Bureau of Land Management, Cody Resource Area Office, 1714 Stampede Avenue, P.O. Box 518, Cody, Wyoming 82414.

On or before December 9, 1982, interested parties may submit comments to the District Manager, Bureaue of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Paul M. Andrews,

Acting District Manager.

[FR Doc. 82–30168 Filed 11–2–82; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30048]

Hillsdale County Railway Company, Inc., Exemption—Operation Between Pleasant Lake and Steubenville, IN, and Construction and Operation at Steubenville, IN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10901: (1) the Hillsdale County Railway Company, Inc. (HCR) operation over a line between Pleasant Lake (milepost 35.7) and Steubenville (milepost 32.77), a total distance of 2.93 miles; and (2) HCR's construction and operation of an interchange connection with the Norfolk and Western Railway Company at Steubenville, IN.

DATES: This exemption will be effective November 2, 1982. Petitions to reopen must be filed by November 23, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Eric D. Gerst, 21 South Fifth Street, Philadelphia, PA 19106.

Pleadings should refer to Finance Docket No. 30048.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the decision contact: TS InfoSystems Inc., Room 2227, Washiington, DC 20423, or call 289–4357 in the D.C. Metropolitan area or toll free (800) 424–5403.

Decided: October 26, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–30191 Filed 11–2–82; 8:45]

BILLING CODE 7035–01–M

[Finance Docket No. 30047]

Seaboard Coast Line Railroad Co.; Abandonment Exemption in Pinellas County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Seaboard Coast Line Railroad Company of 341 feet of track in Pinellas County, FL, subject to standard labor protection.

DATES: This exemption will be effective on December 3, 1982. Petitions to stay the effectiveness of this decision must be filed by November 15, 1982, and petitions for reconsideration must be filed by November 23, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL. 32202.

Pleadings should refer to Finance Docket No. 30047.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423 (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: October 27, 1982.

By the Commission, Chairman, Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–30190 Filed 11–2–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated

operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

For the following please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–189

Decided: October 27, 1982.

By the Commission, Review Board No. 1, Members Chandler, Fortier, and Parker.

MC 2900 (Sub-460) filed October 6, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: R. E. Allish (same address as applicant), (904) 353–3111. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with E. I. duPont de Nemours Co., Inc., Wilmington, DE.

MC 9411 (Sub-4), filed October 12, 1982. Applicant: WILLIAM F. & ROBERT L. FRERICHS, d.b.a. FRERICHS FREIGHT LINES, 209 Clara, Belleville, IL 62221. Representative: William F. Frerichs (same address as applicant), (618) 277–9080. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI).

MC 36900 (Sub-20) filed October 13, 1982. Applicant: CONTAINERS IN TRANSIT, INC., P.O. Box 9615, Alexandria, VA 22304. Representative: Martin R. Martino, 333 So. Glebe Road, Arlington, VA 22204, (703) 979–1627. Transporting *household goods* between points in the U.S. (except AK and HI).

MC 37490 (Sub-11), filed October 13, 1982. Applicant: DUNCAN TRUCK SERVICE, INC., 100 Park Ave., Flandreau, SD 57028. Representative: James E. Ballenthin, 1016 Conweb Tower, 444 Cedar St., St. Paul, MN 55101, (612) 227–7731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in Moody County, SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 52861 (Sub-92), filed October 14, 1982. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *bulk commodities* between points in the U.S. (except AK and HI), under continuing contract(s) with Bob DeWire and Associates, Inc., of Dover, OH.

MC 57880 (Sub-28) filed September 27, 1982, previously published in the **Federal Register** on October 14, 1982. Applicant: ASHTON TRUCKING CO., P.O. Box 472, Monte Vista, CO 81144. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, IL, ME and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 85530 (Sub-16) filed October 14, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., N.W., Washington, DC 20005, (202) 296–5188. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lowe's Companies, Inc., of North Wilkesboro, NC.

MC 118341 (Sub-8) filed October 19, 1982. Applicant: VALLEY TRUCKING CO., INC., Coffeeport & Central Roads, Brownsville, TX 78520. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Southland Frozen Foods, Inc., of Plant City, FL.

MC 118551 (Sub-2) filed October 13, 1982. Applicant: ACADEMY VAN & STORAGE COMPANY, INC., 2517 Alabama Ave., Norfolk, VA 23513. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW, Suite 300, Washington, DC 20006, (202) 466–3778. Transporting *household goods and furniture and fixtures*, between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC.

MC 123310 (Sub-26), filed September 13, 1982, previously published on September 29, 1982. Applicant: DOUG ANDRUS DISTRIBUTING, INC., 1820 W. Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701, (208)–343–3071. Transporting (1) *coal, chemicals and related products and minerals*, between points in AZ, CA, CO, ID, MT, NE, NV, NM, OR, UT, WA and WY, (2) *building materials, lumber and wood products and metal articles*, between points in NV, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NE, NV, NM, OR, UT, WA and WY, and (3) *commodities dealt in by automotive service stations and petroleum products*, between points in OR, CA, UT and WA, on the one hand, and, on the other, points in ID.

Note.—This republication reflects a change in the commodity description requested in (1) above.

MC 128371 (Sub-12), filed October 14, 1982. Applicant: BELLEVUE AGGREGATE HAULERS, INC., P.O. Box 296, Holland, OH 43528. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of clay, concrete, glass or stone products and metal products, between points in the U.S. (except AK and HI).

MC 135621 (Sub-8), filed October 13, 1982. Applicant: MOLERWAY FREIGHT LINES, INC., 2707 Beartooth Drive, Billings, MT 59102. Representative: Larry D. Herman, Box 217, 111 West Main St., Laurel, MT 59044, (406) 628–8601. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144971 (Sub-1), filed October 14, 1982. Applicant: RAYMOND C. GRIFFITH, d.b.a. GRIFFIN TRANSPORT P.O. Box 244, Esbon, KS 66941. Representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603, (313) 232–7263. Transporting *petroleum, natural gas and their products*, between Superior, NE, on the one hand, and, on the other, points in KS.

MC 146701 (Sub-11), filed October 18, 1982. Applicant: WEAVER TRUCKING

CO., INC., P.O. Box 45, Eton, GA 30724. Representative: Archie B. Culbreth, Suite 570, 220 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting (1) *food and related products;* (2) *textile mill products and floor coverings;* and (3) *farm products and machinery,* between points in the U.S. (except AK and HI).

MC 146821 (Sub-8), filed October 19, 1982. Applicant: RON BESTEMAN TRANSPORT, INC., 2830 Chicago Dr. SW., Grandville, MI 49418. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, on the one hand, and, on the other, points in IN, IL, MN, WI, ND, SD, NE, KS, IA, MO, KY, TN, NC, VA, WV, MD, OH, PA, and NY.

MC 147400 (Sub-12), filed October 18, 1982. Applicant: RAEMARC, INC., 1903 Chickory Road, Racine, WI 53405. Representative: Thomas M. O'Brien, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148791 (Sub-32), filed October 13, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting *such commodities* as are dealt in or used by hardware and variety stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Ace Hardware Corporation, of Oakbrook, IL.

MC 149531 (Sub-2) filed October 19, 1982. Applicant: SULLI-VAN LINES, INC., 43 Courtland, Highland Park, MI 48203. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150951(Sub-18) filed October 13, 1982. Applicant: CRANSTON TRUCKING COMPANY (Division of Cranston), 1381 Cranston Street, Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *textile mill products,* between points in the U.S. under continuing contract(s) with Madewell Mfg. Co., Inc., of New Bedford, MA.

MC 153490 (Sub-1) filed October 19, 1982. Applicant: DANIEL E. TIETMEYER, d.b.a. TIETMEYER TRUCKING, 4306 West 22nd Street, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. Transporting *general commoditites* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Monfort of Colorado, Inc., of Greeley, CO.

MC 153581 (Sub-1) filed October 15, 1982. Applicant: CENTURY STAGES, INC., d.b.a. RAZ TRANSPORTATION CO., 1660 S. W. Bertha Blvd., Portland, OR 97219. Representative: Jerry R. Woods, P.O. Box 28, Marylhurst, OR 97036, (503) 635–5600. Transporting *passengers and their baggage,* in special and charter operations, between points in OR and Cowlitz County, WA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 156581 (Sub-2) filed October 19, 1982. Applicant: METROPLEX FREIGHT SERVICE, INC., 1804 Vantage St., Carrollton, TX 75006. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Denver, CO, Little Rock, AR, Memphis, TN, New Orleans, LA, Oklahoma City, and Tulsa, OK, St. Louis and Kansas City, MO, and Wichita, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158280, filed October 19, 1982. Applicant: W.F. MEADOWS, INC., 6028 Maddox Rd. Morrow, GA 30260. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133 (404) 949–7756. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in AL, FL, GA, KY, IN, MS, NC, SC, and TN.

MC 161561, filed October 18, 1982. Applicant: KYGER TRANSPORT, INC., 2009 Ladoga Road, Crawfordsville, IN 47933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846–6655. Transporting *chemicals and liquified petroleum gas,* between points in MI, IN, IL, OH, and KY. Condition: To the extent this certificate authorizes the transportation of liquified petroleum gas, this certificate shall expire 5 years from date of issuance.

MC 161610 (Sub-1), filed October 18, 1982. Applicant: C.A. TUCKER d.b.a. "ABB" TUCKER TRUCKING, Rt. 4, Box 57B Lubbock, TX 79424. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408 (806)–763–9555. Transporting *metal products,* between points in Lubbock County, TX, on the one hand, and, on the other, points in AZ, NV, NM, CA, UT, CO, OK and LA.

MC 161620, filed October 12, 1982. Applicant: METRO TRANSPORT, INC., 30021 Wixom Road, Wixom, MI 48096. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167 (313) 349–3980. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Crown Chemical Co., Inc., of Indianapolis, IN.

MC 162481 (Sub-1), filed October 13, 1982. Applicant: TRIO EXPRESS COMPANY, INC., 8011 Ashbottom Rd., Louisville, KY 40213. Representative: James B. Murphy, Suite 102, Interchange Bldg., 835 West Jefferson St., Louisville, KY 40202 (502) 584–5519. Transporting (1) *metal products,* (2) *lumber and wood products,* (3) *rubber and plastic products,* (4) *commercial laundry and dry cleaning equipment,* and (5) *transportation equipment,* between points in the U.S. (except AK and HI).

MC 162611, filed October 15, 1982. Applicant: SHIPLEY DISTRIBUTORS, INC., 1127 Dearborn Street, Aurora, IL 60505. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603 (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL,on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, OH, and WI.

MC 163121, filed October 19, 1982. Applicant: VERNON M. BAILEY AND THOMAS C. BAILEY, a Partnership d.b.a. BAILEY ENTERPRISE, 835 Ruthers Road, Richmond, VA 23235. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235 (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Royal Crown Bottlers of Virginia, of Norfolk, VA.

MC 164100, filed October 15, 1982. Applicant: HANNAFORD TRUCKING COMPANY, 54 Hannaford St., South Portland, ME 04106. Representative: Beth Dobson, Two Canal Plaza, P.O. Box 586, Portland, ME 04112 (207) 774–4000. Transporting *food and related grocery store products,* between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC.

MC 164171, filed October 8, 1982. Applicant: ANTHONY L. ILL AND MICHAEL I. SCHOLTZE, a Partnership d.b.a. A & M TRANSPORTATION SERVICE, 2200 E. Devon, Elk Grove, IL 60007. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016 (312) 298–1094. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AZ, AR, CA, CO, CT, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NY, NJ, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164211, filed October 14, 1982. Applicant: J. T. TRUCK LINES, INC., 305 South Broadway, Suite 800, P.O. BOX 990, Tyler, TX 75710. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154 (405) 424–3301. Transporting *metal products, rubber and plastic products, chemicals and related products, building and construction materials, containers, and machinery*, between those points in the U.S. in and west of NY, PA and MD.

MC 164241, filed October 18, 1982. Applicant: DIABLO EXPRESS, INC., 490 Carlton Court, South San Francisco, CA 94080. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108 (415) 986–8696. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Los Angeles and San Mateo Counties, CA.

MC 164261, filed October 19, 1982. Applicant: WILLARD FRYE, Route 1, Box 214, Wichita Falls, TX 76301. Representative: Willard Frye (same address as applicant) (817) 855–6672. Transporting *clay, concrete, glass or stone products*, between points in Wichita, Archer, Wilbarger and Clay Counties, TX, and Comanche, Cotton, Caddo and Jefferson Counties, OK.

MC 164271, filed October 19, 1982. Applicant: ROBERT STATON, 339 Lakeside Drive, Sedro Wooley, WA 98284. Representative: Robert Staton (same address as applicant) (206) 595–2322). Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

MC 164281, filed October 18, 1982. Applicant: NATHAN GROSVENOR AND RICHARD GROSVENOR, a Partnership d.b.a. B & G SUPPLY, Route 1, Box 33A, Caldwell, ID 83605. Representative: Nathan Grosvenor (same address as applicant) (208) 585–3602. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR, and Southwest Hide Co., of Boise, ID.

MC 164300, filed October 20, 1982. Applicant: RODNEY J. CRONK TRUCKING, 1302 Piper Lane, Eugene, OR 97401. Representative: Rodney J. Cronk (same address as applicant) (503) 485–3198. Transporting *food and related products* between points in OR, WA, ID, and CA.

MC 164311, filed October 20, 1982. Applicant: JIMLIN TRUCKING, INC., P.O. Box 245, Loveland, OH 45140. Representative: Stephen D. Strauss, 2510 Carew Tower, Cincinnati, OH 45202 (513) 621–4607. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and DC.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–015

Decided: October 28, 1982.

By the Commission, Review Board No. 2 Members Carleton, Williams, and Ewing.

MC 129226 (Sub-26), filed October 8, 1982. Applicant: TO-JON TRUCKING, INC., 480 Brown Ct., Oceanside, NY 11572. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of the Permits in MC–129226 Sub 10X, issued May 18, 1981, MC–129226 Sub 11, issued February 3, 1982, and MC–129226 Sub 12, issued July 20, 1982. This is a conversion application filed under 49 U.S.C. 10923(e).

MC 146336 (Sub-29), filed October 8, 1982. Applicant: WESTERN TRANSPORATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *food and related products* between points in the U.S., on the one hand, and, on the other, points in TX, under continuing contract(s) with Lone Star Company, of Dallas, TX.

MC 146377 (Sub-5), filed October 12, 1982. Applicant: EDWARD McGILL, INC., 3 General Ave., Rome, GA 30161. Representative: J. L. Fant, P.O. Box 577 Jonesboro, GA 30237 (404) 477–1525. Transporting *general commodities* (except classes A and B explosives, household good, and commodities in bulk) between points in the U.S., under continuing contract(s) with Phalo Wire and Cable Corporation, of Shrewsbury, MA.

MC 149517 (Sub-2), filed October 7, 1982. Applicant: BEN FRAZIER, Inc., P.O. Box 153, Fergus Falls, MN 56537. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58520 (701) 223–5300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Dieseth Specialties, Inc. of Fergus Falls, MN.

MC 149586 (Sub-3), filed October 12, 1982. Applicant: GAZDA MOVING COMPANY, INC., 7580 Commerce Lane, NE, Minneapolis, MN 55432. Representative: Robert P. Sack, P.O. Box 21–307 Eagan, MN 55121, (612) 452–8770. Transporting *household goods*, between points in the U.S. (except AK, HI, IA, IL, ME, MN, MT, NE, NH, OH, ND, SD, VT, and WI).

MC 153516 (Sub-4), filed October 8, 1982. Applicant: INTERSTATE EXPRESS, INC., P.O. Box 37114, Millard, NE 68137. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521 (321) 629–2900. Transporting *such commodities* as are dealt in or used by food business houses, between points in MI, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, NM, ND, NE, OH, OK, SD, TX and WI.

MC 154897 (Sub-2), filed October 7, 1982. Applicant: BILL's TRUCKING SERVICE, INC., P.O. Box 143, Le Center, MN 56057. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036 (202) 223–5900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158047 (Sub-1), filed October 7, 1982. Applicant: IKE ESSICK, P.O. Box 95, Welcome, NC 27374. Representative: F. Kent Burns, P.O. Box 2479, Raleigh, NC 27602 (919) 828–2421. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Durham Distributing Company, Inc., of Durham, NC.

MC 159197 (Sub-1), filed October 7, 1982. Applicant: BURLINGTON STAGE LINES, LTD., d.b.a. BURLINGTON TRAILWAYS, P.O. Box 491, W. Burlington, IA 52655. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751–2441. Over regular routes, transporting *passengers and their baggage*, and express and newspapers in the same vehicle with passengers, between Iowa City and Muscatine, IA: from Iowa City over Interstate Hwy 80 to Danvenport, IA, then over U.S. Hwy 61 to Muscatine, serving all intermediate points.

Note.—Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 161217, filed October 7, 1982. Applicant: T F EXPRESS, INC., P.O. Box 132, Lawrenceburg, TN 38464. Representative: Roland M. Lowell, Fifth Floor, 501 Union St., Nashville, TN 37219 (615) 255–0540. Over (A) regular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between Nashville and Pulaski, TN, serving all intermediate points (a) from Nashville over Interstate Hwy 65 to junction TN Hwy 99, then over TN Hwy 99 to junction U.S. Hwy 31, then over U.S. Hwy 31 to Pulaski, (b) from Nashville over Interstate Hwy 65 to junction TN Hwy 99, then over TN Hwy 99 to junction U.S. Hwy 43, then over U.S. Hwy 43 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Pulaski, (2) between Pulaski and Memphis, TN over U.S. Hwy 64, serving all intermediate points (B) irregular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Maury, Giles and Lawrence Counties, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant states it intends to tack the authority in (A) and (B).

MC 161626, filed October 7, 1982. Applicant: VAN PAC WEST, 4220 Los Angeles Ave., Simi, CA 93063. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702 (714) 667–8107. Transporting (1) *food and related products*, between points in the U.S. (except AK and HI), (2) *plastics and related products, textile mill products, pulp, paper and related products, machinery, metal products, and scrap alloys*, between points in CT, NY, MO, FL, AL, MA, NJ and CA, on the one hand, and, on the other, points in NY, CT, MA, PA, NJ, IL, TN, MO, OH, AR, AL, LA, IN, FL, GA, TX, NY and CA, (3) *toilet preparations*, between points in CA, CT, MO, AL, NY and FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *gymnastic equipment*, between points in IA, CA and NV.

MC 164137, filed October 7, 1982. Applicant: ROBERT R. WESTMORELAND, d.b.a. ROKA, 301 Washington St., #10, Inverness, FL 32650. Representative: Gerald A. Joseloff, 410 Asylum St. Hartford, CT 06103 (203) 728–0700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Baltimore Business Forms, Inc., of Winsted, CT, a subsidiary of Arnold Graphics, Inc., also of Winsted, CT.

MC 164156, filed October 7, 1982. Applicant: WASHITA VALLEY ENTERPRISES, INC., 509 NW 19th, Oklahoma City, OK 73102. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154 (405) 424–3301. Transporting *metal products*, between points in OK, on the one hand, and, on the other, points in AR, CO, LA, NM and TX.

MC 164167 filed October 8, 1982. Applicant: PROFESSIONAL MEDICAL LIVERY, INC. d.b.a. PROFESSIONAL LIMOUSINE SERVICE, 78 Hazelmere Rd., New Britain, CT 06053. Representative: Louis J. Annino (Same address as applicant) (203) 224–7188. Transporting *passengers and their baggage* in special and charter operations, between points in Hartford County, CT and Boston, MA, New York, NY and Atlantic City, NJ.

MC 164176 filed October 12, 1982. Applicant: ENSLEY CHARTER SERVICES, INC., 1217 Siesta Lane, Acworth, GA 30101. Representative: Michael P. Keenan, 1250 Powers Ferry Rd., Suite 100, Marietta, GA 30067 (404) 952–4178. Transporting *passengers*, in charter operations, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–30199 Filed 11–2–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–212

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 37918 (Sub-1–3TA), filed October 18, 1982. Applicant: DIRECT WINTERS TRANSPORT LIMITED, 2 Tippet Road, Downsview, Ontario, CD M3H 5X3. Representative: William J. Hirsch, P.C., 64 Niagara Street, Buffalo, NY 14202. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, in interstate or foreign commerce, between Detroit, MI, OH, PA, and NY. Supporting shipper: General Motors Corporation, St. Terese, Quebec, CD.

MC 162589 (Sub-1–1TA), filed October 18, 1982. Applicant: EXECULINE, INC., 997 Brook Road, Lakewood, NJ 08701. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10123. *Common carrier:* regular routes: *Passengers and their baggage and express and newspapers*, between Toms River, NJ and New York, NY. ROUTE 1: Between Junction Main St and Water St

in Toms River, NJ and New York, NY as follows: From junction Main and Water Streets in Toms River, NJ over Water St to jct access roads to Garden State Pkwy then over Garden State Pkwy to jct exit 90, then over Chambers Bridge Road to jct State Hwy 70, then over Chambers Bridge Road to jct Lanes Mill Rd, then over Lanes Mill Rd to jct Burnt Tavern Rd, then over Burnt Tavern Rd to Barr Ave, then over Burnt Tavern Rd to jct access roads to Garden State Pkwy, then over Garden State Pkwy to jct Interstate Hwy 95 (NJ Turnpike) then over NJ Turnpike to NJ Turnpike Ext. to the Holland Tunnel, then through the Holland Tunnel to New York, NY and return serving all intermediate points. ROUTE 2: Between jct Main St and Water St in Toms River, NJ and New York, NY as follows: From Main and Water Street in Toms River, NJ over Water St to jct access roads to Garden State Pkwy, then over Garden State Pkwy to jct exit 90, then over Chambers Bridge Road to Jct State Hwy 70, then over Chambers Bridge Road to junction Lanes Mill Rd, then over Lanes Mill Rd to jct Burnt Tavern Rd, then over Burnt Tavern Rd to Barr Ave then over Burnt Tavern Rd to jct access roads to Garden State Pkwy, then over Garden State Pkwy to jct Interstate Hwy 95 (NJ Turnpike) then over NJ Turnpike to access roads to Interstate Hwy 495, then over Interstate Hwy 495 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY and return over the same route, serving all intermediate points. All of the above service is restricted to a transportation service involving not more than 21 passengers per vehicle. Supporting shipper(s): There are 11 statements in support attached to this application which may be examined at the Regional office of the I.C.C. in Boston, MA.

MC 148141 (Sub-1–5TA), filed October 21, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearney, NJ 07032. Representative: William Jacobs (same as applicant). *Contract Carrier:* Irregular routes: *Tires* from Waco, TX, to Macon, GA, under continuing contract(s) with Georgia farm Bureau Service Co., Macon, GA. Supporting shipper: Georgia Farm Bureau Service Co., P.O. Box 7261, Macon, GA 31298.

MC 164033 (Sub-1–1TA), filed October 21, 1982. Applicant: KANATA CARRIERS INC., 67 Dorset Drive, Depew, NY 14043. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, DC 20036. *Contract carrier:* irregular routes: *General commodities (except hazardous wastes, Classes A and B explosives, household goods and commodities in bulk)* between points in IL, IN, MI, OH, PA, MD, DE, NJ, WI, NY, CT, RI, MA, NH, VT, ME, and DC, under continuing contract(s) with Interamerican Transport Systems, Inc., Mississauga, Ontario, CD. Supporting shipper: Interamerican Transport Systems Inc., 2203 Dunwin Drive, Mississauga, Ontario, CD L5L 1X2.

MC 164326 (Sub-1–1TA), filed October 21, 1982. Applicant: MACLEN EXPRESS CO. INC., 521 Broadway, Summerville, MA 02143. Representative: Richard L. Sheehan (same as applicant). *General commodities in packages weighing less than 100 pounds* from points in MA to points in NH. Supporting shipper(s): There are 11 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 147242 (Sub-1–9TA), filed October 18, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10106. *Contract carrier:* irregular routes: *General commodities, except household goods, Classes A and B explosives and commodities in bulk,* between all points in the U.S., under continuing contract(s) with Knomark, Inc., Jamaica, NY. Supporting shipper: Knowmark, Inc., 13220 Merrick Blvd., Jamaica, NY 11434.

MC 147242 (Sub-1–10TA), filed October 18, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10106. *Contract carrier:* irregular routes: *General commodities, except household goods, Classes A and B explosives and commodities in bulk,* between all points in the U.S., under continuing contract(s) with Publishers Shipping Cooperative Association, Inc., Westwood, NJ. Supporting shipper: Publishers Shipping Cooperative Association, Inc., 40 Carver Ave., Westwood, NJ 07675.

MC 142114 (Sub-1–14TA), filed October 19, 1982. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Paper and various commodities made of paper* between Edison, NJ and all points in the 48 contiguous U.S. (excluding AK and HI) under continuing contract(s) with Charles Bainbridge Company, Edison, NJ. Supporting shipper: Charles Bainbridge Company, 50 Northfield Avenue, Edison, NJ 08817.

MC 164251 (Sub-1–1TA), filed October 18, 1982. Applicant: NEW ENGLAND RETAIL EXPRESS, INC., 111 Lenox Street, Norwood, MA 02062. Representative: John C. Fudesco, Esq., 1333 New Hampshire Ave., N.W., Suite 960, Wahington, DC 20036. *Contract carrier:* irregular routes: *General commodities (except used household goods, Classes A and B explosives and commodities in bulk)* between points in the U.S. (except AK and HI), under continuing contract(s) with Puritan Furniture Corp., Norwood, MA. Supporting shipper: Puritan Furniture Corp., 111 Lenox Street, Norwood, MA 02062.

MC 151340 (Sub-1–2TA), filed October 21, 1982. Applicant: SPECIALIZED HAULING CORPORATION, P.O. Box 488, Barre, VT 05641. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641. *Contract carrier:* irregular routes: *Telephone equipment, materials and supplies including salvage used in construction and maintenance of telephone systems* between points in the U.S. under continuing contract(s) with Western Electric, Inc., North Andover, MA. Supporting shipper: Western Electric, Inc., 1600 Osgood Street, North Andover, MA 01845.

MC 151583 (Sub-1–4TA), filed October 21, 1982. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Contract carrier:* irregular routes: *General commodities (except Classes A & B explosives, Household goods, and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., Omaha, NE. Supporting shipper: United Forwarding, Inc., 7000 Building, Suite 445, 7000 West Center Road, Omaha, NE 68106.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.W., Atlanta, GA 30309.

MC 140902 (Sub-3–17TA), filed October 21, 1982. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular: *foodstuffs and related materials equipment and supplies* between Ridgefield, NJ on the one hand, and, on the other, points in the states of ME, NH, NY, NJ, VT, PA, MA, CT, MD, VA, & DC under continuing contract(s) with Balanced Foods, Inc. Supporting shipper: Balanced Foods, Inc. 700 Grand Avenue, Ridgefield, NJ 07657.

MC 164324 (Sub-3–1TA), filed October 21, 1982. Applicant: MOBILEHOME TOWING SERVICE, INC., 7910 Mulhall Drive, Jacksonville, FL 32216. Representative: Norman J. Bolinger, Esq., 3100 University Blvd., S., Suite 225, Jacksonville, FL 32216. *Mobile homes, mobile office trailers,* and *modular complexes,* between Jacksonville, FL, and points in GA. Supporting shipper: Design Space International, 9000 Phillip Highway, Jacksonville, FL 32224.

MC 164126 (Sub-3–1TA), filed October 21, 1982. Applicant: G & E TRUCKING, INC., 1780 Old Covington Hwy., Conyers, GA 30207. Representative: Esther Brady, 3790 Rosemary Lane, Conyers, GA 30208. *Contract Carrier:* Irregular routes: *Packaged Mirrors* Between McDonough, GA, Carson, CA and Chicago, IL, under contract with Hoyne Industries, Inc., McDonough, GA. Supporting shipper: Hoyne Industries, Inc., 840 Highway 155 South, McDonough, GA 30253.

MC 163472 (Sub-3–1TA), filed October 20, 1982. Applicant: SUN LIGHT TRANSPORT, INC., 3595 N.W. 125th St., Miami, FL 33167. Representative: Richard B. Austin, Esq., 320 Rochester Bldg., 8390 N.W. 53rd, St., Miami, FL 33166. *Liquid foods,* in bulk, between points in AL, AR, DE, FL, GA, IL, IN, IA, KY, MD, MI, NJ, NY, NC, OH, PA, SC, TN, and VA. Supporting shipper: Liquid Foods, Inc., 3595 N.W. 125th Street, Miami, FL 33167.

MC 164263 (Sub-3–1TA), filed October 20, 1982. Applicant: ACME, INC., P.O. Box 2698, Gastonia, NC 28052. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street., NW, Washington, DC 20004. *Contract carrier,* irregular routes: *petroleum products,* between points in Gaston and Mecklenburg Counties, NC, on the one hand, and, on the other, points in SC, under continuing contract(s) with Acme Retail, Inc., of Gastonia, NC. Supporting shipper: Acme Retail, Inc., 903 North Marietta Street, P.O. Box 2359, Gastonia, NC 28052.

MC 151407 (Sub-3–7TA), filed October 21, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th Street, Miami, FL 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Airplane seats* from Dade County, FL to Seattle, WA, Los Angeles, CA, New Orleans, LA and Denver, CO. Supporting shipper: Flight Equipment and Engineering Corp., 3975 N.W. 24th Street, Miami, FL 33142.

MC 164313 (Sub-3–1TA), filed October 21, 1982. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: (1) *pulpboard and fiberboard* from the facilities of Stone Container Corp., located at or near Florence, SC to Torrington, CT; Lithonia, GA and Newark, NJ; (2) *wastepaper* from Camden, NJ to Florence, SC; and (3) *industrial staples* from the facilities of Bea Fasteners, Inc., located at or near Hamlet, NC to Los Angeles, CA; West Orange, NJ and Memphis, TN under account in (1) and (2) with Stone Container Corp., of Florence, SC and in (3) Bea Fasteners, Inc. of Hamlet, NC. Supporting shippers: Stone Container Corp., P.O. Box 4000, Florence, SC 29502 and Bea Fasteners, Inc., P.O. Box 592, Hamlet, NC 29345.

MC 145855 (Sub-3–5TA), filed October 21, 1982. Applicant: JOHN RAY TRUCKING CO., INC., P.O. Box 206, Eastaboga, AL 35260. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984. *Contract Carrier,* Irregular Routes, *Paper, Paper Products and Materials, Equipment and Supplies* used in the processing, packaging and shipping thereof between points in the U.S. except AK and HI, under continuing contract(s) with Gold Bond Building Products. Supporting shipper: Gold Bond Building Products, 2001 Rexford Road, Charlotte, NC 28211.

MC 152950 (Sub-3–3TA), filed October 21, 1982. Applicant: CENTURY TRANSPORTATION CORPORATION, Post Office Box 207, Columbus, MS 39701. Representative: Lloyd R. Pate (same as applicant). *Contract Carrier;* Irregular Route; *General Commodities (except Classes A&B Explosives; Household Goods; and Commodities in Bulk)* between Taylor, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Circus World Toy Stores, Inc., Taylor, MI. Supporting shipper: Circus World Toy Stores, 21150 Trolley Ind. Dr., Taylor, MI 48140.

MC 152950 (Sub-3–4TA), filed October 21, 1982. Applicant: CENTURY TRANSPORTATION CORPORATION, Post Office Box 207, Columbus, MS 39701. Representative: Lloyd R. Pate (same as applicant). *Contract Carrier;* Irregular Route; *General Commodities (except Classes A and B Explosives, Household Goods; and Commodities in Bulk)* between MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with: Sneed Oil Company, Tupelo, MS; Crysta-Pure Water Company, Abita Springs, LA; Napasco International, Thibodaux, LA; Supporting Shippers: Napasco International, P.O. Box 1219, Thibodaux, LA 70302; Crysta-Pure Water, P.O. Box 534, Abita Springs, LA 70420; Sneed Oil Co., Inc., 507 Church St., Tupelo, MS 38801.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–35TA), filed October 20, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under continuing contract with Advanced Health Systems, Inc. Supporting shipper: Advanced Health Systems, Inc. of Salt Lake City, Utah.

MC 15735 (Sub-4–36TA), filed October 20, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under continuing contract with Colt Industries, Inc. and its subsidiaries. Supporting shipper: Colt Industries of Pittsburgh, PA and its subsidiaries.

MC 113855 (Sub-4–5TA), filed October 21, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Michael E. Miller, 15 Brooadway—Suite 502, Fargo, ND 58102. *Contract* irregular: *General commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in the U.S., under a continuing contract(s) with Riedel International, Inc., its subsidiaries and affiliates. Supporting shipper: Riedel International, Inc., P.O. Box 3320, Portland, OR, 97208.

MC 133703 (Sub-4–3TA); filed October 20, 1982. Applicant: WCS, INC., 770 North Springdale Road, P.O. Box 337, Waukesha, WI 53186. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086. *Food and related products* from the facilities of Holsum Foods, a Division of Farmers Union Grain Terminal Association at or near Waukesha, WI, Albert Lea, MN, Olathe, KS and Albany, GA to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, NJ, NY, ND, OH, PA, SD, and WI. An underlying ETA seeks 120 day authority. Supporting shipper, Holsum Foods, a Division of Farmers Union Grain Terminal Association, Waukesha, WI 53186.

MC 139928 (Sub-4–2TA), filed October 20, 1982. Applicant: AMERICAN TRAILWAYS OF WISCONSIN, INC., 2611 West Grand Ave., Wisconsin Rapids, WI 54494. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Passengers and their baggage* and express and newspapers in the same vehicle with passengers between Allenton, WI, and Menomonee Falls, WI, serving the intermediate points of Hartford and Slinger, WI: From Allenton, WI, over WI Hwy 33 to Junction WI Hwy 175, then over WI Hwy 175 to WI Hwy 83, then over WI Hwy 83 to WI Hwy 60, then over WI Hwy 60 to WI Hwy 144, then over WI Hwy 144 to WI Hwy 175, then over WI Hwy 175 to WI Hwy 60, then over WI Hwy 60 to Intersection of U.S. Hwy 41, then over U.S. Hwy 41 to Menomonee Falls, and return over the same route. Supporting shippers: There are 6 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 139928 (Sub-4–3TA), filed October 20, 1982. Applicant: AMERICAN TRAILWAYS OF WISCONSIN, INC., 2611 West Grand Ave., Wisconsin Rapids, WI 54494. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Passengers and their baggage* and express and newspapers in the same vehicle with passengers between Marshfield and Eau Claire, WI, serving all intermediate points: From Marshfield, WI, over U.S. Highway 10 to the interchange of U.S. Highway 12, then northwest on U.S. Highway 12 to Eau Claire, WI, and return over the same route. Supporting shippers: There are six supporting shippers. Their statements may be examined at the Regional Office listed.

MC 142059 (Sub-4–23), filed October 21, 1982. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Dr., Channahon, IL 60410. Representative: Jack Riley (same address as applicant). "Containers and general commodities in containers (except in bulk) between Charleston, SC and Savannah, GA on the one hand, and, on the other, points in AL, FL, GA, NC, SC, and VA, having a prior or subsequent movement by water for 270 days." Supporting shipper, Transcarrier System, Inc., 1903 N. Durfee Ave., S. El Monte, CA 91733.

MC 150157 (Sub-4–7TA), filed October 21, 1982. Applicant: REGENCY MOTOR FREIGHT, INC., 26600 Van Born Road, Dearborn Heights, MI 48125. Representative: Martin J. Leavitt, Sullivan and Leavitt, P.C., 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract* irregular: *Toys, games and related items* from the distribution center of Circus World Toy Stores, Inc. in Taylor, MI to retail facilities of Circus World Toy Stores, Inc. located in the States of AL, CO, FL, GA, IL, IN, IA, KY, LA, MD, MI, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV, WI and WY. Supporting shipper: Circus World Toy Stores, Inc., 21150 Industrial Trolley Drive, Taylor, MI 48180.

MC 152706 (Sub-4–7TA), filed October 20, 1982. Applicant: MIDWEST OIL TRANSIT, INC., Post Office Box 68083, Indianapolis, IN 46268. Representative: Robert B. Hebert, Miller, Faires & Hebert, P.C., Suite 1600, One Indiana Square, Indianapolis, IN 46204. *Ethanol,* from Pekin and Decatur, IL, South Point, OH, and Louisville, KY, to points in Indianapolis, IN. Supporting shipper: Crystal Flash Petroleum Corp., 5400 West 86th Street, Indianapolis, IN 46268.

MC 153552 (Sub-4–1TA), filed October 19, 1982. Applicant: STEEL TRANSPORT, INC., 612A Route 41, Schererville, In 46375. Representative: Joel H. Steiner, 135 South LaSalle St., Suite 2106, Chicago, IL 60603. *Building materials,* between points in IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Bedford Limestone Suppliers, Inc., 1319 Breckenridge Road, Bedford, IN 47421; Woolery Stone Company, Inc., P.O. Box 40, Bloomington, IN 47402; and Fluck Cut Stone Company, Inc., P.O. Box 637, Bloomington, IN 47402.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30195 Filed 11-2-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 C.F.R. 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 F.R. 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 F.R. 80109.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the applications later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 3 (202) 275–5223.

Agatha L. Mergenovich,

Secretary.

Volume No. OP3–08

Decided: October 27, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 164214, filed October 14, 1982. Applicant: INTLCOBAL INC., 10 So Franklin Tpke, Ramsey, NJ 07446. Representative: Jack R. Wittkamp (same address as applicant), (201) 825–3330. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 164264, filed October 19, 1982. Applicant: DELTA TRUCKING, INC., P.O. Box 1460, Henderson, KY 42420. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., N.W., Washington, DC 20005, (202) 783–7900. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 164284, filed October 19, 1982. Applicant: ROSE MARCHESANO, 1205 Franklin Ave., Suite 300, Garden City, NY 11530. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164285, filed October 19, 1982. Applicant: TRANSPORT AGENTS INC., 35003 16th Ave., So., Federal Way, WA 98003. Representative: Clifford Godwin, Evergreen Bldg., Suite 237, 15 S. Grady Way, Renton, WA 98055, (206) 271–2216. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164315, filed October 20, 1982. Applicant: RAYMOND SHAW, d.b.a. J & R TRUCKING, INC., 9458 East Country Rd., 100 South, Greentown, IN 46936. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–188

Decided: October 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164231, filed October 14, 1982. Applicant: QUAST & CO., INC., 327 South LaSalle St., Chicago, IL 60604. Representative: Wayne Jarvis, Suite 1522, 35 East Wacker Drive, Chicago, IL 60601, (312)–467–6787. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164321, filed October 19, 1982. Applicant: LAVERN J. APPLEBURY, d.b.a. SHORTY APPLEBURY REFRIGERATED SERVICE, 1911 Wellington Place, Wenatchee, WA 98801. Representative: Lavern J. Applebury (same address as applicant), (509) 662–2632. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164250, filed October 14, 1982. Applicant: R. L. H., INCORPORATED, 123 South Street, P.O. Box 507, Stockdale, TX 78160. Representative: Charles H. Wickman, 901 Burlington Ave., P.O. Box 128, Western Springs, IL 60558, (312) 246–9090. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164310, filed October 20, 1982. Applicant: NATHAN SHEALY, d.b.a. C. N. EXPRESS, P.O. Box 234, Raynesford, MT 59469. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI)

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–016

Decided: October 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 164116, filed September 29, 1982. Applicant: VALLEY TRUCK BROKERAGE, 4885 W. Favant Ave., W. Valley City, UT 84120. Representative: Eddie Martinez (same address as applicant), (801) 966–3523. As a *broker of general commodities* (except household goods), between points in the U.S.

[FR Doc. 82–30193 Filed 11–2–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier 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 40 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 40 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: October 28, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

MC–F–14968, filed October 12, 1982. WILLIAM EDWARDS, INC. (Edwards) (Route 1920 and U.S. Route 11, P.O. Box 938, Verona, VA 24482)—Control—BOWARD TRUCK LINE, INC. (Boward) (100 Roesler Road, Suite 200, Glen Burnie, MD 21061). Representative: Francis L. Summers, Jr., 12 North New Street, P.O. Box 1287, Staunton, VA 24401. Edwards seeks authority to acquire of Boward through the purchase by Edwards of all the issued and outstanding capital stock of Boward. William Edwards, the sole stockholder of Edwards, seeks authority to acquire control of said rights through the transaction. Edwards is a contract carrier operating under MC–139439. Boward holds authority under MC–119894, which authorizes the transportation of *general commodities* and *specified commodities* including, but not limited to foodstuffs, roofing, lumber, wool, paper and paper products, malt beverages, textile mill products, clay, concrete, glass and stone products, metal products, and automobile parts and accessories, thoughout specified points in CT, GA, MD, MA, NJ, NY, NC, PA, SC, TN, VA, WV, and DC

Note.—TA has been filed.

MC–F–14973, filed October 7, 1982. ROYAL HAWAIIAN MOVERS, INC. (Royal) (3077 Ualena Street, Honolulu, HI 96819)—Purchase (Portion)—DeWITT TRANSFER & STORAGE CO. (DeWitt) (P.O. Box 82109, San Diego, CA 92138). Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 120, Washington, D.C. 20036. Royal seeks authority to purchase a portion of the interstate operating rights of DeWITT. Suncoast Holding Corporation and DeWitt, majority stockholders of Royal, seek authority to acquire control of said rights through the transaction. Royal is not a carrier, but is affiliated with the transferor. Royal is also affiliated with Swift International, Inc., and Swift Enterprises, Inc., which each hold authority to operate as a common carrier pursuant to Ex Parte No. MC–107 and which are seeking authority under MC–162536 and MC 162237, respectively. Royal is purchasing that portion of DeWitt's authority which is contained in Certificate No. MC–93734 (Sub-No. 3), which authorizes the transportation of *household goods,* as defined by the Commission, between points in HI. Condition: So far as can be ascertained from the evidence of record in this proceeding, Suncoast Holding Corporation is a non-carrier holding company with its investments and functions primarily related to transportation. It shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subject to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Suncoast need only file such special reports as the Commission may from time to time require. Suncoast is not made subject to the accounting requirement of 49 U.S.C. 11142.

MC–F–14978, filed October 18, 1982. LEASEWAY TRANSPORTATION CORP., 3700 Park East Dr., Cleveland, OH 44122, seeks authority to acquire control of C & J COMMERCIAL DRIVEAWAY, INC., AUTOMOBILE CARRIERS, INC. and MOTORCAR TRANSPORT COMPANY, through purchase of stock. Applicant's Attorney: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114 (216) 566–5639, Counsel for Transferee: John R. Sims, Jr., 915 Penn Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 737–1030, Counsel for Transferor. Operating rights sought to be controlled: C & J Commercial Driveaway, Inc. holds Certificate No. MC–113436 and Subs thereunder; and Motorcar Transport Company holds Certificate No. MC–60470 and Subs thereunder. These Certificates authorize the transportation of *motor vehicles,* in truckaway and driveaway service, in initial and secondary movements, (radial and non-radial), over irregular routes, on a nationwide basis. Leaseway Transportation Corp. is a publicly held corporation that controls, with Commission approval, the following motor carriers: Amac Trucking, Inc. (MC 140619); Anchor Motor Freight, Inc. (MC 808); Better Home Deliveries, Inc. (MC 150511); Charlton Transport (Quebec) Limited (MC 141250); Contract Trucking Corporation (MC 156146); Cryogenic Carriers, Inc. (MC 157690); Custom Deliveries, Inc. (MC 142693); Dedicated Freight Systems, Inc. (MC 139583); Fleet Transport Company, Inc. (MC 103051 and MC 114106); General Trucking Service, Inc. (MC 143308); Gypsum Haulage, Inc. (MC 112113); LDF, Inc. (MC 147101); Leaseaway Trucking, Inc. (MC 153610); Max Binswanger Trucking (MC 116314); Geo. McNeil Teaming Company (MC 153315); Midwestern Distribution, Inc. (MC 144901); Mitchell Transport, Inc. (MC 124212); Pep Lines Trucking Co. (MC 120184 and MC 135280); Refiners Transport & Terminal Corporation (MC 50069); Signal Delivery Service, Inc. (MC 108393); Stam-Win, Inc. (MC 147294 and MC 150185); Sugar Transport, Inc. (MC 115924); United Home Delivery, Inc. (MC 153685); and Vernon Equipment, Inc. (MC 150412). Max Binswanger Trucking controls Balser Truck Co. (MC 96630). Refiners Transport & Terminal Corporation controls A. R. Gundry, Inc. (MC 25562). Application has been filed for temporary control under 49 U.S.C. 11349.

[FR Doc. 82-30192 Filed 11-2-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.122, Amdt. 2]

Mission Directors and Principal Officers Latin America/Caribbean; Redelegation of Authority Regarding Grant Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management dated May 1, 1973, (38 FR 12836), as amended, I hereby amend Redelegation of Authority No. 99.1.122 dated November

4, 1981, (47 FR 873), as amended, as follows:

In paragraph one the list of *countries* is revised to read:

Bolivia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Peru, Regional Development Office of the Caribbean (RDO/C), Regional Office for Central American Program (ROCAP).

Paraguay, Mission Director, is authorized to sign grants to foreign nongovernmental, nonprofit organizations provided the life-of-grant does not exceed $500,000, and make advance payments, provided the respective Mission Director or Director has consulted with the Regional Legal Advisor or GC/LAC, as appropriate.

Except as provided herein the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective immediately.

Dated: October 21, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-30167 Filed 11-2-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-88 (Final)]

Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Commission.

AOTION: Suspension of final antidumping investigation.

EFFECTIVE DATA: October 7, 1982.

SUMMARY: On October 7, 1982, the United States Department of Commerce suspended its antidumping investigation involving carbon steel wire rod from Venezuela (47 FR 44362). The basis for the suspension is an agreement by the only known producer and exporter in Venezuela of the subject product which is exported to the United States to cease exports of the subject product to the United States. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its antidumping investigation involving carbon steel wire rod, provided for in item 607.17 of the Tariff Schedules of United States, from Venezuela (investigation No. 731-TA-88) (Final)).

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Miller (202-523-0305), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40)

Issued: October 28, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-30255 Filed 11-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-108]

Certain Vacuum Bottles and Components Thereof; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUPPLEMENTARY INFORMATION: On the basis of a complaint filed on September 16, 1981, the Commission on October 29, 1981, published in the **Federal Register** (46 FR 53543) a notice of institution of an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission's investigation covered alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of certain vacuum bottles and components thereof alleged to infringe complainant Union Manufacturing Co.'s common-law trademark.

On October 13, 1982, the Commission determined that there was no violation of section 337 in investigation No. 337-TA-108 in the importation or sale of the vacuum bottles and components thereof in question. Commissioner Frank did not participate.

Copies of the Commission's Action and Order, the Commission Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

Issued: October 29, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-30256 Filed 11-2-82; 8:45 am]

BILLING CODE 7020-02-M

[332-147]

The Effects of Removing Products From the Generalized System of Preferences; Investigation

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), the Commission has instituted investigation No. 332-147 for the purpose of analyzing what effect removing products from the Generalized System of Preferences has had on imports of such products. In conducting this investigation, the Commission will determine if imports of a product that has lost duty-free status have increased or decreased in subsequent years. The Commission will also determine if imports of a product that has lost duty-free status because of the 50-percent limitation are affected differently than imports of a product that has lost duty-free status because of the dollar-amount limitation. The Commission will also determine if newly industrialized countries are better able to handle the loss of duty-free status than other less developed countries.

EFFECTIVE DATE: October 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Tempalski, Research Division, U.S. International Trade Commission, Washington, D.C. 20436 (Phone 202-523-1981).

WRITTEN SUBMISSIONS: Since there will be no public hearing scheduled for this study, written submissions from interested parties are invited concerning any phase of the study. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than January 20, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: October 26, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-30258 Filed 11-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-152 (Final)]

Prestressed Concrete Steel Wire Strand From Brazil

AGENCY: International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: October 27, 1982.

SUMMARY: On October 22, 1982, the United States Depatment of Commerce suspended its countervailing duty investigation involving steel wire strand for prestressing concrete (PC strand) from Brazil (47 FR 46048). The basis for the suspension is an agreement by the Government of Brazil to offset completely the amount of net subsidy determined by Commerce to exist with respect to the subject product. Accordingly, the United States International Traded Commission hereby gives notice of the suspension of its countervailing duty investigation involving PC strand, provided for in item 642.11 of the Tariff Schedules of United States, from Brazil (investigation No. 701-TA-152 (Final)).

FOR FURTHER INFORMATION CONTACT: Mr. David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

Issued: October 27, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-30259 Filed 11-2-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-165 and 168 (Final)]

Welded Carbon Steel Pipes and Tubes from Brazil and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: As a result of the affirmative preliminary determinations by the International Trade Administration, United States Department of Commerce, notices of which were published in the **Federal Register** of October 12, 1982, that there is a reasonable basis to believe or suspect that benefits are granted by the Governments of Brazil and the Republic of Korea with respect to the manufacture, production, or exportation of welded carbon steel pipes and tubes, provided for in item 610.32 of the Tariff Schedules of the United States (TSUS)[1], which constitute a subsidy within the meaning of the countervailing duty law, the United States International Trade Commission (hereafter "the Commission") hereby gives notice of the institution of investigations Nos. 701-TA-165 and 168 (Final) to determine whether an industry in the United States is materially injured or is threatened with material injury or the establishment of an industry is materially retarded by reason of imports of such merchandise.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck, Office of Investigations, U.S. International Trade Commission, (202-523-0339).

SUPPLEMENTARY INFORMATION: On June 21, 1982, the Commission determined, on the basis of the information developed during the course of investigations Nos. 701-TA-165 and 168 (Preliminary), that there was a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Brazil and the Republic of Korea of welded carbon steel pipes and tubes upon which bounties or grants are allegedly being paid.

The preliminary investigations were instituted in response to petitions filed on May 7, 1982 by United States Steel Corp. The Department of Commerce will make its final subsidy determinations in these cases on or before December 20, 1982. The Commission must make its final injury determinations within 120 days after the date of Commerce's preliminary subsidy determination or by February 9, 1983 (19 CFR 207.25). A public version of the staff report containing preliminary findings of fact will be placed in the public record on December 14, 1982, pursuant to § 207.21 of the Commission's Rules of Practice and Procedure (19 CFR 207.21).

Public hearing: The Commission will hold a public hearing in connection with this investigation at 10:00 a.m. on January 6, 1983, in the Hearing Room of the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 13, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 11:00 a.m., on December 15, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23, as amended in 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. All legal arguments, economic analysis and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22 (19 CFR 207.22, as amended in 47 FR 33682, August 4, 1982). Post hearing briefs will also be accepted within a time specified at the hearing.

Written submissions. Any person may submit to the Commission a written statement of information pertinent to the subject matter of the investigations. A signed original and fourteen (14) copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before December 30, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information". Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of facts will be available to all interested parties on December 15, 1982.

Service of documents.—Any interested person may appear in these investigations as a party, either in person or by representative, by filing an entry of appearance with the Secretary

[1] The term "small diameter welded carbon steel pipes and tubes" covers welded, jointed, or seamed carbon steel pipes and tubes with walls not thinner than 0.065 inch, of circular cross section and 0.375 inch or more in outside diameter but not more than 16 inches, as currently provided for in items 610.3208, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247, of the Tariff Schedules of the United States Annotated (TSUSA). Pipes or tubes suitable for use in boilers, superheaters, heat exchangers, condensers, and feed water heaters, or conforming to A.P.I. specifications for oil well tubing, with or without couplings; cold drawn pipes and tubes; and cold-rolled pipes and tubes with wall thickness not exceeding 0.1 inch are not included.

in accordance with section 201.11 of the Commission's rules (19 CFR 201.11 as amended in 47 FR 6189, February 10, 1982). Each entry of appearance must be filed with the Secretary no later than 21 days after the publication of this notice in the **Federal Register**.

The Secretary will compile a service list from the entries of appearance filed in these final investigations and from the Commission's record in the preliminary investigations. Any party submitting a document in connection with these investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8, as amended in 47 FR 13791, April 1982), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirments set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended in 47 FR 33682, August 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. The certificate will be deemed proof of service of the document. Documents not accompained by a certificate of service will not be accepted by the Secretary.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207, 44 as amended in 47 FR 6190 February 10, 1982, 33682, August 4, 1982 and 47 FR as amended in 47 FR 6189, February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982) and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, as amended in 47 FR 6190, February 10, 1982).

Issued: October 27, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-30257 Filed 11-2-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet on Tuesday, November 9, 1982 at the Department of Education, 400 Maryland Avenue, SW., Room 3000, Washington, D.C. 20202. This meeting will be open to the public and will begin at 1:00 p.m.

The meeting will be concerned with the Council's review and endorsement of the 1982–84 workplan.

For further information, contact Mr. William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, NW., Room 1142, Washington, D.C. 20531, Telephone: (202) 724–7751.

Charles A Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-30188 Filed 11-2-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: December 2–3, 1982
   Time: 8:30 a.m. to 5:30 p.m.
   Room: 807
   Program: This meeting will review applications submitted for Elementary and Secondary Education, for projects beginning after April 1, 1983.
2. Date: December 3, 1982
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 1134
   Program: This meeting will review Fellowships for Summer Stipend applications in Anthropology, Archeology, and Folklore, submitted to the Division of Fellowships and Seminars, for projects beginning after April 1, 1983.
3. Date: December 6, 1982
   Time: 9:00 a.m. to 4:30 p.m.
   Room: 911
   Program: This meeting will review applications presently before the Office of Challenge Grants, for projects beginning after April 1, 1983.
4. Date: December 9–10, 1982
   Time: 9:00 a.m. to 4:30 p.m.
   Room: 911
   Program: This meeting will review applications presently before the Office of Challenge Grants, for projects beginning after April 1, 1983.
5. Date: December 7, 1982
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 314
   Program: This meeting will review Fellowships for Summer Stipend applications in Romance Languages, submitted to the Division of Fellowships and Seminars, for projects beginning after April 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-30210 Filed 11-2-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-537]

Department of Energy, Tennessee Valley Authority and Project Management Corp.; Availability of Supplement to the Final Environmental Statement for the Clinch River Breeder Reactor Plant

Notice is hereby given that the Office of Nuclear Reactor Regulation has published Supplement Number 1 to the Final Environmental Statement (NUREG–0139) related to the proposed construction and operation of the Clinch River Breeder Reactor Plant (CRBRP). The planned location of the plant is on

the Clinch River in the town of Oak Ridge, Roane County, Tennessee.

The Supplement addresses the changes to the CRBRP application and the relevant additional information acquired since the FES was issued in 1977.

Notice of availability of the Draft Supplement to the Final Environmental Statement of the Clinch River Breeder Reactor Plant, requesting comments from interested persons, was published in the **Federal Register** on July 30, 1982, (47 FR 33028). The comments received from Federal, State, and local agencies, and interested members of the public have been included in an appendix to the Supplement and the comments have been considered in preparation of the Supplement.

This report is available for inspection or copying for a fee at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555; the Oak Ridge Public Library, Civic Center, Oak Ridge, Tennessee 37830; and the Lawson McGhee Public Library, 500 West Church Street, Knoxville, Tennessee 37902.

Copies of Supplement Number 1 to the Final Environmental Statement (NUREG–0139) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the U.S. Nuclear Regulatory Commission, Sales Office, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 28th day of October 1982.

For the Nuclear Regulatory Commission.

Paul S. Check,

Director, CRBR Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 82-30306 Filed 11-2-82; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Conservation Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Conservation Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, November 5, 1982, 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Annette Frahm, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-30196 Filed 11-2-82; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–19173; File No. SR–AMEX–81–20, Amendment No. 1]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options on Certificates of Deposit

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 May 24, 1982, the American Stock Exchange, 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

On November 10, 1981, The American Stock Exchange ("the Exchange") filed certain proposed rule changes (SR–AMEX–81–20) to implement its plan to trade options on certificates of deposit ("CDs"). Those proposed rule changes were based on the language of the Exchange's rules, which were proposed to be amended by the Exchange's then pending Treasury options filing (SR–AMEX–81–1). Subsequently, the Exchange amended its Treasury options filing and the Commission approved that filing as amended (Rel. No. 34–18371, December 23, 1981).

The Exchange is submitting this Amendment No. 1 to SR–AMEX–81–20 to (i) restate, as amendments to the current text of the Exchange's rules, the rule changes originally proposed in SR–AMEX–81–20, (ii) extend to CD options the substantive provisions of various rule changes included in amendments to the Treasury options filing, and (iii) propose certain new rule changes relating to CD options, which are summarized below.

Rule 900

The Exchange proposes amending the definition of "Aggregate Exercise Price" [Rule 900 (b)(14)] to provide that the price of a CD delivered upon exercise of an option contract is calculated as of the exercise settlement date.

The exchange proposes adding Commentary .01 to Rule 900 to provide that all references in Exchange Rules to underlying securities apply to CDs.

Rule 903

The Exchange proposes amending this rule to provide for the listing of series of CD options having up to five different expiration months, in conformity with the provisions of the rule relating to Treasury options.

Rules 950(1) and 957(c)

The Exchange proposes to amend Rule 950(1), Commentary .01 to require specialists in CD options to submit daily reports to the Exchange concerning their positions and transactions in every CD which is, or could be in the future, deliverable in connection with the exercise of a CD option. Similarly, the Exchange proposes to amend Commentary .02 to this rule to require specialists in CD options to file daily reports concerning their positions and transactions in CD futures contracts and options on CD futures contracts. In addition, the Exchange proposes amending Rule 957(c) to authorize the Exchange to examine books, records, or other information maintained by or in the possession of any Specialist or Registered Trader in CD options, or affiliated entities, pertaining to transactions by such persons in CDs, CD futures, or CD options-including options on CD futures.

Rule 982

The exchange proposes to add Commentary .03 to this Rule to set forth the requirements which CDs must meet in order to be deliverable upon exercise/assignment of CD options. To be deliverable, a CD must:

(i) Have a principal amount of $1,000,000;

(ii) Have had an original time to maturity of 185 days or less;

(iii) Have been issued by a bank which was included in The Options Clearing Corporation's "no-name" list on the date on which the option was exercised; and

(iv) Mature during the same half-month period as the exercise settlement date, in the third month following the month in which the exercise settlement date occurs (unless the CD meets the

alternative delivery requirement described below).

In addition, the Exchange proposes to amend Rule 982 to provide that the alternative delivery of a CD with a shorter remaining time to maturity than that specified in Item (iv) above is permissible. However, if such a CD is delivered, no adjustment will be made to the aggregate exercise price to reflect the fact that the "alternative delivery" CD will have a greater market value than a CD maturing in the later half-month period specified in Item (iv). (The aggregate exercise price of an "alternative delivery" CD will be calculated as if the CD had the latest deliverable maturity date.)

* * * * *

It should be noted that, in addition to being subject to the rule changes proposed by this submission, certain generic rules relating to options on debt securities proposed in SR-AMEX-82-4, as amended, apply to CD options. Under Exchange Rule 1 as proposed to be amended thereby, the hours of trading for CD options will be 9:00 a.m. to 3:00 p.m. Also, the definitions of "debt security" and "debt option" set forth in proposed Rule 900(b)(36) covers CDs and CD options, thus clarifying that CD options are subject to all Exchange rules which, by their terms, apply to options on debt securities.

II. A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of these rule amendments is to: (1) Amend the definition of "aggregate exercise price" [Rule 900 (b)(14)] to clarify the Exchange's plan to require that the price of a CD delivered upon exercise of an option contract be calculated as of the exercise settlement date (not necessarily the delivery date as was stated in the original filing); although settlement and delivery generally occur on the same day, the proposed change clarifies that if delivery is made subsequent to the exercise settlement date, the price of the CD will, nonetheless, be calculated as of the exercise settlement date; (2) insure that all references in Exchange Rules to "securities" or "underlying securities" apply to CDs [Rule 900, commentary .01]; (3) give the Exchange the same flexibility in listing CD options as Treasury options (i.e., flexibility to list options with up to five different expiration months) [Rule 903]; (4) conform record keeping and reporting requirements relating to CDs to those applicable to Treasury options [Rules 950 and 957]; and (5) set forth the specifications of deliverable CDs [Rule 982].

With regard to (5) above: The Exchange's original filing regarding CD options (SR-AMEX-81-20) stated that requirements concerning the delivery of CDs pursuant to the exercise of options would be set forth in the rules of The Options Clearing Corporation ("OCC"), and the filing described the delivery specifications which the Exchange anticipated that OCC would adopt.[1]

As a result of further analysis, the Exchange wishes to change those specifications in three respects and codify the specifications in Exchange Rule 982 as well as in OCC rules. First the Exchange has noted that the industry practice is such that CDs issued as "six-month" CDs may have up to 185 days to maturity at the time of issuance. Therefore, the Exchange proposes to increase the maximum original time to maturity of deliverable CDs from 180 to 185 days to permit CDs which are termed "six-month" upon issuance to be deliverable. This change would increase the deliverable supply of CDs. Second, the Exchange proposes deleting the requirement that deliverable CDs have a remaining time to maturity of not less than 87 nor more than 93 days from date of delivery. If retained, this requirement would unnecessarily restrict the deliverable supply of CDs. Therefore, the Exchange believes that the requirement should be deleted. Third, the Exchange proposes to allow delivery of a CD having a shorter remaining time to maturity than that called for pursuant to the option contract. The delivery of a shorter maturity CD would ordinarily be disadvantageous to the delivering party because the rules of the Exchange and The Options Clearing Corporation do not provide for adjustment of the aggregate exercise price to reflect the greater market value of CDs maturing in less than the specified number of weeks (except in certain unusual circumstances). However, such a provision will make it possible for the holder of a CD having a shorter remaining time to maturity than that called for pursuant to the option contract to write a covered call in a cash account. This is similar to the provision recently proposed with regard to Treasury bill options in SR-AMEX-82-4 (filed March 9, 1982).

The proposed rule changes are all consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that they will facilitate the trading of CD options by the public and will contribute to a fair and orderly market in such options.

Therefore, the proposed rule changes are consistent with Section 6(b)(5) of the 1934 Act, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

No written comments were solicited or received.

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 should 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 Fifth 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 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.

[1] The originally proposed delivery requirements were described in the "Basis and Purpose" section of SR-AMEX-81-20.

All submissions should refer to the file number in the caption above and should be submitted within 14 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 25, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30030 Filed 11-2-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 830]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The Bureau for Refugee Programs of the Department of State plans to conduct a study of the effects of pre-entry training in the resettlement of Indochinese refugees. The final results will be used in the planning and development of future U.S. policy about the provision of training to refugees with little prior exposure to Western culture or the English language.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—new.

(2) Title of information collection—Effects of Pre-Entry Training on Resettlement of Indochinese Refugees.

(3) Originating Office—Bureau for Refugee Programs.

(4) Frequency—Nonrecurring.

(5) Respondents—Indochinese refugees.

(6) Estimated number of responses—420.

(7) Estimated total number of hours needed to respond—210. Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed study and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer (202) 632-3602. Comments and questions should be directed to (OMB) David S. Reed (202) 395-7231.

Dated: October 21, 1982.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 82-30166 Filed 11-2-82; 8:45 am]

BILLING CODE 4710-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Cir. Public Debt Series—No. 28-82]

Treasury Notes of November 15, 1985; Series P-1985

October 28, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $6,000,000,000 of United States securities, designated Treasury Notes of November 15, 1985, Series P-1985 (CUSIP No. 912827 NU 2). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1982, and will bear interest from that date, payable on a semiannual basis on May 15, 1983, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 3, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 2, 1982, and received no later than Monday, November 15, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commerial banks and other banking institutions; primary dealers, as defined

above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the orignial issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, November 15, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, November 12, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public

announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-30274 Filed 11-01-82; 11:42 am]

BILLING CODE 4810-10-M

[Dept. Cir. Public Debt Series-No. 29-82]

Treasury Notes of November 15, 1992, Series C-1992

October 28, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Notes of November 15, 1992, Series C-1992 (CUSIP No. 912927 NV 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasuiry securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1982, and will bear interest from that date, payable on a semiannual basis on May 15, 1983, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1992, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, November 4, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 3, 1982, and received no later than Monday, November 15, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10 percent. Common fractions may not be used. Noncompetitive tenders must show the terms "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opended, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That rate of interest will be paid to all of the securities. Based on such interest rate, the price in each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, November 15, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, November 12, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-30275 Filed 11-1-82; 11:42 am]

BILLING CODE 4810-40-M

[Dept. Cir. Public Debt Series-No. 30-82]

Treasury Bonds of 2007-2012

1. Invitation For Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended invites tenders for approximately $3,000,000,000 of United States securities, designated Treasury Bonds of 2007-2012 (CUSIP No. 912810 DB 1). The securities will be sold at auction, with bidding on the basis on yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1982, and will bear interest from that date, payable on a semiannual basis on May 15, 1983, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature on November 15, 2012, but may be redeemed at the option of the United States on and after November 15, 2007, in while or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of

1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. The general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard Time, Tuesday, November 9, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 8, 1982, and received no later than Monday, November 15, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured saving and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states, Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a one eighth of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price of each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations, will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price if over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, November 15, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, November 12, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase prices is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1 As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-30276 Filed 11-1-82; 11:42 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 213
Wednesday, November 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).

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1

CIVIL AERONAUTICS BOARD

[M-366, October 28, 1982]

TIME AND DATE: 10 a.m., November 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 37732, Establishment of rate of compensation for Air Midwest, Inc., for providing essential air service to Silver City, New Mexico. (Memo 852-A, BDA, OCCCA, OC)
3. Dockets 40929 and EAS-632, Notice of Air U.S. to suspend service at Worland, Wyoming, effective November 16, 1982. (BDA, OCCCA)
4. Dockets EAS-765 and EAS-792, Coastal Airlines' Petition for reconsideration of Order 82-6-61 selecting Air Vermont to provide essential air service at Berlin, New Hampshire, and Newport, Vermont. (Memo 518-F, BDA, OCCCA)
5. Dockets 40643 and EAS-407, Air Wisconsin, Inc.'s petition for reconsideration of Board decision to request an additional slot at Chicago for Britt Airways Inc.'s essential air service at Muncie, Indiana. (Memo 1430-A, BDA, OCCCA)
6. Commuter Carrier Fitness determination of Pioneer Airways, Inc. (BDA)
7. Commuter carrier fitness determination of Waring Aviation, Inc. d.b.a. Waring Air. (Memo 1552, BDA)
8. Docket 40847, Certificate application of Mid Pacific Airlines, Inc. (Mid Pacific Air) under Subpart Q of the Board's Regulations for a section 401 certificate. (BDA)
9. Docket 39550, Application of People Express Airlines, Inc. for an exemption. Petition for American Airlines for review and reversal of staff action in Order 81-6-41 granting People Express exemptions from the Board's oversales rule. (BDA)
10. Dockets 40023, 40257, Application of Arizona Pacific, Inc. d.b.a. Arizona Pacific Airlines, Arizona Pacific Fitness Investigation. (OGC)
11. Dockets 40887, 40651, *U.S.-People's Republic of China Service Proceeding (Phase II). Application of Pan American World Airways, Inc. for Renewal of its Certificate*—Petition for Reconsideration. (OGC)
12. Revision of delegations to the Director, BDA. (Memo 1550, OGC, BDA, BIA)
13. Docket 40773, Removal of Part 262 requiring filing of agreements between air carriers and foreign countries. (OGC, BIA, OC)
14. Docket 30654, Petition of the Davis Agency for rulemaking to exempt operators of Overseas Military Personnel Charters from the tariff requirement. (Memo 1551, OGC, BDA)
15. Docket 40139, *American Airlines, Compliance With Part 252. Enforcement Proceeding*, review of initial decision imposing $1,000 in civil penalties for each of twelve violations of Board's no-smoking rules. (OGC)
16. Docket 27114, *Motion of Pan American World Airways, Inc.*, for issuance of a declaratory order on employee's duties under labor protective provisions (in *Pan American-Trans World Airlines Route Exchange Agreement*) (OGC)
17. Docket 38019, *Wien Air Alaska Mainline and Bush Mail Rates Investigation*, and in the matter of Docket 38961, *Intra-Alaska Class Service Mail Rates*. (BIA)
18. Dockets 40535, 40571, 40568, 40539, 40563, 40570, Applications of Air Florida, Air Florida/Western, Capitol, Eastern, Transamerica, and Western for U.S.-South America exemption authority. (Memo 1549, BIA, OGC)
19. Docket 40534, Braniff South America Route Transfer Case, Docket 40636, Application of Eastern Air Lines, Inc. for approval of agreement and other relief. (Memo 1482-B, BIA, OGC)
20. Report on Negotiations with the United Kingdom. (BIA)

STATUS:

1-19 Open
20 Closed

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1584 Filed 11-1-82; 10:51 am]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 47, No. 207, Tuesday, October 26, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 27, 1982.

CHANGES IN THE MEETING: Changed to 10:00 to Noon and 2:00 to 4:00 p.m. (if necessary) Monday, November 8, 1982:

Reauthorization

[S-1583-82 Filed 11-1-82; 10:51 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 12, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1588-82 Filed 11-1-82; 3:13 pm]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, November 16, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Amendments to Reg. 1.55 (Disclosure Requirements for FCM's).

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1589-82 Filed 11-1-82; 3:13 pm]

BILLING CODE 6351-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 4, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and subject

General—1—*Title:* In the matter of Amendment of Parts 2, 21, 22, 81, 87, and 95 of the Commission's Rules to provide additional spectrum between 72 and 76 MHz for the Radio Control of model

aircraft, boats, cars and other similar devices. *Summary:* The Commission will consider the adoption of a Report and Order in Docket 82-181 in response to a petition filed by the Academy of Model Aeronautics (RM 3248) for additional spectrum.

General—2—*Title:* UHF Television Receiver Noise Figure. *Summary:* The Commission will consider whether to adopt a *Notice of Proposed Rulemaking* in Docket 21010, proposing to reduce the maximum allowable UHF television receiver noise figure to 12 dB, and to make associated rule changes.

Private Radio—1—*Title:* Federal Preemption of Public Coast Stations. *Summary:* The Commission will consider whether or not state regulation of public coast class III-B radiotelephone stations has been federally preempted.

Private Radio—2—*Title:* Amendment of Part 90 of the Commission's Rules to eliminate the requirement for a local governmental entity to have a separate authorization to operate speed detection devices in the Public Safety Radio Services. *Summary:* The Commission will consider whether to amend Part 90 of the Rules to permit operation of speed detection radar units under local government radio service licenses.

Common Carrier—1—*Title:* Application of Satellite Business Systems for Authority to Launch a Third SBS Space Station in the Domestic Fixed-Satellite Service (File No. 638-DSS-LA-82). *Summary:* The Commission will consider whether or not to grant this application.

Common Carrier—2—*Title:* Requests for Clarification of Treatment of Administrative Expenses incurred by the International Record Carriers in connection with the Comsat Flow-through proceeding. *Summary:* The Commission will consider whether administrative expenses incurred by the International Record Carriers in making refunds to their customers as part of the Comsat flow-through proceeding should be deducted from amounts refunded, paid by Comsat, or paid by the IRCs.

Common Carrier—3—*Title:* Petitions for Partial Reconsideration of *Report and Order* in CC Docket No. 80-767, 88 FCC 2d 564 (1981). *Summary:* Commission considers petitions filed by telephone companies and telephone company associations requesting removal of waiver requirements for telephone companies seeking to acquire existing cable television system or to compete with independent cable operators at franchise renewal time.

Common Carrier—4—*Title:* Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board CC Docket No. 80-286. *Summary:* The Commission will consider a period for reconsideration of the recently adopted plan for the phase out of customer premises equipment from the Separation process over a five-year-period.

Common Carrier—5—*Title:* Petition for Rulemaking (RM 2875) filed by Common Cause and a subsequent Notice of Inquiry (CC Docket 78-373) relating to request for issuance of rules for detailed periodic reports from regulated carriers on monies expended for lobbying. *Issues:*

(1) Is there sufficient need for the additional reporting requirements suggested by Common Cause to warrant institution of a rulemaking proceeding.

(2) What further action if any, should the Commission take at this time.

Common Carrier—6—*Title:* In the Matter of Policy to be Followed in the Allowance of Litigation Expenses of Common Carriers in ratemaking Proceedings, CC Docket No. 79-19. *Summary:* The Commission will consider whether any change is needed in the existing ratemaking treatment of litigation expenses.

Common Carrier—7—*Title:*—Second Notice of Proposed Rulemaking and Order in Docket No. CC 81-216. *Summary:* The Commission considering accommodation of single and two-line (non-system) business and residential premises wiring and party line service under Part 68 of the Rules, and modification of the qualification standards of Section 68.215(c).

Common Carrier—8—*Title:* Computer II Capitalization of American Bell, Inc's Offer of New CPE. *Summary:* The Commission will consider whether AT&T's plan for the capitalization of its separate subsidiary's offer of new customer premises equipment should be approved.

Cable Television—1— *Title:* Policy Statement concerning the issuance of tax certificates. *Summary:* The Commission will consider whether a modification of its poicy concerning the issuance of tax certificates pursuant to Section 1071 of the 1954 Internal Revenue Code is appropriate.

Broadcast—1— *Title:* Applications for interim Direct Broadcast satellite (DBS) systems filed by CBS, Inc., Direct Broadcast Satellite Company, Focus Broadcast Satellite Company, Graphic Scanning Corporation, RCA American Communications, Inc., United States Satellite Systems, Inc., and Western Union Telegraph Company and associated petitions to deny, comments, and other responsive pleadings. *Summary:* The above referenced applicant seek authority to establish interim Direct Broadcast satellite (DBS) systems. These applications are subject to petitions to deny, comment, and other responsive pleadings.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 28, 1982.

William J. Tricarico,

Secretary.

[S-1585-82 Filed 11-1-82; 10:54 am]

BILLING CODE 6712-01-M

6

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 47961, October 28, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., November 3, 1982.

CHANGE IN THE MEETING: Addition of the following item to the open session:

6. Docket No. 81-51: Time Limit for Filing Overcharge Claims—Petitions for Reconsideration and Stay.

[S-1587-82 Filed 11-1-82; 3:13 pm]

BILLING CODE 6730-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 29, 1982.

TIME AND DATE: 10 a.m., Wednesday, November 3, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to previously announced items the Commission will also consider and act upon the following:

3. Secretary of Labor (MSHA) v. Bill Garris, Docket No. LAKE 82-90; Petition for Interlocutory Review. (Issues include whether the judge's denial of motion to dimiss based on MSHA's delay in instituting their proceeding should be reviewed on an interlocutory basis.)

It was determined by a unanimous vote of Commissioners that Commission business required that this item be added to the agenda and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-1591-82 Filed 11-1-82; 4:03 pm]

BILLING CODE 6735-01-M

8

INTERNATIONAL TRADE COMMISSION

Executive Resources Board (ERB)

[USITC ERB-82-3]

TIME AND DATE: 11 a.m., Monday, November 15, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Old Business:

1. ERB review of an IDP request from the Director, Office of Industries.
2. ERB review of proposed Presidential Executive Exchange Program Rating Criteria.

New Business:

1. ERB review of SES Staffing Needs for FY's '84 and '85.
2. ERB review of R. W. Jones Executive Leadership Award.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1590–82 Filed 11–1–82; 3:20 pm]

BILLING CODE 7020–02–M

9

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, November 9, 1982.

PLACE: Harrisburg, Pennsylvania.

STATUS: Open.

MATTERS TO BE DISCUSSED: Tuesday, November 9:

3:00 p.m.
Oral Presentations on TMI–1 Restart
Duration: Approximately 2 hours
Location: Auditorium, William Penn Memorial Museum, Third and North Streets, Harrisburg, Pennsylvania

7:30 p.m.
Public Meeting on TMI–1 Restart
Duration: Approximately 2½ hours
Location: Auditorium, Central Dauphin High School, 4600 Locust Lane, Harrisburg, Pennsylvania

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

October 29, 1982.

Walter Magee,

Office of the Secretary.

[S–1586–82 Filed 11–1–82; 1:00 pm]

BILLING CODE 7590–01–M

Federal Register

Wednesday
November 3, 1982

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

Pseudorabies

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 85

[Docket No. 82-014]

Pseudorabies; Proposed Amendment of Interstate Dissimination Prevention Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend portions of the pseudorabies regulations which regulate the interstate movement of livestock to prevent the interstate dissemination of pseudorabies. This action would provide an alternate method by which a herd of swine could be removed from the "Known infected herd" classification; would provide an altermate method by which a herd of swine could attain or regain status as a qualified pseudorabies negative herd; would provide an improved method by which the pseudorabies disease status of swine in pseudorabies controlled vaccinated herds could be monitored; would give shippers alternate means by which swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies could be moved interstate to approved livestock markets, quarantined feedlots, feedlots and quarantined herds; and would give shippers alternate means by which swine infected with or exposed to pseudorabies could be moved interstate for slaughter. The intended effect of this action is to clarify the regulations and allow more latitude for the interstate movement of livestock yet not increase the danger of spreading pseudorabies.

DATE: Comments on or before January 3, 1983.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Chief Staff Veterinarian, Swine Diseases, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8438.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed action 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 action would have an annual effect on the economy of less than one hundred million dollars; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; Would not have a significant adverse effect on competition, employment or investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action, if adopted, would not have a significant economic impact on a substantial number of small entities. This document would provide an alternate method by which a herd of swine which has been classified as a known infected herd could be removed from such classification; provide an alternate method by which a herd of swine could attain or regain status as a qualified pseudorabies negative herd; provide alternate methods by which swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies could be moved interstate to approved livestock markets, quarantined feedlots, quarantined herds, and feedlots; and provide an alternate method by which shippers could move swine infected with or exposed to pseudorabies to slaughter. The Department believes that the above mentioned proposed amendments would, if adopted, result in a small economic impact upon swine producers on some occasions. This document also restricts the interstate movement from an approved livestock market of certain swine which are not vaccinated for or known to be infected with or exposed to pseudorabies. Few shippers of swine will be affected by this restriction. This document would also add testing requirements to maintain qualified pseudorabies negative herd status. Fewer than one percent of the swine herds in the country are qualified pseudorabies negative herds. This document would further provide an improved method by which the pseudorabies disease status of a pseudorabies controlled vaccinated herd could be monitored. Fewer than one percent of the swine herds in the country are pseudorabies controlled vaccinated herds.

Paperwork Reduction Act

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

Background

Pseudorabies, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is primarily a disease of swine caused by a herpes virus. Federal regulations to prevent the interstate spread of pseudorabies (Title 9, Code of Federal Regulations, Part 85) became effective on May 17, 1979. Since that time the Department has considered changes to provide affected persons with alternate methods of complying with the regulations without an increase in the risk of the interstate spread of pseudorabies. This proposal sets forth amendments to the pseudorabies regulations which the Department believes would clarify the regulations and provide alternate methods for complying with the regulations without increasing the risk of the interstate spread of pseudorabies.

Alternatives

The alternatives considered are:

1. Do not amend the present regulations. This would continue known inequities in the present regulations and provide no relief to affected persons. Therefore, this alternative was not adopted.

2. Rescind the regulations. This would permit the disease to spread unchecked. Therefore, this alternative was not adopted.

3. Amend the regulations to provide an alternate method by which a herd of swine could be removed from the classification of known infected herd; to provide an alternate method by which a herd of swine could attain or regain status as a qualified pseudorabies negative herd; to provide an improved method by which the pseudorabies disease status of swine in a pseudorabies controlled vaccinated herd could be monitored; to provide alternate methods by which swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies could be moved interstate to approved livestock markets.

quarantined feedlots, feedlots and quarantined herds; and to provide an alternate method by which shippers could move swine infected with or exposed to pseudorabies to slaughter. This alternative relieves the affected persons of some regulatory burdens which are not necessary for the prevention of the interstate dissemination of pseudorabies. Therefore, this alternative was adopted.

Presently, § 85.1(1) defines any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies as a "Known infected herd." The definition also provides that a herd of livestock, other than swine, shall no longer be considered to be a known infected herd after 21 days since the last clinical case of the disease in the herd. Section 85.1(1) "Known infected herd" would be revised for clarity and the following substantive changes would be made. The proposed amendment would reduce the period a herd of livestock other than swine would be considered to be a "Known infected herd" from 21 to 10 days since the last clinical case of pseudorabies in the herd. There has been no research evidence to indicate that livestock other than swine can have subclinical or chronic pseudorabies, and, therefore, they do not develop a carrier state to spread the disease.

In addition, the Department has received comments from veterinary researchers stating that movement restrictions on livestock other than swine that have been exposed to an animal showing clinical evidence of pseudorabies in excess of 10 days is unnecessary. These comments are based upon research and field observations from which experts have concluded that when pseudorabies infection occurs in species other than the natural host (swine), the clinical course of the infection is usually rapid and fatal and such animals almost always die witin 10 days following exposure. Therefore, the Department believes that 10 days following the last clinical case of the disease in the herd is sufficient time for exposed livestock other than swine to either develop pseudorabies, or to resist the infection.

Present § 85.1(1) also provides two methods by which a herd of swine which is classified as a "Known infected herd" may be removed from that classification. The two methods presently available to remove a herd of swine from the clasification of a "Known infected herd" are intended to ensure that no pseudorabies virus remains on the premises.

One of these method presently requires, among other things, that, after the positive swine are removed from the premises, all exposed swine in the herd must be subjected to an official pseudorabies serologic test and found negative. This proposal would amend this requirement to exempt pigs which are nursing their mother from this testing requirement. The result of an official pseudorabies serologic test on a mother of a nursing pig constitutes sufficient evidence of the pseudorabies disease status of the nursing pig to forego the test on such pig. If the mother of a nursing swine was infected with pseudorabies during gestation, the pig would acquire maternal antibodies and would react to pseudorabies tests in the same manner as the mother swine. The disease status of the mother of a nursing swine, even if a positive status is acquired after gestation, constitutes a good indication of the pseudorabies disease status of the nursing swine because they are maintained in the same environment and are in frequent physical contact with their mother.

Section 85.1(1) would be amended to provide an additional method for removing certain swine herds from the "Known infected herd" classification. Specifically, this amendment would provide a method by which a herd of swine in which swine have been found to be positive to an official pseudorabies serologic test but no swine are positive at titers greater than 1:8 could be removed from the "Known infected herd" classification by a finding that the herd was not in fact infected with pseudoraies. This proposal is made because it is possible that questionable (false positive) laboratory results can be encountered when testing for pseudorabies at dilutions of 1:8 or less. For some reason, certain animals may have nonspecific titers from other antigens that hive a low titer (1:8 or less) response for pseudorabies. Therefore, it is proposed that a herd of swine in which swine had been found to be positive to an official pseudorabies serologic test at titers of no greater than 1:8 can be removed from the "Known infected herd" classification if: (1) all titered swine would be subjected to an official pseudorabies serologic test and found negative and (2) all other swine in the herd which an epidemiologist requires to be subjected to an official pseudorabies serologic test would be required to be tested and found negative. This method would relieve the herd owners of the present requirement that all exposed swine be subjected to an official pseudorabies serologic test and found negative. The Department believes that the proposed method for removal from the classification of a "Known infected herd" set forth above is sufficient to determine that the official pseudorabies serologic test in which swine were found to be positive at titers of 1:8 or less, was the result of a nonspecific response rather than a response to pseudorabies antibodies.

This proposal would also require that the epidemiologist who determines which swine, other than the titered swine, must be subjected to an official pseudorabies serologic test and found negative, must be approved by the State animal health official and the Area Veterinarian in Charge. The Department believes that this approval of the epidemiologist is necessary, to ensure that the selection of swine, other than titered swine, for testing is conducted objectively by a technically competent individual.

The Department believes that the epidemiologic evidence that must be considered in the selection of swine, other than titered swine, for testing would include, but would not be limited to: the percentage and number of swine in the herd found to give a low titer (1:8 or less) response for pseudorabies; the percentage and number of those swine tested found to give a low titer (1:8 or less) response for pseudorabies; the extent of the contact of the members of the herd with swine found to give a low titer (1:8) response for pseudorabies; the prevalence of pseudorabies in the area; and herd management practices. The above mentioned epidemiologic evidence which the Department believes should be considered by the epidemiologist would be set forth in proposed footnote 1 referred to in proposed § 85.1(1)(2)(iii) and § 85.1(ee)(2)(ii).

Present §85.1(n) sets forth the definition of "exposed livestock." Presently, any livestock that has been in contact with an animal infected with pseudorabies, including all animals in a "Known infected herd," are considered to be exposed livestock, except that livestock, other than swine, that have not been exposed to a clinical case of pseudorabies for a period of 21 consecutive days are not considered to be exposed livestock. This proposal would amend the exception set forth in §85.1(n) to provide that livestock, other than swine, that have not been exposed to a clinical case of pseudorabies for a period of 10 consecutive days would not be classified as "exposed livestock." As explained above, 10 days following exposure to a clinical case of

pseudorabies is sufficient time for exposed livestock, other than swine, to either develop pseudorabies and almost always die or to resist infection.

Present § 85.1(dd) sets forth the definition of "Owner-shipper statement." The present definition limits the use of the owner-shipper statement to the interstate movement of pseudorabies infected, exposed, or vaccinated swine from a farm of origin directly to a recognized slaughtering establishment or to a slaughter market. This proposal would amend the definition of "Owner-shipper statement" by removing the references to the type of swine which could be accompanied by this document and the locations from which and to which such swine could be moved interstate when accompanied by this document. This amendment is necessary to allow the use of the "Owner-shipper statement" for the interstate movement of swine moved in accordance with proposed § 85.7(b)(3)(i) which is discussed later in this document.

Present § 85.1(ee) sets forth the definition of "Qualified pseudorabies negative herd." This proposal would rearrange the definition to make it more understandable. Specifically, proposed § 85.1(ee)(1) would set forth the procedures for attaining qualified pseudorabies negative herd status. The procedures for attaining qualified pseudorabies negative herd status would be amended to require that such status could not be attained by a herd which has been classified as a "Known infected herd" within 30 days of the test necessary to qualify the herd as a qualified pseudorabies negative herd. This amendment is necessary to preclude the possibility of a herd attaining qualified pseudorabies negative herd status under less stringent requirements than is required to remove the herd from "Known infected herd" status. Under the present regulations, an owner of a herd of swine which has been classified as a known infected herd could meet the requirements for attaining qualified pseudorabies negative herd status prior to meeting the requirements for removal of the herd from known infected herd status.

For example, under the present regulations, an owner of a herd of swine which has been classified as a known infected herd could have the herd removed from such status by, among other things, removing all positive swine and testing all other swine in the herd from pseudorabies and finding all swine so tested negative 30 days or more after removal of the positive swine. This same herd owner, under the present regulations, could, on the day after removal of the positive swine, attain qualified pseudorabies negative herd status by subjecting all swine over 6 months of age to an official pseudorabies test and finding all swine so tested negative as long as a minimum of 90 percent of the swine had been on the premises and part of the herd for at least 90 days prior to the qualifying test or have entered directly from another qualified pseudorabies negative herd. The same herd could thereby be a known infected herd and a qualified pseudorabies negative herd.

Proposed § 85.1(ee)(2) sets forth procedures for attaining or regaining qualified pseudorabies negative herd status if any of the swine tested are found positive to pseudorabies on the qualifying test or any subsequent official pseudorabies test. The procedures for attaining or regaining qualified pseudorabies negative herd status would generally be the same as those set forth in present § 85.1(ee). However, this document proposes a few substantive changes in the procedure to attain or regain such status.

Present § 85.1(ee) requires that the herd premises be cleaned and disinfected in accordance with present § 85.13 after swine found positive to an official pseudorabies test conducted in a qualified pseudorabies negative herd or to attain qualified pseudorabies negative herd status are removed. This document proposes the deletion of this requirement because it is not productive. An effective cleaning and disinfecting procedure cannot be conducted unless all or most of the swine are removed from a premises and removal of all swine is not a requirement for attaining or regaining qualified pseudorabies negative herd status; and in many situations most of the swine are not removed to attain or regain qualified pseudorabies negative herd status.

Present § 85.1(ee) requires that after the test positive swine are removed, qualified pseudorabies negative herd status is attained or regained by tests conducted only on swine over 6 months of age, and finding all swine so tested negative. However, swine under 6 months of age are readily infected with pseudorabies and testing should include all swine susceptible to pseudorabies. Therefore, proposed §85.1(ee)(2) would require that to attain or regain qualified pseudorabies negative herd status all swine in the herd, regardless of age, except pigs nursing their mother, must be subjected to an official pseudorabies serologic test and found negative. As stated above, the result of an official pseudorabies serologic test on the mother of nursing pigs constitutes sufficient evidence of the pseudorabies disease status of the nursing pigs to forego the test on such pigs.

Present § 85.1(ee) also requires that to attain or regain qualified pseudorabies negative herd status, swine over 6 months of age must be retested twice, 30 and 60 days after removal of the official pseudorabies test positive swine, and found negative to both tests. This proposal would amend the retesting requirements by allowing the retesting to be conducted 30 days or more after the removal of the official pseudorabies test positive swine and 30 to 60 days after the first retest. The present requirement that the first retest be conducted 30 days after the removal of the positive swine is necessary to ensure that swine which remain in the herd which contracted pseudorabies have time to react to the pseudorabies virus so that any positive swine may be detected on the subsequent test. However, it is not necessary that the subsequent test be conducted exactly 30 days after removal of swine which are positive to the official pseudorabies test. In order to detect swine which have contracted pseudorabies from the positive swine which were removed from the herd, the first retest may be conducted at any time 30 days or more after removal of the positive swine. Therefore, proposed § 85.1(ee) would allow the retest to be conducted at any time 30 days or more after removal of the positive swine. Further, this proposal would amend § 85.1(ee) to permit the required second retest to be conducted at any time 30 to 60 days after the first negative herd retest rather than exactly 60 days after removal of the positive swine. This present requirement that the second retest be conducted exactly 60 days after removal of the positive swine is unnecessary and does not provide herd owners with any flexibility with respect to testing schedules. Further, proposed § 85.1(ee)(2)(ii) would provide an alternate method for attaining or regaining qualified pseudorabies negative herd status when swine have been found to be positive to an official pseudorabies serologic test but at titers no greater than 1:8. As stated above, it is possible that questionable (false positive) laboratory results can be encountered when testing for pseudorabies at dilutions of 1:8 or less. Therefore, proposed § 85.1(ee)(2)(ii) would provide procedures for evaluating questionable pseudorabies serologic test results in attaining or regaining qualified pseudorabies negative herd status, which are identical to those set forth in proposed § 85.1(l) for the removal from

the classification of "Known infected herd" of those herds of swine in which swine have been found positive to an official pseudorabies serologic test but at titers no greater than 1:8, for the reasons set forth above.

Proposed § 85.1(ee)(3) sets forth procedures for maintaining qualified pseudorabies negative herd status. The proposed procedures for maintaining qualified pseudorabies negative herd status are generally the same as those set forth in present § 85.1(ee). Qualified pseudorabies negative herd status is currently maintained by testing all swine over 6 months of age every year. Determining or monitoring the pseudorabies status of a herd by testing adult swine (swine over 6 months of age) has been found to be sufficient in herds which are not known or suspected to be infected with pseudorabies. This is accomplished by testing 25 percent of the swine over 6 months of age every 80–105 days. Testing at frequent intervals is desirable to find infection as early as possible if it should enter a herd. Some states require that 10 percent of a herd be tested every month (120 percent a year); this more frequent testing regimen provides earlier detection than testing every 80–105 days but does not technically comply with the requirements for maintaining qualified pseudorabies negative herd status in § 85.1(ee). Therefore, this method of maintaining qualified pseudorabies negative herd status by testing 10 percent every month is proposed in § 85.1(ee)(3) as an alternate method of maintaining herd status. No swine may be tested twice in 10 months to comply with the 10 percent requirement. This restriction is necessary to prevent a herd owner from repeatedly testing some swine and not testing other swine to meet the monitoring requirements. The Department does not believe that a herd can be adequately monitored if a portion of the swine over 6 months of age remain untested.

In present § 85.1(ee) qualified pseudorabies negative status is not affected by members of the herd coming into contact with other swine such as at shows, fairs, and sales and being returned to the herd without isolation and testing. This practice has only limited potential for introducing pseudorabies to a herd, since most swine are usually tested for pseudorabies prior to such events; however, pseudorabies has been spread at shows, fairs, and sales. The amount of risk is in direct proportion to the number of sources of contact swine. The spread occurs because some swine are not tested for pseudorabies and pseudorabies serologic tests are not fail-safe, as they identify antibodies which are the animals response to infection, not the actual presence of infection; antibodies usually take 10 days to 3 weeks to develop to detectable levels. Additionally, test results, for reasons of practicality, are recognized for 30 days, which allows time for the swine tested to become infected with pseudorabies. Qualified pseudorabies negative herd status has an even greater time lag guding which infection could be present and undetected, as testing is required only every 80–105 days. Therefore, this document would amend § 85.1(ee) to require that to maintain qualified pseudorabies negative herd status, swine returned to a qualified pseudorabies negative herd after contact with swine, other than swine from a single qualified pseudorabies negative herd, be isolated until the swine have been found negative to an official pseudorabies serologic test conducted 30 days or more after the swine have been placed in isolation. Contact with swine from a single qualified pseudorabies negative herd does not require isolation and testing because this is the same effect as adding swine directly from another qualified pseudorabies negative herd which is presently permitted and would be continued to be permitted under this proposal. Further, this document would amend § 85.1(ee) to require that to maintain qualified pseudorabies negative herd status, swine intended to be added to a qualified pseudorabies negative herd from another qualified pseudorabies negative herd, but with interim contact with swine other than those from a single qualified pseudorabies negative herd be isolated until the swine have been found negative to an official pseudorabies serologic test conducted 30 days or more after the swine have been placed in isolation.

Present § 85.1(ee) does not require that additions to a qualified pseudorabies negative herd be isolated until they are found negative to two official pseudorabies serologic tests prior to being added to the herd. This proposal would amend § 85.1(ee) to require that all swine intended to be added to or returned to a qualified pseudorabies negative herd and required to be tested for pseudorabies before being added to the herd must be isolated until found negative to the required official pseudorabies serologic test or tests. This isolation is necessary to prevent potential additions to or swine returned to the qualified pseudorabies negative herd from being exposed to pseudorabies and introducing pseudorabies into the qualified pseudorabies negative herd.

Present § 85.1(ff) sets forth the definition of the term "pseudorabies controlled vaccinated herd." This proposal would rearrange the definition to make it more understandable. Specifically, proposed § 85.1(ff)(1) would set forth the procedures for attaining pseudorabies controlled vaccinated herd status. Present § 85.1(ff) requires, among other things, that all swine over 6 months of age in pseudorabies controlled vaccinated herds be vaccinated for pseudorabies. This proposal would amend § 85.1(ff) to provide that a minimum of 10 percent of the swine over 6 months of age in a pseudorabies controlled vaccinated herd be unvaccinated swine.

This change is proposed to secure an improved means of determining the pseudorabies status of the herd. At present, there frequently would be insufficient swine in the herd that could be tested to determine herd status because positive serologic findings are not unusual on all vaccinates and on their offspring until they reach 16 weeks of age. Under the proposed procedure, the pseudorabies disease status of the herd could readily be monitored by testing the 10 percent of the swine over 6 months of age that must remain unvaccinated and their offspring.

The procedures for attaining pseudorabies controlled vaccinated herd status would also be amended to require that such status could not be attained by a herd which has been classified as a "known infected herd" within 30 days of the test necessary to qualify the herd as a pseudorabies controlled vaccinated herd. This amendment is necessary to preclude the possibility of a herd attaining pseudorabies controlled vaccinated herd status under less stringent requirements than is required to remove the herd from "known infected herd" status. Under the present regulations, an owner of a herd of swine which has been classified as a known infected herd could meet the requirements for attaining pseudorabies controlled vaccinated herd status prior to meeting the requirements for removal of the herd from known infected herd status. This could be accomplished in essentially the same manner as attaining qualified pseudorabies negative herd status prior to removal of the same herd from known infected herd status, as described above.

Proposed § 85.1(ff)(2) sets forth the procedures for attaining or regaining pseudorabies controlled vaccinated herd status if any swine tested are found

positive to pseudorabies on the qualifying official pseudorabies serologic test or any subsequent official pseudorabies test. The procedures for attaining or regaining pseudorabies controlled vaccinated herd status would generally be the same as those set forth in present § 85.1(ff). However, this document proposes a few substantive changes in the procedure to attain or regain such status.

Present § 85.1(ff) requires that after the test positive swine are removed, pseudorabies controlled vaccinated herd status is attained or regained by tests conducted only on swine over 6 months of age, and finding all swine so tested negative. However, swine under 6 months of age are readily infected with pseudorabies and testing should include all swine susceptible to pseudorabies. Therefore, proposed § 85.1(ff)(2) would require that to attain or regain pseudorabies controlled vaccinated herd status all swine in the herd over 16 weeks of age must be subjected to an official pseudorabies serologic test and found negative. Swine 16 weeks of age or younger would not be required to be tested because those swine nursing a vaccinated swine and those under 16 weeks of age may test positive because of maternal antibodies rather than antibodies from pseudorabies infection.

Present § 85.1(ff) also requires that to attain or regain pseudorabies controlled vaccinated herd status, swine over 6 months of age must be retested twice 30 and 60 days after removal of the official pseudorabies test positive swine and found negative to both tests. This proposal would amend the retesting requirements by allowing the retesting to be conducted 30 days or more after the removal of the official pseudorabies test positive swine and 30 to 60 days after the first retest. The present requirement that the first retest be conducted 30 days after the removal of the positive swine is necessary to ensure that swine which remain in the herd which contracted pseudorabies have time to react to the pseudorabies virus so that any positive swine may be detected on the subsequent test. However, it is not necessary that the subsequent test be conducted exactly 30 days after removal of swine which are positive to the official pseudorabies test. In order to detect swine which have contracted pseudorabies from the positive swine which were removed from the herd, the first retest may be conducted at any time 30 days or more after removal of the positive swine. Therefore, proposed § 85.1(ff) would allow the retest to be conducted at any time 30 days or more after removal of the positive swine. Further, this proposal would amend § 85.1(ff) to permit the required second retest to be conducted 30 to 60 days after the first negative herd retest rather than exactly 60 days after removal of the positive swine. This present requirement that the second retest be conducted exactly 60 days after removal of the positive swine is unnecessary and does not provide herd owners with any flexibility with respect to testing schedules. The requirement that the herd premises be cleaned and disinfected in accordance with § 85.13 would be maintained because in most cases most of the swine in the pseudorabies controlled vaccinated herd are removed because all positive swine are removed and vaccinated swine are positive to an official pseudorabies test.

Proposed § 85.1(ff)(3) sets forth procedures for maintaining pseudorabies controlled vaccinated herd status. The proposed procedures for maintaining pseudorabies controlled vaccinated herd status are the same as those set forth in present § 85.1(ff) except as discussed in this docket.

Present § 85.1(ff) does not require that additions to a pseudorabies controlled vaccinated herd be isolated until they are found negative to an official pseudorabies serologic test prior to being added to the herd. This proposal would amend § 85.1(ff) to require that all swine intended to be added to the pseudorabies controlled vaccinated herd must be isolated until found negative to the required official pseudorabies serologic test. This isolation is necessary to prevent potential additions to the pseudorabies controlled vaccinated herd from being exposed to pseudorabies and introducing pseudorabies into the pseudorabies controlled vaccinated herd.

Proposed § 85.1(ff)(3) would require that unvaccinated swine be mingled with vaccinated swine to insure that, if pseudorabies virus is circulating in the herd, the unvaccinated swine are exposed to any such virus. This would be necessary because the unvaccinated swine are monitored to determine the pseudorabies disease status of the herd and in order to constitute an adequate monitoring system, the unvaccinated swine must be exposed to the vaccinated swine in the herd.

Section 85.1 would be amended by adding paragraph (jj), to define the term "official pseudorabies serologic test" as an official pseudorabies test as defined in § 85.1(q) conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

The definition would be added because there are official tests for pseudorabies other than serologic tests. The other official tests, the virus isolation and identification test and the fluorescent antibody tissue test, are confirmatory and are usually conducted on tissues of animals which have either died or been sacrificed for diagnostic purposes. These tests are directed to the detection or isolation of the virus and negative results on infected animals are not uncommon. Therefore, to ensure accuracy of negative results of the test, this proposal would require the term "official pseudorabies test" be replaced with the term "official pseudorabies serologic test" throughout Part 85 wherever a negative test finding is required to qualify an animal for interstate movement, to qualify a herd of swine for removal from the "known infected herd" classification, or to classify a herd of swine as a pseudorabies controlled vaccinated herd or a qualified pseudorabies negative herd. The term "official pseudorabies test" would not be changed where positive findings result in restrictions.

Section 85.1 would be amended by adding a new paragraph (kk) to define restricting the source of swine, but would add flexibility by allowing the swine to be moved through an additional approved livestock market.

Present § 85.7(b) would also be amended to permit swine not vaccinated for pseudorabies and not know to be infected with or exposed to pseudorabies to move interstate from a farm of origin to an approved livestock market when accompanied by an owner-shipper statement. The current regulations impose an unnecessary burden on the shipper by requiring that such swine be identified prior to movement and be accompanied by a certificate. This proposed amendment would allow such swine to be identified to the farm of origin by an identification tag after arrival at the first approved livestock market. The certificate would not be needed in this instance because the swine would be identified to the farm of origin upon arrival at the approved livestock market.

Present § 85.7(c) applies to the interstate movement of swine which are not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies and are moved other than for slaughter and other than directly to a feedlot, quarantined feedlot, quarantined herd or to an approved livestock market for subsequent movement to a feedlot, quarantined feedlot or quarantined herd. This proposal would amend § 85.7(c) to allow the interstate movement of swine pursuant to § 85.7(c) to any location. The

restrictions placed upon the interstate movement of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies in § 85.7(c) are sufficient to prevent the interstate spread of pseudorabies. In this regard, § 85.7(b) would be amended to provide that swine moved to a feedlot, quarantined feedlot, quarantined herd or an approved livestock market for subsequent movement to a feedlot, quarantined feedlot or quarantined herd could be moved interstate pursuant to proposed § 85.7(c).

Section 85.10(b) would be amended to require that a copy of each permit or term "Area Veterinarian in Charge." The term "Area Veterinarian in Charge"would be used in proposed § 85.1(1)(2)(iii) and § 85.1(ee)(2)(ii).

Present § 85.5(a) sets forth the requirements for the interstate movement of infected or exposed swine for slaughter. Present § 85.5(a)(3) requires that the permit or owner-shipper statement, which must accompany such swine, list the identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each animal being moved. This proposal would amend § 85.5(a)(3) to provide that if such swine are moved interstate and the identity of the farm of origin of each swine is maintained, the permit or owner-shipper statement need not list the identification of the swine if the swine are identified to the farm of origin at the recognized slaughtering establishment or the first slaughter market. This amendment is proposed because the current regulation imposes an unnecessary burden on the owner of shipper by requiring that such swine be identified prior to movement.

Present § 85.7(b) permits swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies to move interstate from any source to an approved livestock market and then move directly to a feedlot, quarantined feedlot or quarantined herd. The Department believes that restrictions on the sources from which such swine are moved interstate to an approved livestock market are necessary to reduce the risk of exposure to pseudorabies. However, present § 85.7(b) now restricts interstate movement from an approved livestock market to feedlots, quarantined feedlots and quarantined herds and thereby hampers normal marketing patterns. Proposed § 85.7(b) would permit swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies to move from a farm of origin through two approved livestock markets before being moved to a feedlot, quarantined feedlot or quarantined herd. The proposal would minimize exposure to pseudorabies by certificate issued in accordance with Part 85 must be sent to the State animal health official of the State of destination as directed by the State animal health offical of the State of origin within 3 days of the issuance of such document. The regulation now requires that the issuer of a permit or certificate mail or deliver a copy of the permit or certificate to the State animal health official in the State of destination within 3 days of the interstate movement. However, issuers of certificates and permits operate under guidelines established by the State animal health official of the originating State and instructions concerning the mailing or delivery of permits and certificates issued pursuant to Part 85 vary from state to state. This document would also amend the requirement that certificates and permits issued pursuant to Part 85 must be mailed or delivered within 3 days of the interstate movement of the swine covered by the document to require such mailing or delivery within 3 days of the issuance of such document. The Department believes that this change is necessary because the issuer of a certificate or permit may not know when the swine covered by the document are moved interstate.

List of Subjects in 9 CFR 85

Animal diseases, Livestock and livestock products, Quarantine, Transportation, Pseudorabies,

PART 85—PSEUDORABIES

Accordingly, the Animal and Plant Health Inspection Service is proposing to amend Part 85 in the following respects:

1. In § 85.1, paragraph (l) would be revised and footnote 1 and a reference thereto would be added to read as follows:

§ 85.1 Definitions.

* * * * *

(l) *Known infected herd.* Any herd in which any livestock has been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies.

(1) A herd of livestock, other than swine, shall no longer be classified as a known infected herd after 10 days since the last clinical case of pseudorabies in the herd.

(2) A herd of swine which has been released from pseudorabies quarantine in accordance with the following provisions shall no longer be classified as a known infected herd if:

(i) All swine positive to an official pseudorabies test have been removed from the premises; all swine which remain in the herd, except swine nursing their mother, are subjected to an official pseudorabies serologic test and found negative 30 days or more after removal of swine positive to an official pseudorabies test; and no livestock on the premises have shown clinical signs of pseudorabies after removal of the positive swine; or

(ii) All swine have been depopulated for 30 days and the herd premises have been cleaned and disinfected in accordance with § 85.13; or

(iii) In a herd of swine in which swine are positive to an official pseudorabies serologic test but no swine are positive at titers greater than 1:8, all titered swine are subjected to another official pseudorabies serologic test and found negative; and all other swine in the herd which an epidemiologist, approved by the State animal health official and the Area Veterinarian in Charge, requires to be subjected to an official pseudorabies serologic test are tested and found negative.[1]

* * * * *

2. Section 85.1(n) would be amended by removing the term "21 consecutive days" and inserting the term "10 consecutive days" in lieu thereof.

3. In § 85.1, paragraph (v) would be amended by removing the words "pseudorabies test" and inserting the words "pseudorabies serologic test" in lieu thereof.

4. Section 85.1(dd) would be revised to read as follows:

* * * * *

(dd) *Owner-shipper statement.* A statement signed by the owner or shiper of swine which states: (1) the number of swine to be moved; (2) the points of origin and destination; (3) the consignor and consignee; and (4) any additional information required by the applicable sections of this part.

* * * * *

5. In § 85.1, paragraph (ee) would be revised to read as follows:

* * * * *

[1] The epidemiologist shall consider the following epidemiologic evidence to determine which swine in the herd, in addition to the titered swine must be subjected to an official pseudorabies serologic test and found negative: (a) the percentage and number of titered swine in the herd; (b) the number of titered swine as compared to the number of swine tested; (c) the extent of the contact of members of the herd with the titered swine; (d) the prevalence of pseudorabies in the area; (e) the herd management practices and (f) any other reliable epidemiologic evidence.

(ee) *Qualified pseudorabies negative herd.* (1) Qualified pseudorabies negative herd status is attained by subjecting all swine over 6 months of age to an official pseudorabies serologic test and finding all swine so tested negative. The herd must not have been a known infected herd within the past 30 days. A minimum of 90 percent of the swine in the herd must have been on the premises and part of the herd for at least 90 days prior to the qualifying official pseudorabies serologic test or have entered directly from another qualified pseudorabies negative herd.

(2)(i) If on a qualifying official pseudorabies serologic test or any subsequent official pseudorabies test, any swine so tested are positive, qualified pseudorabies negative herd status is attained or regained by: removing all positive swine; subjecting all swine in the herd, except swine nursing their mother, to an official pseudorabies serologic test 30 days or more after removal of the positive swine and finding all swine so tested negative; and after an interval of 30 to 60 days after the first such negative official pseudorabies serologic herd test, subjecting all swine in the herd, except swine nursing their mother, to another official pseudorabies serologic test and finding all swine so tested negative; or

(ii) If on any qualifying official pseudorabies serologic test or any subsequent official pseudorabies serologic test, any swine so tested are positive, but no swine are positive at titers greater than 1:8, qualified pseudorabies negative herd status is attained or regained by: subjecting all titered swine and all other swine required to be tested by an epidemiologist, approved by the State animal health official and the Area Veterinarian in Charge, to an official pseudorabies serologic test and finding all such swine negative.[1]

(3) Qualified pseudorabies negative herd status is maintained by subjecting all swine over 6 months of age in the herd to an official pseudorabies serologic test at least once each year (this must be accomplished by testing 25 percent of the swine over 6 months of age every 80–105 days and finding all swine so tested negative, or by testing 10 percent of the swine over 6 months of age each month and finding all swine so tested negative; no swine shall be tested twice in 1 year to comply with the 25 percent requirement or twice in 10 months to comply with the 10 percent requirement). All swine intended to be added to a qualified pseudorabies negative herd shall be isolated until the swine have been found negative to two official pseudorabies serologic tests, one conducted 30 days or more after the swine have been placed in isolation, the second test being conducted 30 days or more after the first test; except (i) swine intended to be added to a qualified pseudorabies negative herd directly from another qualified pseudorabies negative herd may be added without isolation or testing; (ii) swine intended to be added to a qualified pseudorabies negative herd from another qualified pseudorabies negative herd, but with interim contact with swine other than those from a single qualified pseudorabies negative herd, shall be isolated until the swine have been found negative to an official pseudorabies serologic test, conducted 30 days or more after the swine have been placed in isolation; (iii) swine returned to the herd after contact with swine other than those from a single qualified pseudorabies negative herd shall be isolated until the swine have been found negative to an official pseudorabies serologic test conducted 30 days or more after the swine have been placed in isolation.

* * * * *

6. In § 85.1, paragraph (ff) would be revised to read as follows:

* * * * *

(ff) *Pseudorabies controlled vaccinated herd.* (1) Pseudorabies controlled vaccinated herd status is attained by subjecting all swine over 6 months of age to an official pseudorabies serologic test and finding all swine so tested negative. The herd must not have been a known infected herd within the past 30 days. Any swine in the herd over 6 months of age may be vaccinated for pseudorabies within 15 days after being subjected to an official pseudorabies serologic test and found negative;

Provided that, at least 10 percent of the swine in the herd over 6 months of age remain unvaccinated.

(2) If on the qualifying official pseudorabies serologic test or any subsequent official pseudorabies test, any swine so tested are positive, pseudorabies controlled vaccinated herd status is attained or regained by: removing all positive swine; cleaning and disinfecting the herd premises in accordance with § 85.13; subjecting all swine in the herd over 16 weeks of age to an official pseudorabies serologic test 30 days or more after removal of the positive swine and fining all swine so tested negative; and after an interval of 30 to 60 days after the first such negative official pseudorabies serologic herd test, subjecting all swine in the herd over 16 weeks of age to another official pseudorabies serologic test and finding all swine so tested negative.

(3)(i) Pseudorabies controlled vaccinated herd status is maintained by subjecting all unvaccinated swine over 6 months of age in the herd to an official pseudorabies serologic test every 80-105 days and finding all swine so tested negative or by subjecting 25 percent of the offspring between 16 and 20 weeks of age to an official pseudorabies serologic test and finding all swine so tested negative.

(ii) Any swine in the herd over 6 months of age may be vaccinated for pseudorabies within 15 days after being subjected to an official pseudorabies serologic test and found negative; *Provided that,* at least 10 percent of the swine in the herd over 6 months of age remain unvaccinated.

(iii) All swine intended to be added to a pseudorabies controlled vaccinated herd shall be isolated until the swine have been found negative to an official pseudorabies serologic test conducted 30 days or more after the swine have been placed in isolation. Not more than 90 percent of the swine over 6 months of age added to the herd may be vaccinated for pseudorabies. All additions to the herd which are to be vaccinated for pseudorabies shall be vaccinated within 15 days after being subjected to such official pseduorabies serologic test. All additions to the herd shall be added to the herd within 30 days after such official pseudorabies serologic test.

(iv) Swine which have not been vaccinated for pseudorabies shall be mingled with pseudorabies vaccinates.

* * * * *

7. Section 85.1 would be amended by adding a new paragraph (jj) to read as follows:

* * * * *

(jj) *Official pseududorabies serologic test.* An official pseudorabies test, as defined in paragraph (q) of this section, conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

8. Section 85.1 would be amended by adding a new paragraph (kk) to read as follows:

* * * * *

(kk) *Area veterinarian in charge.* The veterinary official of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Deputy Administrator to supervise and perform official animal health work on the Animal and Plant Health Inspection Service on the State concerned.

9. In § 85.4, paragraph (b) would be revised to read as follows:

§ 85.4 Interstate movement of livestock.

* * * * *

(b) Livestock that have been exposed to an animal showing clinical evidence of pseudorabies shall not be moved interstate within 10 days of such exposure.

10. In § 85.5, paragraph (a)(3) would be revised to read as follows:

§ 85.5 Interstate movement of infected swine or exposed swine.

* * * * *

(a) * *

(3) The permit, in addition to the information in § 85.1 (bb), or the owner-shipper statement, in addition to the information in § 85.1(dd), lists the identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each swine being moved; *except* if the swine are moved interstate and the identity of the farm of origin of each swine is maintained, the permit or the owner-shipper statement need not list the individual identification required by this paragraph, if such swine are identified to the farm of origin at the recognized slaughtering establishment or the first slaughter market; and

11. In § 85.5, paragraphs (b)(5)(iii) would be amended by removing the words "pseudorabies test" and inserting the words "pseudorabies serologic test" in lieu thereof.

12. In § 85.7, paragraph (b) would be revised to read as follows:

§ 85.7 Interstate movement of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies.

* * * * *

(b) *Movement to a feedlot, quarantined feedlot, quarantined herd, or approved livestock market.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies may be moved interstate only if:

(1) The swine are moved from a qualified pseudorabies negative herd directly to a feedlot, quarantined herd or approved livestock market; or

(2) The swine are moved directly to a feedlot, quarantined feedlot, quarantined herd or approved livestock market for subsequent movement to a feedlot, quarantined feedlot or quarantined herd in accordance with paragraph (c) of this section; or

(3) The swine are moved from a State which requires the State animal health official of that State to be immediately notified of any suspected or confirmed case of pseudorabies in that State and which requires that exposed or infected livestock be quarantined, such quarantine to be released only after having met quarantine release standards no less restrictive than those in § 85.1(1); and

(i) The swine are accompanied by an owner-shipper statement and are moved from a farm of origin directly to an approved livestock market, and

(A) The owner-shipper statement is delivered to the consignee, and

(B) The swine are identified at the approved livestock market to the farm of origin by an identification tag; or

(ii) The swine are accompanied by a certificate and such certificate is delivered to the consignee; the certificate, in addition to the information in § 85.1(cc), states the identification of the farm of origin of each swine being moved by an earnotch recognized by a breed association, identification tag, tattoo, or similar identification and approval for the interstate movement has been issued by the State animal health official of the State of destination prior to the interstate movement of the swine; and

(A) The swine are moved directly to a feedlot, quarantined feedlot, quarantined herd or approved livestock market from a farm of origin; or

(B) The swine are moved directly to a feedlot, quarantined feedlot, quarantined herd or approved livestock market from an approved livestock market which received the swine directly from a farm of origin; or

(C) The swine are moved directly to a feedlot, quarantined feedlot or quarantined herd from an approved livestock market, which received the swine from another approved livestock market, which received the swine directly from a farm of origin.

13. In § 85.7, the introduction to paragraph (c) would be revised to read as follows:

* * * * *

(c) *General movements.* Swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies may be moved interstate only if:

* * * * *

14. In § 85.7 paragraph (c)(2)(ii)(A) would be amended by removing the words "pseudorabies test" and inserting the words "pseudorabies serologic test" in lieu thereof.

15. In § 85.7, paragraph (c)(2)(ii)(C) would be amended by removing the words "official test" and inserting the words "official pseudorabies serologic test" in lieu thereof.

§ 85.9 [Amended]

16. Section 85.9 would be amended by removing the words "pseudorabies test" and inserting the words "pseudorabies serologic test" in lieu thereof.

17. In § 85.10, paragraph (b) would be revised to read as follows:

§ 85.10 Permits and certificates.

* * * * *

(b) A copy of each permit or certificate issued in accordance with this part shall be sent by the person issuing such document to the State animal health official of the State of destination in accordance with instructions issued by the State animal health official of the State of origin within 3 days of the issuance of the document.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, 134g; 37 FR 28464, 28477, 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 870, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 28th day of October, 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-30176 Filed 10-29-82; 12:59 pm]

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November 3, 1982

Part III

Department of Agriculture

Animal and Plant Health Inspection Service

Swine Health Protection Provisions

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 82-069]

Swine Health Protection Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document regulates the treatment of garbage to be fed to swine pursuant to the Swine Health Protection Act. This action is necessary to prevent the introduction into or dissemination within the United States of any infectious or communicable diseases of swine through the medium of garbage. The regulations establish minimum standards for treating garbage to be fed to swine.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: R. D. Good, Staff Veterinarian, Swine Diseases, Swine and Poultry Diseases Staff, Veterinary Services, APHIS, USDA, Federal Building, Room 841, Hyattsville, MD 20782, 301-436-8487.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (9 CFR 166) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and have been assigned the following OMB control numbers:

Reports (VS Form 13-15 and 13-16): 0579-0064.

Recordkeeping Requirements: 0579-0066.

Background

Garbage can serve as a means of transmission of numerous infectious or communicable foreign and domestic diseases of swine including, but not limited to, African swine fever (ASF), hog cholera, foot-and-mouth disease, swine vesicular disease, and vesicular exanthema of swine.

Domestic swine are highly susceptible to and have no resistance to any of these foreign diseases. This susceptibility is because there is no natural immunity to any of these diseases and there is either an ineffective vaccine or no vaccine available for some of the diseases. Slaughter of infected or exposed swine is the only disease eradication technique available. The effect of the diseases themselves and the necessary slaughter of infected or exposed swine would result in the death of all swine involved. Depending on the population of swine involved, this number could be great. Foreign disease outbreaks could, therefore, cause a severe economic crisis for U.S. swine producers and the pork industry in general. Widespread outbreaks would result in shortages of pork and pork products, causing higher food prices for consumers.

ASF is potentially the most dangerous of the above-named diseases because it is present in the Caribbean, in close proximity to the United States and Puerto Rico. Since 1978, ASF has been diagnosed in Cuba, the Dominican Republic, Brazil, and Haiti. It has apparently been eradicated from the Dominican Republic and Cuba. There is no effective vaccine for ASF.

All these foreign diseases can be spread through infected meat scraps in improperly treated garbage that is fed to swine or material that has been associated with such meat scraps. For example, ASF was most likely introduced into the Dominican Republic and Brazil via garbage from international airline flights. U.S. officials are conducting an intensified program to inspect meat and related products entering the United States, especially from countries in the Western Hemisphere with ASF. Complete surveillance is impossible considering the tremendous volume of international traffic, especially between the Caribbean Islands and the United States. A single contaminated meat product in garbage that reaches susceptible hogs could cause an outbreak.

Under these circumstances, the domestic swine population would be best protected by requiring pathogen-killing treatment of garbage that is to be fed to swine. Cooking of garbage prior to being fed to hogs is the only known practical means of protecting swine from the pathogens contained in garbage. Proper heat treatment of garbage kills the organisms that cause the aforementioned foreign animal diseases and generally assists in endemic disease control by eliminating one source of infection. This process also provides a source of food for swine that could not otherwise be utilized because of the danger of disease transmission. In addition, the conversion of discarded food to swine feed lessens the burden on disposal landfills, national water systems, and sewage plants.

The Swine Health Protection Act (7 U.S.C. 3801 *et seq.*), hereinafter referred to as the Act, is designed to protect the commerce of the United States and the health and welfare of the people of this country by regulating the treatment of garbage to be fed to swine and the feeding thereof in accordance with the provisions of the Act. Based on the above needs, Congress selected two basic methods to achieve this objective: (1) Establishing standards for the handling and treatment of garbage that is intended to be fed to swine and (2) licensing garbage-treatment facilities. The Secretary of Agriculture is authorized by the Act to issue such regulations and to require the maintenance of such records as he deems necessary to carry out the provisions of the Act.

In accordance with the Act, these regulations prohibit the feeding of garbage to swine except when it is properly heat treated at a licensed treatment facility. Garbage is defined in the Act and regulations as all waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located. The regulations establish procedures and standards for treating garbage and for the issuance, suspension, and revocation of licenses for treatment facilities.

Feeding of garbage to swine is allowed if it is properly treated, except in States where prohibited. Handling, storage, and treatment operations for garbage to be fed to swine have to be constructed so that swine do not have access to these areas.

It was Congress intent for the Act to serve as minimum standards for the individual State programs. Primary enforcement responsibility under the Act will be delegated to States which have developed adequate laws and regulations concerning the treatment of garbage to be fed to swine and the feeding thereof, which laws and regulations meet the minimum standards of the Act and regulations. To be delegated primary enforcement responsibility, a State will also have to have adopted and be implementing adequate procedures for the effective enforcement of such State laws and regulations, and keep such records and make such reports showing compliance with these standards as required by regulation. This determination will be made by the Deputy Administrator

under Section 10 of the Act (7 U.S.C. 3809).

At present, 16 States with more than 50 percent of the national swine population prohibit the feeding of garbage, in any form, to swine. The 34 remaining States and Puerto Rico already have laws and/or regulations that regulate the treatment of garbage before it is fed to swine. However, the adequacy of the enforcement of these State laws and regulations is yet to be determined. Therefore, in order to provide time to determine the adequacy of the various State laws and regulations and their enforcement with regard to primary enforcement responsibility and to negotiate cooperative agreements with various States, these regulations will be made final, but their effective date will be delayed until January 1, 1983. Those States having primary enforcement responsibility under the Act and those States issuing licenses under cooperative agreements with APHIS will be promulgated under § 166.14 of the regulations as soon as possible.

Executive Order 12291

Based on information compiled by the Department of Agriculture, this rule is determined to be non-major. The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Impact Analysis of Regulations For Swine Health Protection Summary Statement

Dr. 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. These regulations will impact only swine producers who feed garbage in those States and areas which allow the feeding of garbage to swine, and then only to te extent these regulations are different from those with which they must already comply. At present, the 50 States, Puerto Rico, and Guam either prohibit the feeding of garbage to swine or require that it be heat treated before being fed to swine, in much the same manner as required by these regulations. Fewer than 1.4 percent of swine producers in the United States and Puerto Rico feed garbage or food waste to swine, and Puerto Rico alone has 50 percent of such garbage feeders. The remaining areas which are subject to these regulations—the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands—neither prohibit nor regulate feeding garbage to swine. They not only have minimal swine populations, but a large portion of their garbage feeders would be exempt under section 3(2) of the Act (7 U.S.C. 3802) because they only feed waste from ordinary household operations directly to swine on the same premises where such household is located. A regulatory flexibility analysis was prepared and a summary of the analysis was included in the **Federal Register** Notice of the proposed rulemaking. No comments were submitted concerning the regulatory analysis or certification.

The regulations adopted are those that minimize impact on the regulated small entities without increasing the risk of introduction and spread of swine disease.

Comments Received

On April 16, 1982, a document was published in the **Federal Register** (47 FR 16534–16541) which proposed to establish regulations for swine health protection.

Comments regarding the proposal were solicited for 60 days after publication of the proposed regulation. Copies of the proposal were distributed to known interested industry organizations, animal health officials, and interested veterinary medical societies. The U.S. Department of Agriculture's (USDA) news release concerning the proposal received wide publication in rural and farm oriented press.

Also, in accordance with the intent of the Small Business Administration's Regulatory Flexibility Act, information was disseminated on an individual basis to known garbage feeders in Puerto Rico concerning the availability of the proposed rulemaking and of the Initial Regulatory Flexibility Analysis. This effort was made because (1) approximately 50 percent of the small business entities that would possibly be affected by the regulations are located in Puerto Rico and (2) the high rates of total or English illiteracy in Puerto Rican Garbage feeders dictated that the information be verbally given in some cases.

In response, eleven national and State industry organizations, one registered swine breed association and two veterinary-oriented associations registered general support for this proposal. The Secretary of a State pork producers' association personally suggested that all garbage feeding of swine be banned, but expressed appreciation of what he perceived as being USDA recognition of a potential problem.

Section 166.1, entitled, "Definitions in alphabetical order" is changed to exclude letter designations of each individual definition. Since the definitions are arranged alphabetically, this lettering is unnecessary. No comment was received on this, but the Department has learned that it is the policy of the **Federal Register** to publish lists of definitions without individual letter designations. This change has no effect whatsoever on the regulations.

Two comments suggested that fish be deleted from the definition of animals in § 166.1. The only place the word "animals" is used in the regulations is in reference to animals which would be or or which could gain access to a garbage treatment premises. As fish would never be of concern under such circumstances, we believe it is best to retain the proposed definition of "animals," which is consistent with the use of that term in the Act.

One respondent that "facility" be defined. As this term is used frequently in the regulations, we agree with this comment. Accordingly, in § 166.1 we define facility as: "The site and all objects at this site including equipment and structures where garbage is accumulated, stored, handled, and cooked as food for swine and which are fenced in or otherwise constructed so that swine are unable to have access to untreated garbage." This definition of "facility" includes equipment and the locations of untreated garbage storage, handling, and cooking facilities which are kept separate from any swine. We have also decided to add a definition of the word "premises" for clarity. This term appears frequently in the regulations and could, without definition, be confused with the term "facility." Therefore, in order to clarify these words, we have added the following definition of "premises:" "The location of a garbage treatment facility, as defined in this part, and any areas owned or controlled by the operator of the facility where swine are kept or fed by the operator.

One respondent was concerned that whole animal carcasses not resulting from the handling, preparation, cooking, or consumption of food could be fed to swine untreated as such carcasses would not be within the definition of garbage in § 166.1. It is the intent of the Act to ensure that materials fed to swine

are free of infectious or communicable diseases of swine. In line with that intent, the Act's definition of garbage includes "all waste material derived in whole or in part from the meat of any animal (including fish and poultry) or any other animal material." The definition includes carcasses of animals when such carcasses are "waste material." It is believed that they would not be fed to swine if they were not waste material. Therefore, such carcasses must be cooked before being fed to swine.

The Representative of a national rendering association commented that raw animal products that are rendered and produced by rendering may be defined as garbage. This is indeed the case. The Act's definition of garbage includes such material. However, the Department intends to propose a blanket exemption for rendered products to be fed to swine under section 4(b) of the Act, if it can be satisfactorily shown that the rendering process itself, in all cases, kills infectious or communicable disease agents as required by the Act. In that case, it would be unnecessary and wasteful to require further treatment of rendered products before they could be fed to swine.

Comments from a national farm federation and two State farm bureaus requested that domestically produced commercial bakery waste, candy, and fresh fruit and vegetable waste be excluded from the definition of garbage. The definition of garbage in the regulations already excludes fresh fruit and vegetable waste of domestic origin unless mixed with material of animal origin. Therefore, no change is required in the definition as to those items. However, the definition of garbage in the regulations, which is taken from the Act, does not exclude bakery waste in that baked goods are normally made with animal products such as butter or animal fat. Only if such animal products have not been used would bakery waste be excluded from the definition of garbage. The Act is very clear on this point, and the Department does not have the authority to change the law. This same reasoning applies to any other food waste, including candy waste, which may be prepared or associated with animal products.

A leader of one national association recognized that the Act includes fish in the definition of garbage but suggested that fish be given "special consideration." The individual reasoned that fish are not known to transmit any of the diseases which are of concern in this Act. The Secretary of one State livestock group requested that fish be deleted from the definition of garbage. The Act clearly includes fish in the definition of garbage. Not only does the Department have no authority to change the law, but there is evidence that fish may play a part in transmitting some domestic animal diseases. In the Pacific coastal region of the United States, the San Miguel sea lion virus in fish and other marine life has been linked with the virus of vesicular exanthema of swine, which was eradicated from the United States. Therefore, these comments have not been adopted. However, exemptions on a premises-by-premises basis will be allowed when a determination is made that there would not be a risk to the swine industry in the United States as provided in the Act.

Four comments questioned the temperature and time required to cook untreated garbage as outlined in § 166.1, "Definitions in alphabetical order," and in § 166.7, "Cooking standards." All four, which included those from prominent industry organizations, agreed that 180° F. was sufficient to destroy agents of disease. However, there was wide disagreement regarding the time that untreated garbage should be treated at this temperature. Suggestions ranged from cooking for as few as 10 minutes to as much as 1 hour. None of the comments took into account the dimensions of the discreet chunks of garbage to be cooked. Waste material of animal origin could range in size up to whole ungutted carcasses. The Department has made no changes in the regulations based on the four suggestions since none take into account all three elements of temperature, time, and dimensions of material to be treated. The proposal was based on scientific facts that take into account all three elements, including the possible size of the material. Further, fuel efficiency studies show that cooking garbage at 212° F. at sea level for 30 minutes is more fuel efficient than cooking at 180° F. for 1 hour. The Advisory Committee to the Secretary on Swine Health Protection recommended that the time and temperature requirements be modified as much as practically possible upon a scientific basis, yet allow a reasonable margin of safety. A literature review has been undertaken and field studies necessary to confirm its findings will begin in order to provide an evaluation of the requirements. If the studies indicate that a change in the requirements is justified, an amendment to the regulations will be proposed. Until that time, there is no justification to compromise proven disease control standards.

For the purpose of clarification, references to alternate treatment methods are being deleted from the definitions in § 166.1 of "treated garbage" and "treatment." Acceptable alternative methods are not available at this time. As other methods are developed, Veterinary Services will evaluate them and incorporate acceptable treatments in the regulations. Accordingly, in § 166.1, "treated garbage" is defined as: "Edible waste for animal consumption derived from garbage (as defined in this section) that has been heated throughout at boiling or equivalent temperature (212° F. or 100° C. at sea level) for 30 (thirty) minutes under the supervision of a licensee." "Treatment" is defined as: "The heating of garbage to specifications as set forth in this part."

One comment requested the deletion of the last sentence in § 166.2(c), "General restrictions," which states: "In a State which prohibits the feeding of garbage to swine, a Federal license under the Act will not be issued to any applicant." The requester stated that if a Federal license is denied, the Act will be weakened in its efforts to prevent swine diseases. However, that provision is included because it reflects section 13 of the Act, which says; "The regulations of this Part shall not be construed to repeal or supersede State laws that prohibit feeding of garbage to swine or to prohibit any State from enforcing requirements relating to the treatment of garbage that is to be fed to swine or the feeding thereof which are more stringent than the requirements contained in this Part." If the Department were to grant licenses in States which prohibit garbage feeding, that would, in effect, supersede State law, and that is prohibited by the Act.

The Secretary's Advisory Committee on Swine Health Protection commented that the last three words of the first sentence and the entire second sentence in § 166.3(b) should be deleted as they were unnecessary. After reviewing this provision of the regulations, we have concluded that though this material is arguably redundant, its inclusion can do no harm, and should help, as it is intended to make it absolutely clear to the reader that swine must be strictly separated from any areas of the premises which could be contaminated by disease, including "roads and areas used to transport and unload untreated garbage."

In § 166.4(a) we have accepted the suggestion that we delete the requirement that containers for the storage of garbage be spillproof. Although desirable, a spillproof

container is virtually unattainable. In addition, if garbage is spilled, the requirements that swine be kept from garbage, any drainage therefrom, and any other associated material would still apply. These requirements should maintain the separation of swine from garbage, which is the desired result of the regulation. Accordingly, § 166.4(a) will read, "Untreated garbage at a treatment facility shall be stored in covered and leakproof containers until treated."

In § 166.5, the heading, introductory sentence, and paragraph (a) will be amended to change the word "premises" to "facility" as more appropriate under the new definitions for these terms, and to remove references to "equipment" standards. The reference to "equipment" is no longer needed as the new definition for "facility" includes equipment. These portions of § 166.5 will now read:

§ 166.5 Licensed garbage-treatment facility standards.

Garbage-treatment facilities shall be maintained as set forth in this section.

(a) *Insects and animals shall be controlled.* Accumulation of any material at the facility where insects and rodents may breed is prohibited.

Representatives of two associations proposed that insects and animals be only "reasonably controlled" rather than "controlled," as described in § 166.5(a). The Department has decided to keep the wording originally proposed. Insects and animals serve as mechanical vectors of agents of swine diseases and, therefore, must be controlled. We do not intend "control" to mean eradicate, as that is a practical impossibility. However, we do not believe that adding the word "reasonably" makes the requirement any more precise than originally worded.

Two comments raised the issue that the Department is beyond its purview by insisting that licensees conform with environmental requirements as a part of the regulations as stated in § 166.5(c) and § 166.10(c)(3). We disagree. It would be inconsistent with the intent of the National Environmental Policy Act (22 U.S.C. 4331 *et seq.*), for the Department to condone or appear to condone violations of applicable environmental laws and regulations. In addition, Section 1–101 of Executive Order 12088, issued October 13, 1978, states that "the head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency." This refers to all governmental environmental standards, Federal, State, and local. Therefore, we are retaining this requirement. However, we are changing the wording slightly. We are replacing the phrase "State and local environmental requirements" in § 166.5(c), and the phrase "all applicable State and Federal environmental regulations" in § 166.10(c)(3) with the phrase "all applicable governmental environmental regulations."

One of the two groups which made comments on § 166.5(c) also suggested that the rodenticide "1080" be approved for use by licensees to control rodents on licensed premises. However, it is not up to this Department to approve such uses. The Environmental Protection Agency (EPA) has authority in the area of toxic materials. In addition, according to officials of the EPA, the rodenticide "1080" is so toxic and lethal that it is confined to use by "certified pesticide applicators," under the Federal Insecticide, Fungicide, and Rodenticide Act, and EPA regulations.

In response to comments, § 166.7, "Cooking standards," will be revised to remove paragraph (c), which required the use of a thermometer by licensees. Two comments supported the requirement of each licensee using a thermometer to monitor garbage cooking. One of the comments suggested specifically that a recording thermometer be required. However, one comment received from the officials of a Department of Agriculture that represents approximately one-half of the known garbage treatment facilities in the United States stated that they anticipated "resistance in the purchasing of thermometers," and because of their large population of generally illiterate garbage feeders, they also anticipated "inaccuracies in the reading of the temperature while cooking." This would negate the value of this requirement. We do not agree that illiteracy necessarily means that licensees could not read a thermometer. However, we acknowledge the expense of acquiring thermometers, and the probable resistance and lack of cooperation by licensees, which would increase the difficulty of enforcing this provision. In fact a thermometer is unnecessary to confirm the required temperature because whether the garbage is actually boiling can be confirmed by visual observation. Therefore, the proper cooking of garbage can be achieved without the use of a thermometer, and we have deleted this provision. It will be the responsibility of the inspector to verify the adequacy of cooking by correlating visible signs observed by the licensee with actual temperature readings.

One comment suggested that vehicles used to transport untreated garbage be cleaned and disinfected not only before hauling animals but also before hauling treated garbage. The Department agrees that this comment has merit except as the vehicles in which the garbage is treated. If such vehicles, other than those which have also been used to treat the garbage, are not cleaned and disinfected before hauling treated garbage the treated garbage could be contaminated by the untreated garbage residue, and the treated garbage could then spread disease. This would defeat the purpose of the regulations. However, vehicles which are used to haul untreated garbage, but also used to treat such garbage, should be exempted as they pose no threat of disease spread by virtue of their use as a treatment container. This exemption also appears in § 166.4, which concerns the storage of garbage. Accordingly, § 166.8 will read, "Vehicles used by a licensee to transport untreated garbage, except those that have also been used to treat the garbage so moved, shall not be used for hauling animals or treated garbage until cleaned and disinfected as set forth in § 166.13(c)." This, in turn, dictates a revision in § 166.13(c), as the topic of that paragraph is cleaning and disinfecting. Section 166.13(c) is, therefore, changed to add a requirement that such vehicles be cleaned and disinfected before being used to haul treated garbage unless they were also used to treat the garbage hauled therein.

A spokesman for a State Department of Agriculture objected to the keeping of records as required in § 166.9(a). The only requirement for recordkeeping is that the date and destination of any garbage that is removed from the licensee's premises shall be recorded. Experience with the industry indicates to the Department that less than 1 percent of licensees would ever have cause to remove garbage or allow garbage to be removed from their premises as the vast bulk of garbage treated by would-be licensees is fed by them to swine on their own premises. The requirement was written into the proposal in order to provide a necessary mechanism to trace disease. The Department does not believe this is unduly burdensome on licensees. In addition, the Department believes that the recordkeeping requirement conforms to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Two comments suggested that the time limit for retaining records as described in § 166.9(d) be reduced from

1 year to 6 months. This reduction is unacceptable to the Department. In the event that retrospective epidemiologic studies are indicated in cases of covert or low-virulent disease in a population of swine, retention of records for at least 1 year would be needed to trace the disposition of any potentially infectious garbage to premises other than those of the licensee.

Several comments addressed the various ways in which the Department can respond to violations of the regulations. Many objected to certain provisions which they felt were unfair or unauthorized.

One comment from a State livestock cooperative association objected to the terms "civil penalties" and "cease and desist orders" in § 166.11(a). The comment interpreted these terms to mean that a sudden halt (cease and desist order) could be placed on a farming operation (garbage treatment facility). The comment also suggested that there should be some way to determine if a violation was accidental or willful and respond accordingly.

It is true that § 166.11(a) provides for suspension and revocation of licenses, but it does so only after notice to the licensee and after the licensee is given an opportunity for a hearing. At the hearing evidence can be presented as to the nature of the violation and any mitigating circumstances. This evidence would then be considered by the Administrative Law Judge in arriving at his decision.

In addition § 166.11(b) provides for summary suspension of licenses by the Deputy Administrator when he finds that it is necessary to protect the "public health, interest, or safety" pending the outcome of the hearing concerning the matter. One comment suggested that this provision be deleted, and stated that it was not mentioned in the Act, and the licensee is entitled to a hearing and due process of law. As explained above, this provision does not deprive the licensee of a hearing or due process of law, but it does allow the Deputy Administrator to act quickly in the event of a threat to the "public health, interest, or safety." This is authorized by section 9 of the Administrative Procedure Act, as amended (5 U.S.C. 558).

An objection was also made to the term "criminal conviction" in § 166.11(c) as being unnecessarily harsh. However, this term is clear and understandable and is used in the Act. Therefore, the Department has decided to retain it in the regulations.

One comment suggested penalties that would suspend a licensee's right to feed edible food waste, thereby mandating the securing of alternate feed sources and the subsequent economic consequences, with increasingly severe penalties for each repeat violation. Such penalties would be in lieu of the monetary penalties provided in the Act. The same comment suggested that the time between violations and whether the violation was intentional or accidental be considered. The Act specifically prescribes maximum penalties for criminal convictions and these cannot be changed without amending the Act. However, in the course of administrative proceedings, the various factors mentioned by the commentor—the time between violations and whether it was intentional or not—would be considered by the Administrative Law Judge in deciding whether to assess any civil penalties or suspend a license, and if so, how great a penalty to assess or how long to suspend a license. Such consideration is already made a part of the administrative process, as explained above, and a range of options is available.

Finally, two comments objected to the requirement that any person whose license has been revoked must wait 1 year before applying for reinstatement. One suggested that no time period be imposed. The other commentor stated that some period of time less than 1 (one) year would provide sufficient disciplinary action to discourage violators. The Department has considered this problem at length and believes that it is appropriate for the waiting period to be 1 (one) year when a violation warranting revocation has occurred. The Department believes that revocation should be for at least 1 (one) year in order to preclude unnecessary proceedings regarding fitness if the licensee should reapply in less than 1 (one) year. It should be noted here that a violation may not be deemed serious enough to warrant revocation and in that case the violator's license may be suspended for some period less than 1 (one) year.

Two comments received stated that it was not necessary for each inspector to have a *numbered* official badge or a *numbered* identification card as sufficient means of identification to entitle access during normal business hours to the facility for purposes of inspection (§ 166.12(a)). The Department issues numbered official badges and numbered identification cards to its inspectors in order to identify them to the public. The regulations merely explain the existing Federal identification system. However, many States may not issue such numbered identification to its employees. As we are convinced that numbering itself is not vital, we are changing this section to delete that requirement.

One comment suggested that the photographing of the licensee's premises as described in § 166.12(a)(5), be allowed with permission of the licensee and only when the photographs will be used as evidence in a hearing. Another individual expressed agreement with the taking of photographs; however, they recommended that all photos taken be given to the licensee within 7 days from the time they were taken and such photos are not to be disseminated to the public. The Department has considered these comments and has decided to retain the requirement that the licensees allow inspectors to take photographs, but will change the regulations to state that copies will be provided to the licensee within 14 days. Accordingly, § 166.12(a)(5) will now read, "take photographs. A copy of each photograph will be provided to the licensee within 14 days." The basic provision for photographs is retained as this is a major enforcement tool. A licensee who was suspected or guilty of a violation would be unlikely to give inspectors permission to photograph, this cannot be made a matter of obtaining permission, but the licensee must be required to allow photographs to be taken. In general, photographs and other Government documents are not "disseminated to the public" and such photographs would not normally be disseminated. However, under the Freedom of Information Act (FOIA), such documents would be open to the public once an investigative file was closed, or it is made public, such as introducing it in evidence at the hearing.

Two commentors expressed concern that the Department keep information acquired in accordance with § 166.12(d), regarding sources of garbage, in confidence within the limits of the FOIA and the needs of disease control. Further, they suggested that this information be employed only for investigation of disease problems. The Department intends to use this information primarily for such restricted use. However, it will also be used for enforcement purposes, which are needed to ensure that the regulations are effective in controlling disease. This information will be kept in confidence, within the limits imposed by disease control activities, enforcement of the regulations, and the FOIA.

For the sake of clarity, the wording in § 166.13(b) and (c) has been revised by removing, "* * * as not to expose livestock to any disease that might be contained therein; * * *" and inserting in its place, "as not to allow animal

contact with such material; * * *" The word "therein" at the end of the deleted material referred to "litter, garbage, manure, and other organic material" which can carry disease. The replacement phrase is written to make it clear what "therein" referred to, and to make it clear that "expose" means "contact." Also, the wording of the last sentence in § 166.13(b) has been amended to remove "* * * or that less encompassing corrective measures would be sufficient to remedy the situation." This revision still allows an official to authorize an exemption from the requirements to clean and disinfect in cases where no threat to the U.S. swine industry exists while deleting uninformative and unnecessary material from the regulations.

Finally, the word "facility" was changed in § 166.13(b) to "premises" in accordance with the new definitions. Accordingly, § 166.13(b) would read as follows: "All premises at which garbage has been fed to swine in violation of the Act or regulations in this part shall, prior to continued use for swing feeding purposes, be cleaned and disinfected under the supervision of an inspector or an accredited veterinarian as follows: Empty all troughs and other feeding and watering appliances, remove all litter, garbage, manure, and other organic material from the floors, posts, or other parts of such equipment, and handle such litter, garbage, manure, and other organic material in such manner as not to allow animal contact with such material; clean all surfaces with water and detergent and saturate the entire surface of the equipment, fencing, troughs, chutes, floors, walls, and all other parts of the facilities, with a disinfectant prescribed in § 166.13(a). An exemption to the requirements of this paragraph may be given by the Deputy Administrator, or in States with primary enforcement responsibility, by the State animal health official, when it is determined that a threat to the swine industry does not exist."

For the purpose of clarification, § 166.14(b) will be amended to remove, "* * * The public may contact the following State and Federal offices concerning the feeding of garbage to swine in these States:" This basic information, though without specific addresses, which change frequently, will be placed in a new paragraph (e) of § 166.14 and will cover not only those States that allow garbage treatment and feeding but also those States that prohibit the practice. State animal health officials and, particularly, State veterinarians are the appropriate individuals to contact in most States. Even in those States where the responsibility for the garbage (treatment or prohibition) program is assigned to another agency, the public could still contact the State animal health officials or State veterinarians or, of course, the U.S. Department of Agriculture, who can then direct their inquiries to the appropriate officials. The new paragraph would read, "The public may contact the Area Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA) in the State concerned or the State animal health official (usually the State Veterinarian), or the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Room 870, 6505 Belcrest Road, Hyattsville, Maryland 20782, concerning the feeding of garbage to swine."

Also a new paragraph (d) is added to § 166.14. This paragraph will list those States which issue licenses under cooperative agreements with APHIS for treating garbage that is to be fed to swine, but which do not have primary enforcement responsibility. This additional list of States is needed to give the public further information on whom to contact in their State with regard to this program and to clarify what sort of program exists in each State.

One comment suggested that an entire section be inserted into the regulations to be referenced as § 166.14, "State participation." This section would explain responsibilities of the various States. Further, this commentor suggested that § 166.14, "State status" be redesignated as "§ 166.15." We believe we have, by adding subparagraph (d) to § 166.14, satisfied this commentor's concerns. In addition, if taken literally, adoption of this suggestion would result in two duplicative sections in the regulations.

Comments were received that directly addressed the need for amending the Act. The publication of the proposed rulemaking was not intended to be the forum to receive comments concerning amending the Act itself. While such comments are irrelevant to this rulemaking proceeding, they will be considered concerning whether or not to recommend amendments to the Swine Health Protection Act.

Finally, a suggestion was made to allow an individual whose license had been revoked to sell swine that had been fed untreated garbage through regular market channels after the swine were determined to be free of disease. The Act and these regulations do not address this situation. However, Title 9, Code of Federal Regulations (CFR), Part 76, requires that such swine move directly to slaughter for "special processing" (i.e., cooking).

In addition to the above changes, minor nonsubstantive editorial changes were made in the regulations for clarity and ease of reading.

List of Subjects in 9 CFR Part 166

Animal diseases, Hogs, Garbage, African swine fever, Foot-and-mouth disease, Hog cholera, Swine vesicular disease, Vesicular exanthema of swine.

Accordingly, in Title 9, Code of Federal Regulations, a new Subchapter K and Part 166 are added to read:

Subchapter K

PART 166—SWINE HEALTH PROTECTION

General Provisions

Sec.

166.1 Definitions in alphabetical order.
166.2 General restrictions.
166.3 Separation of swine from the garbage handling and treatment areas.
166.4 Storage of garbage.
166.5 Licensed garbage-treatment facility standards.
166.6 Swine feeding area standards.
166.7 Cooking standards.
166.8 Vehicles used to transport garbage.
166.9 Recordkeeping.
166.10 Licensing.
166.11 Suspension and revocation of licenses.
166.12 Licensee responsibilities.
166.13 Cleaning and disinfecting.
166.14 State status.

Authority: Sec. 511, Pub. L. 96–592, 94 Stat. 3451 (7 U.S.C. 3802); Secs. 4, 5, 9, 12, Pub. L. 96–468, 94 Stat. 2229 (7 U.S.C. 3803, 3804, 3808, 3811); 45 FR 85696, 46 FR 7266.

General Provisions

§ 166.1 Definitions in alphabetical order.

For the purposes of this part, the following terms shall have the meanings assigned them in this section. Unless otherwise required by the context, the singular form shall also import the plural and the masculine form shall also import the feminine, and vice versa. Words undefined in the following paragraphs shall have the meaning attributed to them in general usage as reflected by definitions in a standard dictionary.

Act. The Swine Health Protection Act (Pub. L. 96–468) as amended by the Farm Credit Act Amendments of 1980 (Pub. L. 96–592).

Administrator. The Administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), or any other official to whom authority has heretofore been delegated or to whom

authority may hereafter be delegated to act in his stead.

Animal and Plant Health Inspection Service (APHIS). Animal and Plant Health Inspection Service, United States Department of Agriculture.

Animals. All domesticated and wild mammalian, poultry, and fish species, and wild and domesticated animals, including pets such as dogs and cats.

Area Veterinarian in Charge. The veterinarian of Veterinary Services who is assigned by the Deputy Administrator to supervise and perform the official work of Veterinary Services in a State or States or any other official to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

Birds. All domesticated and wild avian species.

Department. The United States Department of Agriculture (USDA).

Deputy Administrator. The Deputy Administrator for Veterinary Services or any other official to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

Facility. The site and all objects at this site including equipment and structures where garbage is accumulated, stored, handled, and cooked as a food for swine and which are fenced in or otherwise constructed so that swine are unable to have access to untreated garbage.

Garbage. All waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located.

Inspector. Any inspector or veterinarian employed by the Department or by the State for the purposes of enforcing the Act and this Part.

License. A permit issued to a person for the purpose of allowing such person to operate a facility to treat garbage that is to be fed to swine.

Licensee. Any person licensed pursuant to the Act and regulations.

Person. Any individual, corporation, company, association, firm, partnership, society or joint stock company or other legal entity.

Premises. The location of a garbage treatment facility, as defined in this part, and any areas owned or controlled by the operator of the facility where swine are kept or fed by the operator.

State. The fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

State animal health official. The State animal health official responsbile for livestock and poultry disease control and eradication programs or any other official to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

Treated garbage. Edible waste for animal consumption derived from garbage (as defined in this section) that has been heated throughout at boiling or equivalent temperature (212° F. or 100° C. at sea level) for 30 (thirty) minutes under the supervision of a licensee.

Treatment. The heating of garbage to specifications as set forth in this part.

Untreated garbage. Garbage that has not been treated in accordance with the Act and these regulations.

Veterinary Services. The unit of the Animal and Plant Health Inspection Service which is assigned responsibility for the performance of functions under the Act.

§ 166.2 General restrictions.

(a) No person shall feed or permit the feeding of garbage to swine unless it is treated to kill disease organisms, pursuant to the regulations, at a facility operated by a person holding a valid license for the treatment of garbage.

(b) No person operating such a facility may be licensed to treat garbage unless he or she meets the requirements of this part designed to prevent the introduction of dissemination of any infectious or communicable disease of animals and unless the facility is so constructed that swine are unable to have access to untreated garbage or equipment and material coming in contact with untreated garbage.

(c) The regulations of this part shall not be construed to repeal or supersede State laws that prohibit feeding of garbage to swine or to prohibit any State from enforcing requirements relating to the treatment of garbage that is to be fed to swine or the feeding thereof which are more stringent than the requirements contained in this part. In a State which prohibits the feeding of garbage to swine, a Federal license under the Act will not be issued to any applicant.

§ 166.3 Separation of swine from the garbage handling and treatment areas.

(a) Access by swine to garbage handling and treatment areas shall be prevented by construction of facilities to exclude all ages and sizes of swine.

(b) All areas and drainage therefrom, used for the handling and treatment of untreated garbage shall be inaccessible to swine on the premises. This shall include the roads and areas used to transport and handle untreated garbage on the premises.

§ 166.4 Storage of garbage.

(a) Untreated garbage at a treatment facility shall be stored in covered and leakproof containers until treated.

(b) Treated garbage shall be transported to a feeding area from the treatment facility only in (1) containers used only for such treated garbage; (2) containers previously used for garbage which have been cleaned and disinfected in accordance with § 166.13 of this part; or (3) containers in which the garbage was treated.

§ 166.5 Licensed garbage-treatment facility standards.

Garbage-treatment facilities shall be maintained as set forth in this section.

(a) Insects and animals shall be controlled. Accumulation of any material at the facility where insects and rodents may breed is prohibited.

(b) Equipment used for handling untreated garbage, except for the containers in which the garbage has been treated, may not be subsequently used in the feeding of swine unless first cleaned and disinfected as set forth in § 166.13(b).

(c) Untreated garbage that is not to be fed to swine and materials in association with such garbage shall be disposed of in a manner consistent with all applicable governmental environmental regulations and in an area inaccessible to swine.

§ 166.6 Swine feeding area standards.

Untreated garbage shall not be allowed into swine feeding areas. Any equipment or material associated with untreated garbage, except for containers holding treated garbage which was treated in such containers, shall not be allowed into swine feeding areas at treatment premises until properly cleaned and disinfected as set forth in § 166.13(b).

§ 166.7 Cooking standards.

(a) Garbage shall be heated throughout at boiling (212° F. or 100° C. at sea level) for 30 (thirty) minutes.

(b) Garbage shall be agitated during cooking, except in steam cooking

equipment, to ensure that the prescribed cooking temperature is maintained throughout the cooking container for the prescribed length of time.

§ 166.8 Vehicles used to transport garbage.

Vehicles used by a licensee to transport untreated garbage, except those that have also been used to treat the garbage so moved, shall not be used for hauling animals or treated garbage until cleaned and disinfected as set forth in § 166.13(c).

§ 166.9 Recordkeeping.

(a) Each licensee shall record the destination and date of removal of all treated or untreated garbage removed from the licensee's premises.

(b) Such records shall be legible and indelible.

(c) Each entry in a record shall be certified as correct by initials or signature of the licensee or an authorized agent or employee of the licensee.

(d) Such records shall be maintained by the licensee for a period of 1 (one) year from the date made and shall be made available to inspectors upon request during normal business hours at that treatment facility.

§ 166.10 Licensing.

(a) *Application.* Any person operating or desiring to operate a treatment facility for garbage that is to be treated and fed to swine shall apply for a license on a form which will be furnished, upon request, by the Area Veterinarian in Charge or, in States with primary enforcement responsibility, by the State animal health official in the State in which the person operates or intends to operate. When a person operates more than one treatment facility, a separate application to be licensed shall be made for each facility. Exemptions to the requirements of this paragraph may be granted in States other than those with primary enforcement responsibility by the Deputy Administrator, if he finds that there would not be a risk to the swine industry in the United States.

(b) *Acknowledgement of Act and regulations.* A copy of the Act and regulations shall be supplied to the applicant at the time the applicant is given a license application. The applicant shall sign a receipt at the time of the prelicensing inspection acknowledging that the applicant has received a copy of the Act and regulations, that the applicant understands them, and agrees to comply with the Act and regulations.

(c) *Demonstration of compliance with the regulations.*

(1) Prior to licensing, each applicant shall demonstrate during an inspection of his premises, facilities, and equipment that his facilities and equipment to be used in the treatment of garbage comply with these regulations. If the applicant's facilities and equipment do not meet the standards established by the regulations, the applicant shall not be licensed and shall be advised of the deficiencies and the measures that must be taken to comply with the regulations.

(2) The licensee shall make his premises, facilities, and equipment available during normal business hours for inspections by an authorized representative of the Secretary to determine continuing compliance with the Act and regulations.

(3) The facilities and equipment of an applicant for a license shall be in compliance with all applicable governmental environmental regulations before the applicant will be licensed.

(d) *Issuance of license.* A license will be issued to an applicant when the requirements of paragraphs (a), (b), and (c) of this section have been met, provided that such facility is not located in a State which prohibits the feeding of garbage to swine; and further, that if the Deputy Administrator has reason to believe that the applicant for a Federal license is unfit to engage in the activity for which application has been made by reason of the fact that the applicant is engaging in or has, in the past, engaged in any activity in apparent violation of the Act or the regulations which has not been the subject of an administrative proceeding under the Act, an administrative proceeding shall be promptly instituted in which the applicant will be afforded an opportunity for a hearing in accordance with the rules of practice under the Act, for the purpose of giving the applicant an opportunity to show cause why the application for license should not be denied. In the event it is determined that the application should be denied, the applicant shall be precluded from reapplying for a license for 1 (one) year from the date of the order denying the application.

§ 166.11 Suspension and revocation of licenses.

(a) *Suspension or revocation after notice.* In addition to the imposition of civil penalties and the issuance of cease and desist orders under the Act, the license of any facility may be suspended or revoked for any violation of the Act or the regulations in this part. Before such action is taken, the licensee of the facility will be informed in writing of the reasons for the proposed action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding.

(b) *Summary suspension.* If the Deputy Administrator has reason to believe that any Federal licensee has not complied or is not complying with any provisions of the Act or regulations in this part and he deems such action necessary in order to protect the public health, interest, or safety, the Deputy Administrator may summarily suspend the license of such persons pending a final determination in formal proceedings and any judicial review thereof, effective upon verbal or written notice of such suspension and the reasons therefor. In the event of verbal notification, written confirmation shall follow as soon as circumstances permit. This summary suspension shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(c) The license of a person shall be automatically revoked, without action of the Deputy Administrator, upon the final effective date of the second criminal conviction of such person, as is stated in section 5(c) of the Act. The licensee will be notified in writing of such revocation by the Area Veterinarian in Charge or, in States having primary enforcement responsibility, by the State animal health official.

(d) Any person whose license has been suspended or revoked for any reason shall not be licensed in his own name or in any other manner, nor shall any of his employees be licensed for the purpose of operating the facility owned or operated by said licensee while the order of suspension or revocation is in effect. Any person whose license has been revoked shall not be eligible to apply for a new license for a period of 1 (one) year from the effective date of such revocation. Any person who desires the reinstatement of a license that has been revoked must follow the procedure for new licensees set forth in § 166.10.

166.12 Licensee responsibilities.

(a) A licensed facility shall be subject to inspections. Each inspector will be furnished with an official badge or identification card, either of which shall be sufficient identification to entitle access during normal business hours to the facility for the purposes of inspection. At such time the inspector is duly authorized to:

(1) inspect the facility, including cooker function;

(2) take samples of garbage;

(3) observe and physically inspect the health status of all species of animals on the premises;

(4) review records and make copies of such records; and

(5) take photographs. A copy of each photograph will be provided to the licensee within 14 days.

(b) A licensee shall notify an inspector immediately upon detection of illness or death not normally associated with the licensee's operation in any animal species on the licensee's premises.

(c) A licensee shall notify an inspector or the State animal health official or the Area Veterinarian in Charge, as appropriate, of any change in the name, address, management or substantial control or ownership of his business or operation within 30 (thirty) days after making such change.

(d) A licensee shall supply, upon request by an authorized representative of the Department, information concerning sources of garbage. Such information shall include the dates of supply and the names and addresses of the person and/or organization from which the garbage was received.

§ 166.13 Cleaning and disinfecting.

(a) *Disinfectants to be used.* Disinfection required under the regulations in this Part shall be performed with one of the following:

(1) a permitted brand of sodium orthophenylphenate that is used in accordance with directions on the Environmental Protection Agency (EPA) approved label.

(2) a permitted cresylic disinfectant that is used in accordance with directions on the EPA-approved label, provided such disinfectant also meets the requirements set forth in §§ 71.10(b) and 71.11 of Title 9, Code of Federal Regulations.

(3) distinfectants which are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.*), with tuberculocidal claims and labeled as efficacious against any species within the viral genus *Herpes*, that are used for purposes of this Part in accordance with directions on the EPA-approved label.

(b) All premises at which garbage has been fed to swine in violation of the Act or regulations in this part shall, prior to continued use for swine feeding purposes, be cleaned and disinfected under the supervision of an inspector or an accredited veterinarian as follows: Empty all troughs and other feeding and watering appliances, remove all litter, garbage, manure, and other organic material from the floors, posts, or other parts of such equipment, and handle such litter, garbage, manure, and other organic material in such manner as not to allow animal contact with such material; clean all surfaces with water and detergent and saturate the entire surface of the equipment, fencing, troughs, chutes, floors, walls, and all other parts of the facilities, with a disinfectant prescribed in § 166.13(a). An exemption to the requirements of this paragraph may be given by the Deputy Administrator or, in States with primary enforcement responsibility, by the State Animal Health Official, when it is determined that a threat to the swine industry does not exist.

(c) Any vehicle or other means of conveyance and its associated equipment which has been used by the licensee to move garbage, except any vehicle or other means of conveyance which also has been used to treat the garbage so moved, shall, prior to use for livestock-related or treated garbage hauling purposes, be cleaned and disinfected as follows: Remove all litter, garbage, manure, and other organic material from all portions of each means of conveyance, including all ledges and framework inside and outside, and handle such litter, garbage, manure, and other organic material in such manner as not to allow animal contact with such material; clean the interior and the exterior of such vehicle or other means of conveyance and its associated equipment with water and detergent; and saturate the entire interior surface, including all doors, endgates, portable chutes, and similar equipment with a disinfectant prescribed in § 166.13(a).

(d) The owner of such facilities and vehicles shall be responsible for cleaning and disinfecting as required under this section, and the cleaning and disinfecting shall be done without expense to the Department of Agriculture.

§ 166.14 State status.

(a) The following States prohibit the feeding of garbage to swine: Alabama, Delaware, Georgia, Idaho, Illinois, Iowa, Louisiana, Maryland, Mississippi, Nebraska, New York, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin.

(b) The following States and Puerto Rico permit the feeding of treated garbage to swine: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Hawaii, Indiana, Kansas, Kentucky, Main, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

(c) The following States have primary enforcement responsibility under the Act: [This determination has not been made].

(d) The following States issue licenses under cooperative agreements with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, but do not have primary enforcement responsibility under the Act: [This determination has not been made].

(e) the public may contact the Area Veterinarian in Charge, Veterinary Services, Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agiculture (USDA) or State animal health official (usually the State Veterinarian), or the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Room 870, 6505 Belcrest Road, Hyattsville, Maryland 20782, concerning the feeding of garbage to swine.

Done at Washington, D.C., this 28th day of October 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-30175 Filed 10-29-82; 12:59 p.m.]

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Wednesday, November 3, 1982

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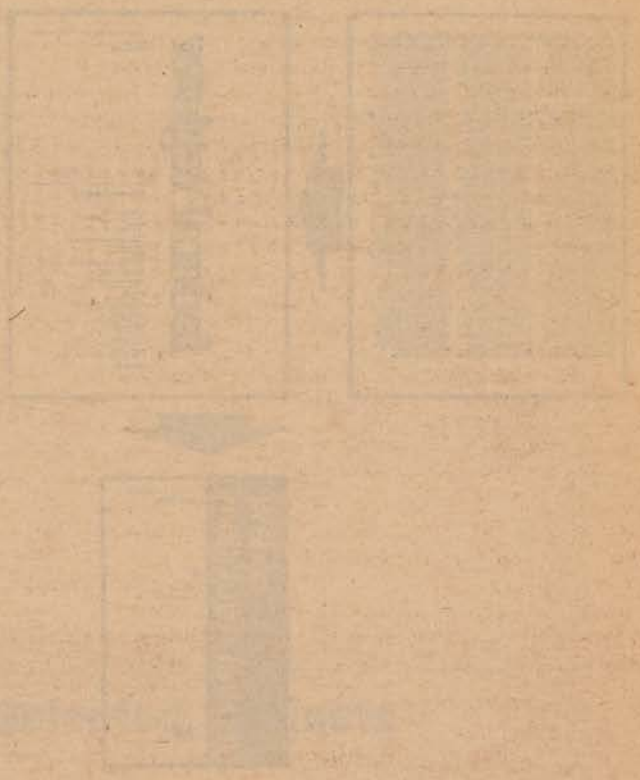

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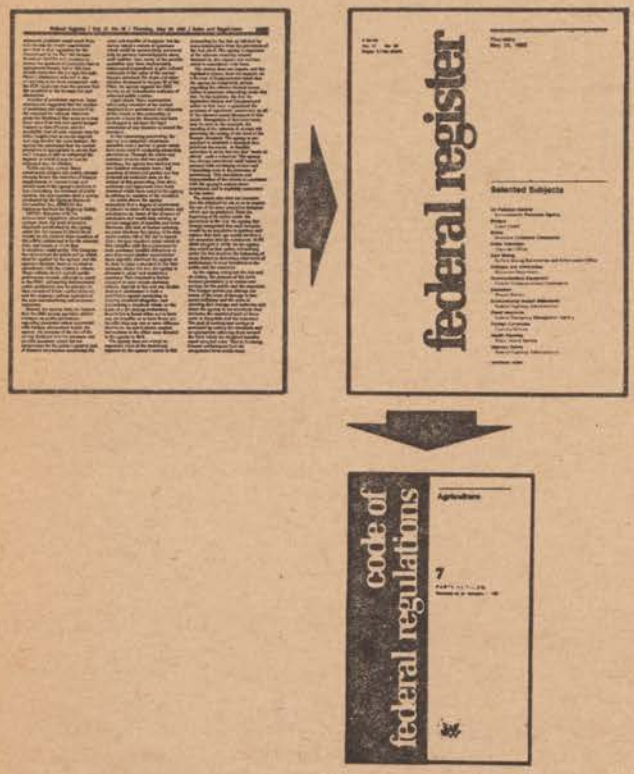

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