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Tuesday
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Selected Subjects

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Voluntary State Tax Withholding

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to implement the State tax withholding program under the provision of Section 1705 of Pub. L. 97–35, The Omnibus Budget Reconciliation Act of 1981, which requires the Office of Personnel Management to enter into agreements with the various States to permit voluntary State income tax withholding from civil service annuities.

DATE: Effective Date: November 9, 1982.

ADDRESS: Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Room 4351, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Eugene Littleford, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Section 1705 of Pub. L. 97–35, The Omnibus Budget Reconciliation Act of 1981, requires the Office of Personnel Management (OPM) to enter into agreements at the request of a State to permit voluntary State income tax withholding from civil service annuities. The purpose of these regulations is to establish a regulatory basis for the State income tax program authorized by that statute.

OPM published a notice of a proposed rulemaking in the **Federal Register** on March 5, 1982, (47 FR 9470) proposing the addition of a new Subpart S to Part 831 of Title 5, Code of Federal Regulations, entitled "State Income Tax Withholding." These proposed rules incorporated by reference OPM's "Notice of standard tax withholding agreement" published in the **Federal Register** that same date (47 FR 9621). Interested parties were given 60 days in which to submit comments, suggestions or objections to the proposed rule.

Written comments were received from State representatives, employee organizations, a national association and private individuals. Comments from the individuals and employee organizations were all favorable, and eight States and the District of Columbia have returned signed agreements.

We take the receipt of signed agreements to participate in the program as outlined to mean that our regulations and procedures were found to be acceptable to those jurisdictions. In addition, most of the written comments noted agreement that the proposed service was needed by and beneficial to the civil service annuitant population.

Several States, and the national association, expressed concerns regarding the administrative procedures outlined in the agreement. They raised four general issues about our proposal, which were:

(1) That the terms of our uniform agreement, which required the participating State to interact directly with resident annuitants who wish to have State taxes withheld, was contrary to the intent of the statute;

(2) That the administrative process described above is circuitous and impractical;

(3) That the proposal alters the normal State/withholding agent relationship which exists between a State and an employer within the State; and

(4) That the uniform agreement's requirement of access to State tax withholding records is unnecessary and contrary to State law in many cases.

OPM has carefully considered these arguments, and has found them insufficient cause to significantly modify our proposed regulations. Our reasons for this decision are as follows:

1. Congressional Intent

Our review of the legislative history of section 1705 of Pub. L. 97–35 has led us to the conclusion that our proposal is consistent with the intent of the statute. The proposed regulations and notice of agreement which implemented the voluntary State tax withholding program took into account longstanding Congressional interest in affording civil service annuitants the opportunity to make voluntary allotments from monthly benefit checks for the purpose of State income tax payments. Indeed, several bills were introduced to accomplish this specific purpose prior to the enactment of section 1705 of Pub. L. 97–35. In regard to Pub. L. 94–166, (December 23, 1975), which first established a general allotment authority from civil service annuities, House Report 94–446, (accompanying H.R. 6642), made clear the Congressional intent to provide specific statutory authority for allotments from civil service annuity checks similar to the allotments then existing for Federal employees. Through this authority, annuitants might continue, upon retirement, the convenient practice, begun as employees, of making allotments for such purposes as savings, employee organization dues, and charitable contributions. It was recognized that, as computer capacity increased, the Civil Service Commission, (now OPM), could expand the number and types of allotments without further Congressional action, thus serving the additional needs of annuitants.

Following the enactment of Pub. L. 94–166, legislation was proposed, specifically H.R. 6372 (96th Congress) and H.R. 2463 (97th Congress), to provide allotments for voluntary State tax withholding from annuity payments. The impetus for these legislative proposals was Congressional dissatisfaction with the pace at which OPM was moving to provide allotments for State tax payments under the existing authority provided in Pub. L. 94–166. Indeed, House of Representatives, Committee on Post Office and Civil Service Report No. 96–1281, (accompanying H.R. 6372), makes clear that OPM's agreement to make allotments for monthly union dues from the annuities of retirees under Pub. L. 94–166 was a compelling factor in stimulating the Committee to press for legislation that would expedite the implementation of a program of voluntary allotments for State tax from civil service annuities. H.R. 6372 was approved by the House of Representatives but was not considered by the Senate prior to the adjournment of the 96th Congress. Section 1705 of Pub. L. 97–35 merely incorporated

specific provisions of H.R. 2463 (then pending in the 97th Congress) into the Omnibus Budget Reconciliation Act of 1981, enacted August 13th of that year.

The legislative history indicates that Congress intended to implement an allotment program for State tax payments similar to the existing allotment program for organization dues or for other voluntary allotments such as savings and charitable contributions. Our State tax withholding program, as originally proposed and as implemented in this final rule, is equivalent in its division of administrative responsibility between OPM and the participating allottee (the State) to the organizational dues withholding program.

In that program, the organization enters into a voluntary agreement with OPM for withholding of dues. The organization then provides information to that subset of the annuitant population who might be interested in voluntarily electing to join the allotment program. Those annuitants who choose to participate contact the organization which in turn prepares a periodic computer tape of transactions. The pre-edited tape is processed by OPM, and the allotment is withheld from the monthly annuity. Amounts withheld are paid to the organizations, accompanied by listings and reports, on a periodic basis.

2. Administrative Practicality

While certain State officials complained that a process of this nature would be circuitous and impractical, this procedure has been successful in the existing voluntary allotment program, and we foresee a like result for the State income tax withholding program. The nine jurisdictions which have already signed agreements apparently agree that the proposed method of administration is workable at the State agency level.

For those States which, as of now, have not elected to participate, we recognize other reasons for their hesitancy besides the alleged impracticality of this program. Seventeen States do not tax civil service annuities as income. Of the remaining 33 States and the District of Columbia, 25 jurisdictions do not tax the full annuity as income. We understand that some of these taxing jurisdictions have analyzed trends in similar populations (indications are that 5% to 35% of the eligible annuitants would voluntarily elect to have State tax allotments withheld) and statistical data provided by OPM and have determined simply that the potential limited interest on the part of annuitants may not warrant their offering a withholding allotment service.

However, we believe that those States which have not yet joined the program may not have given adequate consideration to Congressional interest in providing a convenience to annuitants or to the fact that this program has the potential of reducing the demand on a State's quarterly filing and payment system. The reduction in demand in this area coupled with the regularized collections offered by a monthly allotment could produce a net reduction in a State's resource requirements due to the OPM program's lower input requirements.

3. Traditional Relationships

In regard to the objection that OPM's program alters the traditional relationship between the State and an employer within the State, in which the employer withholds taxes from the employee on the basis of State instructions, we are compelled to note that in the case of State tax allotments, OPM serves not as an employer—in the conventional sense—but as a benefit-paying agency. Moreover, the voluntary withholding program specified by Congress is completely different from State-mandated withholding from wages. While an employer generally has easy access to the employee, and on the basis of information supplied by the State and the employee can quickly and accurately determine the amount to be withheld from salary, the Civil Service Retirement System (not an employer but a Federal benefit program), has only limited access to its annuitants and no expertise in the amount of their State tax liability.

While the annuitant chooses the amount to be paid, his choice must necessarily be based on expert advice, and the only readily available source of expertise on State taxes is the State itself. This unique relationship between the taxpayer and the taxing jurisdiction is another reason why we have designed the voluntary program in the manner described by these regulations. The question of which Federal annuitants would be subjected to the State's estimated tax filing and payment requirements is determined by particulars of State law, factors which vary widely from State to State. The decision as to whether a retiree should have taxes withheld from annuity payments will be based, in large measure, by the tax liability incurred in a given State, and also on other, more personal considerations. Many questions can only be answered by competent State officials. Our proposal recognizes this vital relationship between the annuitant (as taxpayer) and the State (as a sovereign entity) while providing a reasonable alternative to the estimated tax filing and quarterly payment requirements of many States.

4. Access to State records

In the final general issue, where concern was expressed that OPM required access to all State tax records, we believe that the complaints are simply a result of a misunderstanding of OPM's intent by the several State officials. OPM is only interested in access to those records which pertain to the processing of Federal annuitants' requests as part of the allotment service. The sole purpose of this authority is to permit OPM and the Comptroller General to periodically audit records in keeping with our fiduciary responsibilities to the Civil Service Retirement Fund. We have amended the language of this requirement to avoid any further confusion.

A number of other minor issues have been raised singly by replying entities:

The 60 days a State was allowed to refund any overpayment made by OPM, if and when an agreement was terminated, was suggested to be, on occasion, insufficient time to process the repayment. Because there is no interest or penalty charged for an overdue payment under this section, we believe it is not necessary to amend the language for the possible exception.

A question as to the liability a State might incur under the agreement if it processed an erroneous request for withholding was also raised. The standard agreement states that a State will refund to the annuitant on demand any amounts withheld pursuant to an erroneous request. This provision is intended to allow for refund of erroneous withholding due to clerical error when the withholding made from the annuity is not in accordance with the annuitant's request. Erroneous withholding will not result from revocation of a prior request even if not processed within the month in which received by the State. (For the purpose of the statute, a revocation of withholding is not "received" until the processed information is received by OPM from the State.)

Completion of standard State reports required from employers within the State regarding employer withholding from wages cannot be accommodated since OPM serves, in this instance, as a benefit program rather than an employer. Every effort will be made for it to be possible for States to extract any information they need for their withholding systems from the standard OPM reports; if certain information is needed which is not provided by the

standard OPM reports OPM may provide it, on an *ad hoc* basis, when requested.

OPM cannot, as requested in the comments, notify new annuitants individually when they enter onto the annuity rolls regarding the availability of State tax withholding in their respective States. However, we will provide periodic information to employing agencies so that personnel offices in affected States may include information about the availability of allotments for State taxes in individual pre-retirement counseling sessions. Also, when we revise our general information literature, this item will be included.

Concern was raised that an agreement could be terminated by either party with 60 days notice. It was proposed that the time period be extended to 120 days, the equivalent of the time period in which OPM is required to enter into an agreement when a request has been made. OPM does not contemplate terminating any agreement whether the notice period is 60 or 120 days. The termination provision is primarily to protect the States who may, on occasion, find that further participation is detrimental to their interests due to changing circumstances. In that nine jurisdictions have already signed the agreement, it would be a disservice to them to change the termination provisions at this time.

The provision which states that OPM will "Pay the net withholding to the State on the last day of the first month following each calendar quarter," was questioned. It was suggested that payment be made on the fifteenth of the month instead. OPM must consider the lead time necessary to voucher a payment from the Treasury, reconcile accounts, and generate reports. In addition, as a provision of the 1981 Budget Reconciliation Act, generation of earned interest accruing to the Federal Treasury is contemplated by the statute. This is best accomplished by retaining the funds until the end of the month.

In order to effect the above specified changes to the standard agreement, OPM is incorporating the standard agreement into the regulations. The "Notice of standard agreement", as published March 5, 1982, allows OPM to modify the terms on a unilateral basis through the regulatory process. While the changes being made are solely for the purpose of clarity, and generally favor the participating States in interpretation, any State which has entered into the standard agreement prior to the effective date of these regulations may choose to be bound by the terms of the standard agreement in effect at the time, rather than the equivalent terms of these regulations.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because these regulations would govern only the relations between OPM and participating States and annuitants in regard to voluntary State tax withholding from civil service annuities.

List of Subjects in 5 CFR Part 831

Administrative practices and procedure, Government employees, Life insurance, Retirement, Workers' compensation.

Office Of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM is amending 5 CFR Part 831 as follows:

PART 831—RETIREMENT

1. In § 831.1705, paragraph (a)(6) is revised to read as follows:

§ 831.1705 Retirement benefits—amount, when payable.

(a)* * *

(6) Property withheld for Federal and State income tax purposes, if amounts withheld are not greater than they would be if the individual claimed all dependents to which he or she was entitled.

* * * * *

2. Subpart S is added to read as follows:

Subpart S—State Income Tax Withholding

Authority: 5 U.S.C. 8345(k).

Subpart S—State Income Tax Withholding

* * * * *

§ 831.1901 Definitions.

For the purpose of this subpart:

"Agreement" means the Federal-State agreement contained in this subpart.

"Annuitant" means an employee or Member retired, or a spouse, widow, or widower receiving survivor benefits, under the provisions of subchapter III, chapter 83 of title 5, United States Code.

"Effective date" means, with respect to a request or revocation, that the request or revocation will be reflected in payments authorized after that date, and before the next request or revocation is implemented.

"Fund" means the Civil Service Retirement and Disability Fund as established and described in section 8348 of title 5, United States Code.

"Income tax" and "State income tax" mean any form of tax for which, under a State statute, (a) collection is provided, either in imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to make such sums withheld; and (b) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of the State.

"Net recurring payment" means the amount of annuity or survivor benefits (not recurring interim payments made while a claim is pending adjudication) payable to the annuitant on a monthly basis less the amounts currently being deducted for health benefits, Medicare, life insurance, Federal income tax, overpayment of annuity, indebtedness to the Government, voluntary allotments, waivers, or being paid to a third party or a court officer in compliance with a court order or decree.

"Net withholding" means the amount of State income tax deductions withheld during the previous calendar quarter as a result of requests which designated the State as payee, less similar deductions taken from prior payments which were cancelled in the previous calendar quarter."Proper State official" means a State officer authorized to bind the State contractually in matters relating to tax administration.

"Received" means, in respect to the magnetic tape containing requests and revocations, received at the special mailing address established by OPM for income tax requests, or, for those items not so received, received at the OPM data processing center charged with processing requests.

"Request" means, in regard to a request for tax withholding, a change in the amount withheld, or revocation of a prior request, a written submission from an annuitant in a format acceptable to the State which provides the annuitant's name, Civil Service Retirement Claim

number, Social Security identification number, address, the amount to be withheld and the State to which payment is to be made, which is signed by the annuitant or, in the case of incompetence, his or her representative payee.

"State" means a State, the District of Columbia, or any territory or possession of the United States.

§831.1902 Federal-State agreements.

OPM will enter into an agreement with any State within 120 days of an application for agreement from the proper State official. The terms of the standard agreement will be sections 831.1903 through 831.1906 of this subpart. OPM and the State may agree to additional terms and provisions, insofar as those additional terms and provisions do not contradict or otherwise limit the terms of the standard agreement.

§ 831.1903 OPM responsibilities.

OPM will, in performance of this agreement:

(a) Process the magnetic tape containing State tax transactions against the annuity roll once a month at the time monthly recurring payments are prepared for the United States Treasury Department. Errors that are identified will not be processed into the file, and will be identified and returned to the State for resolution via the monthly error report. Collections of State income tax will continue in effect until the State requesting the initial action supplies either a valid revocation or change. The magnetic tape must be received 35 days prior to the date of the check in which the transactions are to be effective. For example, withholding transactions for the July 1 check must be received 5 days prior to June 1. If the magnetic tape submitted by the State cannot be read, OPM will notify the State of this fact, and if a satisfactory replacement can be supplied in time for monthly processing, it will be processed.

(b) Deduct from the regular, recurring annuity payments of an annuitant the amount he or she has so requested to be withheld, provided that:

(1) The amount of the request is an even dollar amount, not less than Five Dollars nor more than the net recurring amount. The State may set any even dollar amount above Five Dollars as a minimum withholding amount.

(2) The annuitant has not designated more than one other State for withholding purposes within the calendar year. The State can set any limit on the number of changes an annuitant may make in the amount to be withheld.

(c) Retain the amounts withheld in the Fund until payment is due.

(d) Pay the net withholding to the State on the last day of the first month following each calendar quarter.

(e) Make the following reports:

(1) A monthly report which will include all the State tax withholdings, cancellations and adjustments for the month, and also each request OPM was not able to process, with an explanation, in coded format, of the reason for rejection.

(2) A quarterly report which will include State, State address, quarterly withholdings, quarterly cancellations and adjustments, quarterly net withholdings and year-to-date amounts. Where cancelled or adjusted payments were made in a previous year, OPM shall append a listing of the cancelled or adjusted payments which shows the date and amount of each cancelled or adjusted tax withholding, and the name and Social Security identification number of the annuitant from whom it was withheld. If either party terminates the agreement and the amount of cancelled or adjusted deductions exceeds the amount withheld for the final quarter, then the quarterly report shall show the amount to be refunded to OPM and the address to which payment should be made.

(3) An annual summary report which contains the name, Social Security identification number, and total amount withheld from non-cancelled payments during the previous calendar year, for each annuitant who requested tax withholding payable to the State. In the event the annuitant had State income tax withholding in effect for more than one State in that calendar year, the report will show only the amount withheld for the State receiving the report.

(4) An annual report to each annuitant for whom State income taxes were withheld giving the amount of withholding paid to the State during the calendar year.

§ 831.1904 State responsibilities.

The State will, in performance of this agreement:

(a) Accept requests and revocations from annuitants who have designated that State income tax deductions will go to the State.

(b) Convert these requests on a monthly basis to a machine-readable magnetic tape using specifications received from OPM, and forward that tape to OPM for processing.

(c) Inform annuitants whose tax requests are rejected by OPM that the request was so rejected and of the reason why it was so rejected.

(d) Recognize that, to the extent not prohibited by State laws, records maintained by the State relating to this program are considered jointly maintained by OPM and are subject to the Privacy Act of 1974 (5 U.S.C. 552a). Accordingly, the States will maintain such records in accordance with that statute and OPM's implementing regulations at 5 CFR Part 297.

(e) Respond to requests of annuitants for information and advice in regard to State income tax withholding.

(f) Credit the amounts withheld from civil service annuities to the State tax liability of the respective annuitants, and, subject to applicable provisions of State law to the contrary, refund any balance over and above that liability to the annuitant, unless he or she should request otherwise.

(g) Surrender all tax withholding requests to OPM when this agreement is terminated or when the documents are not otherwise needed for this State tax withholding program.

(h) Allow OPM, the Comptroller General or any of their duly authorized representatives access to, and the right to examine, all records, books, papers or documents related to the processing of requests for State income tax withholding from civil service annuities.

§ 831.1905 Additional provisions.

These additional provisions are also binding on the State and OPM:

(a) A request or revocation is effective when processed by OPM. OPM will process each request by the first day of the second month following the month in which it is received, but incurs no liability or indebtedness by its failure to do so.

(b) Any amount deducted from an annuity payment and paid to the State as a result of a request is deemed properly paid, unless the annuity payment itself is cancelled.

(c) OPM will provide the State with the information necessary to properly process a request for State income tax withholding.

(d) If the State is paid withholding which is contrary to the terms of the annuitant's request, the State is liable to the annuitant for the amount improperly withheld, and subject to account verification from OPM, agrees to pay that amount to the annuitant on demand.

(e) In the case of a disputed amount in any of the reports described and authorized by this agreement, the Associate Director for Compensation of OPM will issue an accounting. If the State finds this accounting unacceptable, it may then and only then

pursue such remedies as are otherwise available.

(f) If a State receives an overpayment of monies properly belonging to the Fund, OPM will offset the overpayment from a future payment due the State. If there are no further payments due the State, OPM will inform the State in writing of the amount due. Within 60 days of the date of receipt of that communication the State will make payment of the amount due.

§ 831.1906 Agreement modification and termination.

This agreement may be modified or terminated in the following manner:

(a) Either party may suggest a modification of non-regulatory provisions of the agreement in writing to the other party. The other party must accept or reject the modification within 60 calendar days of the date of the suggestion.

(b) The agreement may be terminated by either party on 60 calendar days written notice.

(c) OPM may modify this agreement unilaterally through the rule making process described in sections 553, 1103, 1105 of title 5, United States Code.

§ 831.1907 Authority to use the Federal Personnel Manual System.

OPM may provide such further rules, procedural instructions, and operational guidance as may be necessary and proper under this Subpart and not inconsistent therewith, in the Federal Personnel Manual System.

[FR Doc. 82-30665 Filed 11-8-82; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272, 274 and 276

[Amdt. 229]

Food Stamp Program; Mail Issuance Loss Tolerance Levels

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rulemaking.

SUMMARY: This Food Stamp Program rulemaking establishes tolerance limits for mail issuance losses and procedures for holding State agencies liable for losses that exceed the limits. This rule is based on provisions of the Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97-98), and is designed to control program losses and, thus, to conserve program funding.

DATE: This rule will be effective January 1, 1983. Comments must be received on or before December 9, 1982, to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

All written comments will be available for public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 708.

FOR FURTHER INFORMATION CONTACT: Mr. O'Connor at the above address. Phone (703) 756-3429.

SUPPLEMENTARY INFORMATION: This action has been reviewed in relation to the requirements of Executive Order 12291 and Secretary's Memorandum 1512-1, and it has been determined that the action is a non-major rule as defined by that Order. It will not result in an annual effect on the economy of $100 million or more because this rule does not mandate any State activities that will significantly increase expenditures. The rule is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. State agencies whose mail issuance losses exceed tolerance levels and take no corrective action may experience some increase in program administrative costs, but it is not anticipated that such an increase will be major. Those State agencies that implement corrective action will likely experience a modest increase in costs by using more secure mail issuance systems or alternative issuance systems. Because the rule will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Samuel J. Cornelius, Administrator, Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Requirements are not placed on small businesses or small organizations. Some requirements are placed on State agencies. However, the requirements do not have significant economic impact on local governments.

This action does not contain any new reporting and recordkeeping requirements subject to OMB approval under the Paperwork Reduction Act.

This rulemaking is being published as an interim rule. Section 1312 of Pub. L. 97-98, dealing with State issuance liability, was among provisions which, under section 1338 of that law, were originally scheduled to become effective on dates prescribed by the Secretary, taking into account the need for orderly implementation (Pub. L. 97-98, Title XIII, sec 1338, 95 Stat. 1285, December 22, 1981). However, this effective date provision of Pub. L. 97-98 was modified by passage of the Food Stamp Act Amendments of 1982 which, notwithstanding section 1338, made all of the food stamp provisions of Pub. L. 97-98 not already effective, effective upon enactment of the 1982 legislation (Pub. L. 97-253, Subtitle F, Sec 192(b), Sept. 8, 1982). For this reason, Samuel J. Cornelius, Administrator, Food and Nutrition Service has determined, pursuant to 5 U.S.C. 553, that prior public comment on this rulemaking is impracticable and contrary to public interest. The rulemaking provides for the determination of mail issuance losses on a quarterly and annual basis. The rule is therefore effective January 1, 1983, the beginning of the first fiscal quarter after promulgation of the rule. Public comment is solicited on this rule for 30 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Background

Mail Issuance Loss Tolerance Limits

Some State agencies mail food stamps to participants since it can be a less expensive and more convenient alternative to over-the-counter issuance. However, some mailings are lost. Currently, State agencies are instructed to replace coupons which the recipient reports to be lost. Since individual food stamp coupons are highly negotiable, coupons claimed to be lost could be used by anyone who acquired them. The Federal government must redeem both the original and the replacement allotments, thereby doubling its costs for that issuance.

In the past, FNS has assumed full financial liability for coupons lost in the mail in mail issuance systems. Although mail issuance losses have been small in most areas using this system, some State agencies have not used adequate control measures to reduce losses. Apportioning

the liability for losses between FNS and State agencies would be a strong incentive for States to implement better control measures. The Administration, therefore, sought legislative authority to permit sharing of liability between FNS and State agencies.

The Food Stamp and Commodity Distribution Amendments of 1981 (Pub. L. 97–98) contain a provision, section 1312, making State agencies liable for mail issuance losses to the extent to be prescribed by the Secretary. This provides the basis for implementing these regulations to set mail issuance loss tolerance limits. Establishment of State agency liability for losses over a tolerance level will improve program operations in two ways. It will provide an incentive to lower losses in those project areas that are over the limit even though mail issuance is providing a cost-effective and practical issuance system. It will also point out clearly those areas where mail issuance is inappropriate project area-wide, where it should be restricted to certain participant groups such as the handicapped, or where alternative issuance systems should be considered.

This rule will transfer liability to State agencies for certain mail issuance losses. Mail losses are costing USDA more than $5 million per quarter, or more than $20 million per year, based on the most recent loss rate of .86 percent. If the 0.5 percent loss tolerance level implemented in this rulemaking had been in effect for the fiscal quarter October–December 1981, and State agencies had taken appropriate action to contain mail losses within the tolerance level, federal losses would have been reduced by over $2 million in that quarter. Projected over a full year potential federal cost-savings would be about $8.5 million.

Setting the Tolerance Level

A prime concern in establishing a loss tolerance level is to give State agencies a significant and realistic incentive to reduce losses, while taking care not to discourage mail issuance use where it is proving cost-effective and appropriate. FNS studied mail loss data collected in 1979 and 1980, and now has some preliminary data from the first quarter of fiscal year 1982. In the 1980 survey all project areas nationwide averaged a mail loss rate of 1.3 percent. Data on losses over the first quarter of fiscal 1982 show a decline in the nationwide average of about one third to 0.86 percent. With implementation of the recently issued replacement rules (46 FR 50277) we expect a further reduction in loss rates. Those rules restricted the number of times people could be given replacements for coupons not received in the mail.

This rule will establish the mail loss tolerance limit at 0.5 percent of total dollar value of mail issuance for each project area using this system. A 0.5 percent tolerance level applied to the losses reported in the 1980 survey would have placed a liability on only about one fourth (26.3 percent) of the project areas using mail issuance. This 0.5 percent limit, therefore, establishes a realistically attainable goal and provides the incentive to reduce losses to this level.

Low Volume Mail Issuance Project Areas

One serious problem raised by the use of a percentage tolerance level is that in low volume mail issuance project areas it creates a situation in which a single lost allotment would result in a liability for the State agency. For example, if one allotment of $100 was lost each month in an area with a monthly mail issuance volume of $10,000 the State agency would be liable for $50 ($100–($10,000×0.5)). This, in the Department's view, is a disproportionately harsh penalty that could result in low volume mail issuance project areas abandoning mail issuance in favor of over-the-counter issuances. Since low volume mail issuance project areas are mostly rural or, where they are not, are project areas in which mail issuance is restricted to certain segments of the participant population such as the elderly and disabled, replacing mail issuance would not be desirable. Therefore, the Department has decided to establish an absolute dollar tolerance limit for these areas.

Using data from December 1980 we examined several levels of quarterly mail issuance volume to use as a determinant of low volume mail issuance project areas. We found that, below the $300,000 quarterly level, most project areas are rural or urban with restricted use of mail issuances; above $300,000 most are urban with no restrictions on the use of mail issuance. Thus, by using $300,000 of quarterly mail issuance as the break point between high and low volume mail issuance project areas, we will be applying the absolute dollar tolerance limit primarily to rural project areas and urban project areas with restricted mail issuance. The percentage tolerance limit will apply primarily to urban project areas with unrestricted mail issuance.

With the break point between high and low volume mail issuance project areas set at $300,000 per quarter, we have established the dollar tolerance limit as $1500 of losses per quarter. This represents 0.5 percent of $300,000. Since the national average issuance to households is about $100 per month, the $1500 level also represents about five issuances per month.

While the Department is confident that the $300,000 level is a reasonable point at which to switch from a percentage tolerance limit to a dollar tolerance limit, we are interested in receiving comments on this issue. Any suggestions regarding altering the level or approaching the issue differently will be given particular attention.

Issuance Loss Reporting

One purpose of mail issuance loss tolerance levels is to point out areas with high losses where mail issuance is not cost-effective at all, or cost-effective only when used with a limited segment of the participant population. Targeting mail issuance to areas of greatest cost-effectiveness is impossible where State agencies report only Statewide issuance data and mail loss data. In addition, Statewide reporting can obscure the fact that some project area losses exceed the tolerance limit. Because other project areas would be below the limit, the high loss rate in specific projects is balanced out and remains undiscovered.

The Department realizes that some State agencies report Statewide issuance and participation data because doing so reduces paperwork and manpower requirements. We are reluctant to impose greater reporting burdens on State agencies, but we must have a means of capturing data that would permit identification of losses incurred by administrative subdivisions within these States. Requiring data at a county level (or comparable level of State subdivision) for all States would also assure equitable application of the tolerance limit from State to State. FNS will negotiate with State agencies as to the reporting level and the report format if the current report, the FNS–259 Food Stamp Mail Loss Report, is inappropriate. FNS will make a final determination on the liability assessment areas after consideration of State agency proposals and alternatives. In addition, any reporting requirement revisions subsequently deemed necessary by FNS would go into effect for the next full fiscal quarter after the revisions are communicated to the State agency. The Department is especially interested in receiving comments and suggestions on approaches to the reporting unit issue that would ensure that the liability will be assessed equitably and practicably.

Assessing Liability Amount and Billing

FNS will determine, on a quarterly basis, if the State agency has incurred liability for mail issuance losses over the tolerance level. All reporting units (project areas, or other administrative divisions within the State agency agreed to by FNS and the State agency) using mail issuance shall be evaluated by FNS for mail losses, as reported on FNS–259 or other reporting documents, if any. The amount of liability incurred by the State agency will be the amount by which each high volume reporting unit's mail issuance losses exceed 0.5 percent of that unit's total mail issuance dollar amount for the quarter. For low-volume units (those under $300,000 total quarterly mail issuance), the liability incurred will be for the amount by which mail losses exceed $1500 each quarter. State agencies will be billed for liabilities semiannually.

Grace Period for Project Areas Newly Implementing Mail Issuance System

Project areas considering implementation of a mail issuance system, and facing an immediate liability potential for losses over the tolerance limit, could be dissuaded from mail issuance before they have had the opportunity to learn from experience how high their losses may be. Additionally, project areas new to mail issuance may experience an abnormally high loss rate in the first quarter of operation because of start-up problems such as staff inexperience. Therefore, for those project areas that have not previously used some form of mail issuance, for the first fiscal quarter in which the system is implemented, or the time remaining in that quarter, the tolerance levels will be 1 percent for high-volume reporting units, or $3,000 for low-volume units. This will enable project areas to assess and modify their mail issuance procedures and to implement corrective action while subject to a lower liability. FNS is very interested in receiving comments on the necessity for and the length of this grace period.

Implementation

As stated above, this rulemaking is effective January 1, 1983, the beginning of the next fiscal quarter.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Records, Reporting requirements.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs—social programs, Reporting requirements.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Fraud, Grant programs—social programs, Penalties.

Therefore, 7 CFR Parts 272, 274 and 276 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, paragraph (49) is being added to paragraph (g) in numerical order, to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation. * * *

(49) Amendment 229. This rulemaking establishing mail issuance loss tolerance levels is effective with the fiscal quarter beginning January 1, 1983. State agency negotiations and consultation with FNS on the definition of each State's reporting units as well as the format for reporting, if other than form FNS–259, shall be concluded by January 1, 1983.

PART 274—ISSUANCE AND USE OF FOOD COUPONS

2. In § 274.3 paragraph (c)(4) is added following the end of paragraph (c)(3), to read as follows:

§ 274.3 Issuance of coupons through the mail.

* * * * *

(c) *Coupons lost in the mail prior to receipt.* * * *

(4) FNS will assume financial liability for coupons lost in the mail in all project areas, parts of project areas, or other administrative divisions within the State agency that operate a mail issuance system except as follows:

(i) The State agency shall be strictly liable to FNS for the value of all mail losses in excess of 0.5 percent of the dollar value of each project (or other) area's total quarterly mail issuance or in excess of $1,500 quarterly in low volume project areas, i.e. those areas with less than $300,000 of mail issuance in a quarter.

(ii) The liability shall be computed using data from form FNS–259 (Mail Issuance Loss Report) for the quarter.

(iii) Where the State agency reports mail issuance loss data on Statewide basis only, the State agency shall work in consultation with FNS to identify a practical administrative division below that of the State agency that will permit reporting and computation of mail issuance losses and liability assessment. FNS reserves the right to make the final determination on reporting requirements and on administrative divisions within the State for the purpose of determining and assessing liability for mail issuance losses. FNS also reserves the right to revise any such determination as necessary. Revisions will be communicated to State agencies by FNS. Liability assessments will be based on the revised reporting requirements for the next full fiscal quarter.

(iv) State agencies shall be given a grace period immediately following implementation of mail issuance in a project area during which liability will be assessed at either of two lower rates. The grace period will be the fiscal quarter, or the period of time remaining in the fiscal quarter, in which the mail issuance system was implemented, whichever is shorter, and the lower rate will be either a 1 percent tolerance level for high-volume reporting units, or $3,000 per quarter for low-volume reporting units.

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

3. In § 276.2 paragraph (b)(2)(v) is redesignated as paragraph (b)(2)(vi) and a new paragraph (v) is added. The addition reads as follows:

§ 276.2 State agency liabilities.

* * * * *

(b) *Coupon shortages, losses, unauthorized issuance and overissuances.* * * *

(2) * * *

(v) Mail issuance losses that exceed either of the appropriate tolerance levels set forth in § 274.3(c)(4) if applicable.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10551, Food Stamps)

Dated: November 2, 1982.

Robert E. Leard,

Associate Administrator, Food and Nutrition Service.

[FR Doc. 82–30586 Filed 11–8–82; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

43 CFR Part 3300

Outer Continental Shelf Minerals and Rights-of-Way Management, General; Redesignation of Regulations

Correction

In FR Doc. 82-29083 appearing on page 47006 in the issue for Friday, October 22, 1982, the redesignation table in the third column of that page, the entries under Subpart 3310 should read "3310" instead of "3300".

BILLING CODE-1505-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 931

Animals in DOD Research and Training

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 931 "Animals in DOD Research and Training" of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 169-2 has been revised. It is intended for internal guidance and has limited applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Col Brooks, USAF/SGEB, Bolling AFB, D.C. 20332, telephone (202) 767-4595.

PART 931—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 931.

List of Subjects in 32 CFR Part 931

Animals, Research, Laboratories, Medical research.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-30783 Filed 11-8-82; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60

[A-9-FRL 2241-3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) States of Arizona, California, Nevada and Territory of Guam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the state and local air pollution control agencies in Region 9. This action is necessary to inform the public of what categories each agency have been delegated. This action does not create any new regulatory requirements affecting the public. The intended effect of this notice is to publish a complete listing of agencies that have received delegation authority for NSPS/NESHAPS categories and the categories delegated to each.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose. New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 456-8236.

SUPPLEMENTARY INFORMATION: Sections 111(c) (NSPS) and 112(d) (NESHAPS) of the Clean Air Act require the Administrator of EPA to delegate authority to implement and enforce NSPS and NESHAPS to any state or local agency that submits adequate procedures. Pursuant to Sections 111(c) and 112(d), EPA, Region 9 has delegated authority to implement and enforce the NSPS and NESHAPS programs to various state and local agencies in Region 9.

The NSPS and NESHAPS programs are delegated by each category of source and pollutant, not by the total program. A request for delegation of authority for each source and pollutant category is submitted by a state or local agency to EPA where it is reviewed and delegated if it meets the proper standards.

The primary purpose of this notice is to clarify which agencies have previously been delegated the authority to administer a particular source and pollutant category and to rectify any omissions EPA has made in publishing past notices of delegation in the Federal Register.

This notice lists, in tabular form, the specific source and pollutant categories that have been delegated in Region 9.

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

(Sec. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

Dated: October 26, 1982.

Sonia F. Crow,

Regional Administrator.

PART 60—[AMENDED]

Subpart A of Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 60.4(b) is amended by adding subparagraph (D)(1) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(D) * * *

(1) The following table lists the specific source and pollutant categories that have been delegated to the air pollution control agencies in Arizona. A star (*) is used to indicate each category that has been delegated.

BILLING CODE 6560-50-M

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR ARIZONA

AIR POLLUTION CONTROL AGENCY	POLLUTANT CATEGORY	A	D	Da	E	F	G	H	I	J	K	Ka	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
		General Provisions	Fossil Fuel Fired Steam Generating Units Constructed After 8/17/71	Electric Utility Steam Generating Units Constructed After 9/18/78	Incinerators	Portland Cement Plants	Nitric Acid Plants	Sulfuric Acid Plants	Asphalt Concrete Plants	Petroleum Refineries	Storage Vessels For Petroleum Liquids Constructed After 6/11/73 Prior to 5/19/78	Storage Vessels For Petroleum Liquids Constructed After 5/18/78	Secondary Lead Smelters	Secondary Brass And Bronze Ingot Production	Iron And Steel Plants	Sewage Treatment Plants	Primary Copper Smelters	Primary Zinc Smelters	Primary Lead Smelters	Primary Aluminum Reduction Plants	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	Phosphate Fertilizer Industry: Super Phosphoric Acid Plants	Phosphate Fertilizer Industry: Diammonium Phosphate Plant	Phosphate Fertilizer Industry: Triple Super Phosphate Plant	Phosphate Fertilizer Industry: Granular Triple Super Phosphate Storage Facilities	Coal Preparation Plants	Ferroalloy Production Facilities
ARIZONA			*		*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Maricopa			*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Pima			*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

* indicates delegation

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR ARIZONA

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

AIR POLLUTION CONTROL AGENCY	POLLUTANT CATEGORY	AA	BB	CC	DD	GG	HH	KK	MM	NN	PP	A	B	C	D	E	F
		Steel Plants: Electric Arc Furnaces	Kraft Pulp Mills	Glass Manufacturing Plants	Grain Elevators	Stationary Gas Turbines	Lime Manufacturing Plants	Lead - Acid Battery Manufacturing Plants	Automobile & Light Duty Surface Coating Operations	Phosphate Rock Plants	Ammonium Sulfate Manufacturing	General Provisions	Asbestos	Beryllium	Beryllium Rocket Motor Firing	Mercury	Vinyl Chloride
ARIZONA		*	*		*	*	*						*	*	*	*	*
Maricopa		*	*	*	*	*	*		*		*		*	*	*	*	*
Pima		*	*		*	*	*						*	*		*	*

*indicates delegation

BILLING CODE 6560-50-C

2. Section 60.4(b) is amended by revising subparagraph (F)(1) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(F) * * *

(1) The following table lists the specific source and pollutant categories that have been delegated to the air pollution control agencies in California. A star (*) is used to indicate each category that has been delegated.

BILLING CODE 6560-50-M

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR CALIFORNIA

AIR POLLUTION CONTROL DISTRICT / POLLUTANT CATEGORY	A	D	Da	E	F	G	H	I	J	K	Ka	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
	General Provisions	Fossil Fuel Fired Steam Generating Units Constructed After 8/17/71	Electric Utility Steam Generating Units Constructed After 9/18/78	Incinerators	Portland Cement Plants	Nitric Acid Plants	Sulfuric Acid Plants	Asphalt Concrete Plants	Petroleum Refineries	Storage Vessels for Petroleum Liquids Constructed After 6/11/73 Prior to 5/19/78	Storage Vessels For Petroleum Liquids Constructed After 5/18/78	Secondary Lead Smelters	Secondary Brass And Bronze Ingot Production	Iron And Steel Plants	Sewage Treatment Plants	Primary Copper Smelters	Primary Zinc Smelters	Primary Lead Smelters	Primary Aluminum Reduction Plants	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	Phosphate Fertilizer Industry: Super Phosphoric Acid Plants	Phosphate Fertilizer Industry: Diammonium Phosphate Plant	Phosphate Fertilizer Industry: Triple Super Phosphate Plant	Phosphate Fertilizer Industry: Granular Triple Super Phosphate Storage Facilities	Coal Preparation Plants	Ferroalloy Production Facilities
Bay Area	*	*	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Del Norte	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Fresno	*	*		*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Great Basin		*		*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*		*	*			
Humboldt	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Kern	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Kings		*		*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Lake	*	*		*	*	*	*	*	*	*		*	*	*	*					*	*	*	*	*	*	*
Madera		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Mendocino	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Merced		*		*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Modoc		*		*	*																					
Monterey Bay	*	*		*	*	*		*		*					*	*	*	*	*	*	*	*	*	*		*
Northern Sonoma	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*
Sacramento								*		*					*											
San Bernardino		*		*	*	*	*	*		*		*	*	*	*	*				*	*	*	*	*		
San Diego	*	*	*	*				*		*	*	*	*													
San Joaquin	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
San Luis Obispo	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Santa Barbara	*	*		*	*	*	*	*		*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Shasta		*		*	*	*	*	*		*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
South Coast	*	*		*	*	*	*	*		*	*	*	*	*	*	*	*	*		*	*	*	*	*		*
Stanislaus		*		*	*	*	*	*		*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Trinity	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Tulare	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Ventura	*			*		*	*	*		*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Yolo-Solano		*							*	*																

* indicates delegation

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR CALIFORNIA											NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)					
AIR POLLUTION CONTROL DISTRICT	Steel Plants: Electric Arc Furnaces	Kraft Pulp Mills	Glass Manufacturing Plants	Grain Elevators	Stationary Gas Turbines	Lime Manufacturing Plants	Lead - Acid Battery Manufacturing Plants	Automobile & Light Duty Surface Coating Operations	Phosphate Rock Plants	Ammonium Sulfate Manufacturing	General Provisions	Asbestos	Beryllium	Beryllium Rocket Motor Firing	Mercury	Vinyl Chloride
POLLUTANT CATEGORY	AA	BB	CC	DD	GG	HH	KK	MM	NN	PP	A	B	C	D	E	F
Bay Area	*	*		*	*	*				*	*	*	*	*	*	*
Del Norte	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Fresno	*	*		*		*					*	*	*	*	*	*
Great Basin	*										*	*	*	*	*	
Humboldt	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Kern	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Kings	*	*		*		*					*	*	*	*	*	
Lake	*										*	*	*	*	*	
Madera	*	*		*		*						*	*	*	*	*
Mendocino	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Merced	*										*	*	*	*	*	
Modoc											*	*	*	*	*	
Monterey Bay	*										*	*	*	*	*	
Northern Sonoma	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Sacramento												*				*
San Bernardino	*										*	*	*	*	*	
San Diego			*	*	*						*	*	*	*	*	*
San Joaquin	*	*	*	*	*			*		*	*	*	*	*	*	*
San Luis Obispo	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Santa Barbara	*					*						*	*	*	*	
Shasta	*	*		*		*						*	*	*	*	*
South Coast	*			*	*	*				*	*	*	*	*	*	*
Stanislaus	*											*	*	*	*	
Trinity	*	*	*	*	*	*		*		*	*	*	*	*	*	*
Tulare	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Ventura	*										*	*	*	*	*	
Yolo-Solano	*											*			*	

* indicates delegation

BILLING CODE 6560-50-C

3. Section 60.4(b) is amended by adding subparagraph (DD)(1) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(DD) * * *

(1) The following table lists the specific source and pollutant categories that have been delegated to the air pollution control agencies in Nevada. A star (*) is used to indicate each category that has been delegated.

BILLING CODE 6560-50-M

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR NEVADA

AIR POLLUTION CONTROL AGENCY	POLLUTANT CATEGORY	A	D	Da	E	F	G	H	I	J	K	Ka	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
		General Provisions	Fossil Fuel Fired Steam Generating Units Constructed After 8/17/71	Electric Utility Steam Generating Units Constructed After 9/18/78	Incinerators	Portland Cement Plants	Nitric Acid Plants	Sulfuric Acid Plants	Asphalt Concrete Plants	Petroleum Refineries	Storage Vessels for Petroleum Liquids Constructed After 6/11/73 Prior to 5/19/78	Storage Vessels for Petroleum Liquids Constructed After 5/18/78	Secondary Lead Smelters	Secondary Brass and Bronze Ingot Production	Iron and Steel Plants	Sewage Treatment Plants	Primary Copper Smelters	Primary Zinc Smelters	Primary Lead Smelters	Primary Aluminum Reduction Plants	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	Phosphate Fertilizer Industry: Super Phosphoric Acid Plants	Phosphate Fertilizer Industry: Diammonium Phosphate Plant	Phosphate Fertilizer Industry: Triple Super Phosphate Plant	Phosphate Fertilizer Industry: Granular Triple Super Phosphate Storage Facilities	Coal Preparation Plants	Ferroalloy Production Facilities
NEVADA			*	*		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*			*	*	*	*
Clark		*	*		*	*			*		*	*				*	*	*	*								
Washoe			*		*	*			*		*	*				*	*	*	*							*	

* indicates delegation

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR NEVADA

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

AIR POLLUTION CONTROL AGENCY	POLLUTANT CATEGORY	AA	BB	CC	DD	GG	HH	KK	MM	NN	PP	A	B	C	D	E	F
		Steel Plants: Electric Arc Furnaces	Kraft Pulp Mills	Glass Manufacturing Plants	Grain Elevators	Stationary Gas Turbines	Lime Manufacturing Plants	Lead - Acid Battery Manufacturing Plants	Automobile & Light Duty Surface Coating Operations	Phosphate Rock Plants	Ammonium Sulfate Manufacturing	General Provisions	Asbestos	Beryllium	Beryllium Rocket Motor Firing	Mercury	Vinyl Chloride
NEVADA		*	*	*	*	*	*	*	*	*	*		*	*	*	*	*
Clark					*	*	*		*			*	*	*	*	*	*
Washoe													*	*		*	

* indicates delegation

BILLING CODE 6560-50-C

4. Section 60.4(b) is amended by adding subparagraph (AAA)(1) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(AAA) * * *

(1) The following table lists the specific source and pollutant categories that have been delegated to the air pollution control agency in Guam. A star (*) is used to indicate each category that has been delegated.

BILLING CODE 6560-50-M

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR GUAM

AIR POLLUTION CONTROL AGENCY	POLLUTANT CATEGORY	A	D	Da	E	F	G	H	I	J	K	Ka	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
		General Provisions	Fossil Fuel Fired Steam Generating Units Constructed After 8/17/71	Electric Utility Steam Generating Units Constructed After 9/18/78	Incinerators	Portland Cement Plants	Nitric Acid Plants	Sulfuric Acid Plants	Asphalt Concrete Plants	Petroleum Refineries	Storage Vessels for Petroleum Liquids Constructed After 6/11/73 Prior to 5/19/78	Storage Vessels for Petroleum Liquids Constructed After 5/18/78	Secondary Lead Smelters	Secondary Brass and Bronze Ingot Production	Iron and Steel Plants	Sewage Treatment Plants	Primary Copper Smelters	Primary Zinc Smelters	Primary Lead Smelters	Primary Aluminum Reduction Plants	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	Phosphate Fertilizer Industry: Super Phosphoric Acid Plants	Phosphate Fertilizer Industry: Diammonium Phosphate Plant	Phosphate Fertilizer Industry: Triple Super Phosphate Plant	Phosphate Fertilizer Industry: Granular Triple Super Phosphate Storage Facilities	Coal Preparation Plants	Ferroalloy Production Facilities
GUAM		*	*			*			*	*	*																

* Indicates delegation

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS (NSPS) FOR GUAM

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

AIR POLLUTION CONTROL AGENCY	POLLUTANT CATEGORY	AA	BB	CC	DD	GG	HH	KK	MM	NN	PP	A	B	C	D	E	F
		Steel Plants: Electric Arc Furnaces	Kraft Pulp Mills	Glass Manufacturing Plants	Grain Elevators	Stationary Gas Turbines	Lime Manufacturing Plants	Lead - Acid Battery Manufacturing Plants	Automobile & Light Duty Surface Coating Operations	Phosphate Rock Plants	Ammonium Sulfate Manufacturing	General Provisions	Asbestos	Beryllium	Beryllium Rocket Motor Firing	Mercury	Vinyl Chloride
No Delegation In These Categories																	

[FR Doc. 82-30781 Filed 11-8-82; 8:45 am]
BILLING CODE 6560-50-C

40 CFR Part 60

[A-10-FRL 2241-4]

Standards of Performance for New Stationary Sources; Delegation to the State of Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is announcing approval of a request dated September 29, 1982 from the State of Alaska Department of Environmental Conservation for delegation of authority for seven source categories under the New Source Performance Standards (NSPS) as approved in their regulations under Title 18, AAC 50.040 through AAC 50.900.

DATE: Effective November 1, 1982.

ADDRESSES: The related material in support of this delegation may be examined during normal business hours at the following locations:

Central Docket Section (10A–82–16), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811

FOR FURTHER INFORMATION CONTACT: Mark H. Hooper, Air Programs Branch M/S 532, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442–1949, FTS: 399–1949.

SUPPLEMENTARY INFORMATION: On December 23, 1971 (36 FR 24876), March 8, 1974 (39 FR 9308) and January 15, 1976 (41 FR 2232), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for seven categories of new stationary sources (NSPS). Section 111(c) directs the Administrator to delegate authority to implement and enforce NSPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

The State of Alaska Department of Environmental Conservation (ADEC), in a letter dated September 29, 1982, requested delegation of seven source categories under NSPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in of the following official letter to the Commissioner of the Alaska Department of Environmental Conservation, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 6 of that letter as follows:

Ernst W. Mueller,
Director, State of Alaska, Department of Environmental Conservation, Pouch 0, Juneau, Alaska 99811

Dear Mr. Mueller: This letter is for the purpose of delegating to the State of Alaska authority for implementation and enforcement of the Standards Performance of New Stationary Sources (NSPS) for the following seven source categories:

Portland cement plants
Asphalt concrete plants
Incinerators
Petroleum refinery and claus sulfur recovery plants
Petroleum refinery fuel gas combustion units
Sewage treatment plants serving a population of 10,000 or more
Coal preparation plants

The Environmental Protection Agency (EPA) has determined that the statutes for the State of Alaska and the regulations for the Alaska Department of Environmental Conservation generally provide for an adequate and effective procedure for implementation and enforcement of the NSPS by the State of Alaska and the Department of Environmental Conservation. EPA hereby delegates to the State of Alaska on behalf of the Department of Environmental Conservation effective on the date of formal adoption of the regulations, subject to the conditions set forth in paragraphs 1 through 6, the authority for:

(a) All sources in the State included in the list of source categories noted above which are subject to the standards of performance for new stationary sources promulgated in 40 CFR 60 prior to November 1, 1982.

1. Sources subject to NSPS shall be excluded from AS 40.03.170 which provides for variance from limitations contained in 18 AAC 50.040 and 18AAC50.050 in accordance with the provisions of 40 CFR § 60.11 which does not allow for variance from emission limitations.

2. Enforcement of the NSPS in the State will be primarily the responsibility of the State of Alaska Department of Environmental Conservation. If the State determines that such enforcement is not feasible and so notifies EPA, or where the State acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act as amended, with respect to sources which are subject to the NSPS.

3. Upon approval of the Regional Administrator of Region 10, the Commissioner of the Department of Environmental Conservation may subdelegate authority to implement and enforce the NSPS to air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

4. Acceptance of this delegation of presently promulgated NSPS does not commit the State of Alaska and the Department of Environmental Conservation to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's official request.

5. The Department of Environmental Conservation will utilize the methods specified in 40 CFR Part 60 in performing source tests pursuant to the regulations, as specified in Appendix A and Appendix B and as allowed by any waiver provision as amended through November 1, 1982.

6. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Governor of the State of Alaska.

A Notice announcing this delegation will be published in the **Federal Register** soon after the State regulations go into effect. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS from sources located in the State should be submitted to the State of Alaska Department of Environmental Conservation, Juneau, Alaska. Any reports which have been or may be received in this office prior to or at any time subsequent to the publication of the Notice will be forwarded to the Department of Environmental Conservation.

Since this delegation is effective immediately upon official adoption of rules, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all the terms of the delegation.

Sincerely,

John R. Spencer,
Regional Administrator.

This Notice hereby notified the public that a delegation of New Source Performance Standards to the State of Alaska took place on September 30, 1982.

Dated: September 30, 1982.

John R. Spencer,
Regional Administrator.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq.).

PART 60—[AMENDED]

Accordingly, Subpart A of Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Section 60.4(b) is amended by adding paragraph (C) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(C) State of Alaska, Department of Environmental Conservation, Pouch O, Juneau, Alaska 99811.

[FR Doc. 82-30782 Filed 11-8-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Elimination of Medicare Indirect Subsidy for Private Rooms

Correction

In FR Doc. 82-26342 beginning on page 42676 in the issue of Tuesday, September 28, 1982, make the following corrections:

On page 42682, the table entitled "Hospital E" (within § 405.452(e)(2)(iii)) appeared in the wrong format. It should have appeared as follows:

HOSPITAL E

Facts	Private accommodations	Semi-private accommodations	Total
Total charges	$20,000	$175,000	$195,000
Total days	100	1,000	1,100
Programs days	70	400	470
Medically necessary for program beneficiaries	20		20
Total general routine service costs			165,000
Average private room per diem charge ($20,000 private room charges ÷ 100 days)			$200
Average semi-private room per diem charge ($175,000 semi-private charges ÷ 1,000 days)			$175
Average per diem private room cost differential			
1. Average per diem private room charge differential ($200 private room per diem − $175 semi-private room per diem)			$25
2. Inpatient general routine cost/charge ratio ($165,000 total costs ÷ $195,000 total charges)			.8461538
3. Average per diem private room cost differential ($25 charge differential × .8461538 cost/charge ratio)			$21.15
Average cost per diem for inpatient general routine services			
4. Total private room cost differential ($21.15 average per diem cost differential × 100 private room days)			$2,115
5. Total inpatient general routine service costs net of private room cost differential ($165,000 total routine cost − $2,115 private room cost differential)			162,885
6. Average cost per diem for inpatient general routine services ($162,885 routine cost net of private room cost differential ÷ 1,100 patient days)			$148.08
Medicare general routine service cost			
7. Total routine per diem cost applicable to Medicare ($148.08 average cost per diem × 470 Medicare private and semi-private patient days)			$69,598

HOSPITAL E—Continued

Facts	Private accommodations	Semi-private accommodations	Total
8. Total private room cost differential applicable to Medicare ($21.15 average per diem private room cost differential × 20 medically necessary private room days)			$423
9. Medicare inpatient general routine service cost ($423 Medicare private room cost differential + $69,598 Medicare cost of general routine inpatient services)			$70,021

BILLING CODE: 1505-01-M

42 CFR Part 405

Medicare Program; Medicare Hospital Reimbursement Reforms: Limitations on Reimbursable Costs and the Rate of Hospital Cost Increases

Correction

In FR Doc. 82-27082 beginning on page 43282 in the issue of Thursday, September 30, 1982, make the following corrections:

1. On page 43282, second column, in the fourth line under **I. Background,** "section 1861(v)(i)" should have read "section 1861(v)(1)".

2. On page 43289, in the third column, lines 12 through 29 are misplaced and should be inserted between lines 11 and 12 in the second column of the same page.

BILLING CODE: 1505-01-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program, Georgia; Location of Offices for Filing of Applications or Complaints

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This Notice identifies the location of new offices for filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: August 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202-632-5691.

SUPPLEMENTARY INFORMATION: The Attorney General has designated additional examination points as coming under the provisions of the Voting Rights Act of 1965, as amended. This designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management has appointed Federal examiners to review the qualifications of applicants to be registered to vote.

E.O. 12291 Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities because its purpose is the addition of one county to the list of counties in the regulation concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PART 801—[AMENDED]

Accordingly, the Office of Personnel Management is amending 45 CFR Part 801, Appendix A, by adding Butts County, Georgia, to read as follows:

Georgia

County; Place for filing; Beginning date.

* * * * *

Butts; (1) Jackson—Daughty Foundation, 221 College Street; September 4, 1982; (2) Flovilla—Flovilla Community Center, Collier Street; September 4, 1982; (3) Jenkinsburg—Cleveland BBQ Restaurant Building, Corner of Highway 42 and High Falls Road; September 4, 1982.

* * * * *

(5 U.S.C. 1103; secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g))

[FR Doc. 82-30663 Filed 11-8-82; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22 and 43

[CC Docket No. 82-85; FCC 82-451]

Annual Report of Licensee in Public Mobile Radio Services (FCC Form L)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission concluded that the costs of collecting annual data from all Public Mobile Radio Service licensees outweigh the benefits derived from its availability. Therefore, it has significantly reduced the burden to all Public Mobile Radio Service licensees by eliminating the annual reporting requirement.

EFFECTIVE DATE: October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Feldman, Common Carrier Bureau (202) 632-7084.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Reporting requirements, Telecommunications.

47 CFR Part 22

Cellular radio service, Communications common carriers, Mobile radio service, Offshore radio telecommunications service, Radio common carriers.

47 CFR Part 43

Communications common carriers, Reporting requirements, Telephone.

Report and Order, Proceeding Terminated

Adopted: October 21, 1982.

Released: October 27, 1982.

Introduction

1. On February 11, 1982, the Commission adopted a Notice of Proposed Rulemaking (NPRM) proposing to modify FCC Form L by substantially reducing the amount of information required or to eliminate the reporting requirement entirely.[1] Form L is the annual report of licensees in the Domestic Public Land Mobile Radio Services (DPLMRS), required by §§ 1.785 and 43.21 of the Commission's Rules. While on their face, these rules literally apply only to the licensees in the DPLMRS, it has been customary for all licensees in the Public Mobile Radio Service (PMRS) who do not file on Form M to file Form L.[2] The *NPRM* was issued in response to a petition for rulemaking submitted by Mobilfone Service, Inc., a licensee in the DPLMRS. The petitioner alleged that the burdens imposed on licensees to complete Form L outweighed the benefits derived from it and requested therefore that the form be simplified.

2. The Commission agreed that if a reporting requirement were continued, Form L should be substantially simplified and that licensees should be required to report only such information as is necessary for the Commission to fulfill its regulatory responsibilities. The Commission stated that it would not collect information for its own sake nor would it serve as an information source for private interests. The Commission solicited comments on whether and how often the proposed Form L should be submitted, whether or not the instructions in the form were sufficiently clear, and if not, how they could be improved. Finally, the Commission temporarily suspended the Form L reporting requirement covering calendar year 1981 pending the issuance of this Order.

Summary of Comments

3. In response to the *NPRM*, comments were submitted by twenty-nine parties.[3] Joint comments were filed by two groups of licensees: Mobilfone Service, Inc., joined by ten other radio common carriers, (Mobilfone *et al.*) and Airphone Company, Inc., joined by eleven other carriers (Airphone *et al.*). Comments were also filed by the Office of Management and Budget (OMB), Telocator Network of America (Telocator), the Havilland Telephone Company (Havilland), the United States Independent Telephone Association (USITA), Dowden & Barker Accountancy Corporation, and Mr. James A. Muth, a member of the staff of the Pennsylvania Public Utility Commission. There was general agreement that the proposed Form L was far less burdensome and less costly to prepare than the current Form L. Nonetheless, approximately half the respondents felt that the reporting requirement should not be retained in any form.

4. Mobilfone *et al.* and Havilland argue that the Form L reporting requirement for DPLMRS licensees should be eliminated. In virtually identical comments, these parties state that the considerations that led the Commission to eliminate the annual broadcast financial report (FCC Form 324) also apply to FCC Form L. They point out that in the broadcast case, the Commission found "that the magnitude of the burden which the report places on licensees and on the agency itself far exceeds the benefits derived from the use of the data", that a proposal for an abbreviated version of the reporting form should be rejected, and that the agency's future information needs could be handled best by conducting special studies.

5. Mobilfone *et al.* and Havilland, in addressing themselves to the simplified version of the Form L presented in the *NPRM*, assert that none of the data specified in the proposed form—gross revenues, the number of mobile units, and the number of fixed stations for each class of service—are necessary for regulatory purposes. They base this assertion on "across-the-board agency disinterest in DPLMRS financial matters" and on their stated belief that Form L service data have never been necessary for spectrum allocation. Further, they contend that the number of fixed stations can be readily ascertained from the Commission's license files.

6. If the Commission decides to adopt a revised Form L, Mobilfone *et al.* state that the agency should (1) require only one report during each license term, (2) specify that *gross* revenues for each type of service should be reported, (3) allow the carriers to report revenue data on a fiscal year basis, and (4) clarify Part B of the proposed form to insure that licensees understand that units of plant in service rather than numbers of calls or customers are to be reported.

7. Telocator and Airphone *et al.* support the modification of Form L. Telocator states that accurate and up-to-date information on the radio common carrier industry must be readily available if the Commission is to fulfill its regulatory responsibilities in matters of frequency allocation and licensing policy. Comments by Airphone *et al.* also stress the importance of a Form L data base if the Commission is to make informed decisions on spectrum utilization. In addition, they suggest that making information on units of service available to the PMRS carriers can advance the agency's goal of promoting competition in this area.

8. Telocator and Airphone *et al.* agree that the proposed revision of Form L would substantially reduce the regulatory burden on the licensees, and they support the proposal that telephone carriers offering public mobile radio service and reporting on Form M be required to submit the information called for on the revised Form L, so as to establish a comprehensive data base. Telocator also concurs in the Commission's proposal that company-wide revenues be reported by class of service and that the report be submitted annually.

[1] FCC 82-77, released February 23, 1982. *See* 47 FR 10871, March 12, 1982.

[2] PMRS includes Domestic Public Land Mobile Radio Service, Rural Radio Service, Offshore Telecommunications Service, and Cellular Communications Service.

[3] See Appendix A.

9. Comments by Airphone *et al.* also urge the Commission to adopt follow-up procedures to insure that Form L data are filed by all carriers engaged in the provision of PMRS. They point out that the value of PMRS data base is greatly diminished if some carriers neglect to file and steps are not taken to insure compliance with the Commission's rules.

10. Mr. Muth supports the Commission's proposal, but suggests that the instructions for the proposed Form L specify that revenues by class of service be reported on a gross receipts basis and that the definitions included in the instructions state whether a service is one-way or two-way. He also suggests that the instructions be amended to specify that Part A should include data on customer-owned units.

11. USITA supports the Commission in its efforts to eliminate or minimize the reporting burdens imposed on the carriers. USITA asumes that the information required by Part A of the proposed form would be useful, but states that the Commission's need for the Part B data is not clear. It suggests that the former might be required annually and the latter less frequently—perhaps at the time of license renewal.

12. Under the provisions of Section 3504(h) of the Paperwork Reduction Act of 1980, the *NPRM* was submitted to OMB. Based on their review of the *NPRM*, OMB agrees that the Commission should seriously consider eliminating the Form L reporting requirement entirely.

13. Finally, the accounting firm of Dowden & Barker, writing on behalf of three independent telehpone companies, requests that licensees who are authorized to serve 200 or fewer mobile units be exempted from the Form L reporting requirements.

Discussion

14. In this rulemaking we have focused on two options: (1) Eliminate the annual report and (2) adopt an abbreviated Form L requiring limited service data and gross revenues. Under either option, the Commission maintains the right to request data from the carriers for use in conducting special studies tailored to specific issues. After a thorough analysis of our regulatory responsibilities and a complete review of the comments filed in response to the *NPRM*, we find it is best to eliminate the annual reporting requirement for the industry and rely on special data requests as necessary.

15. Several factors have led us to the conclusion that Form L is no longer necessary for the conduct of Commission business. Changes in Commission policy have greatly reduced our need for this large scale collection effort. The Commission no longer requires conventional DPLMRS applicants to establish their financial qualifications and for the majority of DPLMRS licensees has eliminated the filing of tariffs.[4] Likewise, the Commission has eliminated the requirement that applicants for a single initial two-way or paging frequency in a community demonstrate public need.[5] However, applicants seeking additional frequencies must provide traffic load studies for their existing facilities.

16. Furthermore, the collection effort is extremely burdensome. All licensees are required to file both financial and service data every year. Commenters have stated that completion of the current Form L is both time consuming and costly. Approximately 3000 stations currently provide data annually. The company's burden has been estimated at 30 hours per station for an industry total of 90,000 hours. In addition, the Commission spends approximately 2000 hours on Form L filings.

17. We are also rejecting the option of collecting limited data on an abbreviated Form L. First, the validity of the financial data would be virtually unverifiable. The abbreviated form would have required only gross revenues. No line items subdividing these would be reported, thereby eliminating the basic means of verifying the accuracy of the data. Second, service data are available to the Commission and the general public from construction permits and the license renewal process. The third reason for our decision not to adopt an abbreviated form relates to the fact that most commenters who favored such collection wanted the data for private use. We reject the argument that the Commission should maintain an annual report from this industry as a service to private interests when it entails substantial costs to the Commission and to the licensees.

18. Finally, we think that the Commission's continued needs for data can be adequately served in a more efficient manner. When necessary, special data requests can be tailored to particular needs. Special studies will eliminate the need for all licensees to submit annual data. This will not only reduce the costs to licensees, it will also reduce the Commission's substantial costs associated with printing, mailing, reviewing and analyzing the reports. We are convinced that our planning and policy analysis would best be served by special studies designed to address particular issues.

19. Telephone companies submitting Form M have also been required to submit data pertaining to their domestic public land mobile radio services. These data, required in Schedule 57C in Form M, are no longer deemed necessary since relevant data can be requested on an as needed basis.

20. In summary, we conclude that the costs of collecting annual data from all PMRS licensees outweigh the benefits derived from its availability to the Commission. Special studies can be conducted as the need arises. While state and local authorities might consider the information important enough for their own regulatory purposes to collect it themselves, an annual collection is no longer warranted at the federal level. To the extent that such data are needed by the private sector, private voluntary collection can be carried out.

21. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 602, 604 (Nov. 1980 Supp.) this final rule is accompanied by a final regulatory flexibility analysis addressing comments filed in this proceeding. The analysis is included as Appendix B.

Ordering Clauses

22. It is ordered, That, under the authority contained in Sections 4(i), 219, 303, 307, and 403 of the Communications Act of 1934, as amended, FCC Form L, Annual Report of Licensee in Domestic Public Land Mobile Radio Service, and Schedule 57C of Annual Report Form M for Telephone Companies, are eliminated, effective with the Form L reports for calendar year 1981 and the Form M reports for calendar year 1982.

23. It is further ordered, That Part 1, Part 22 and Part 43 of the FCC Rules and Regulations are amended as set forth in Appendix C, attached hereto, effective October 27, 1982.

24. It is further ordered, That the Secretary shall cause a copy of this Report and Order to be published in the **Federal Register.**

25. It is further ordered, That this proceeding is hereby terminated.

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

[4] *See* Elimination of Financial Qualifications, 82 FCC 2d 152 (1980); Mobile Tariff Filings, 1 FCC 2d 830 (1965); reissued at 53 FCC 2d 579 (1975).

[5] *See* Regulatory Policies and Procedures for the DPLMRS, FCC 82-201, released May 5, 1982; and *First Report and Order*, 900 MHz Paging, FCC 82-202, released May 14, 1982.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix A.—Parties Filing Comments in CC Docket No. 82-85

1. Parties filing joint comments:

a. Radio common carriers represented by Blooston and Mordkofsky: Armour Radio Communications, Inc., Blacker's Communications Divisions, Inc., Business Center Service, Inc., Contact Communications, Inc., Emerald Communications Company, LaVergne's Telephone Answering Service, Mobilfone Service, Inc., Pine Mountain Communications, Polito Communications, Inc., Radio Comm, Inc., Tel-A-Voice.

b. Radio common carriers represented by Kadison, Pfaelzer, Woodard, Quinn and Rossi: Airphone Company, Inc., Answer, Inc. of San Antonio, Communications, Inc., Dial-A-Page, Inc., Fort Smith Beepers, Inc., Instant Communications, Inc., Kelley's Radio Telephone, Inc., Metro Fone Communications, Inc. Pac-West Telecomm, Incorporated, Pacific Paging, Inc., Page Communications, Yakima Telephone Answering Service.

2. Other parties: Office of Management and Budget, Havilland Telephone Company, Telocator Network of America, United States Independent Telephone Association, Dowden & Barker Accountancy Corporation, Mr. James A. Muth (Pa. PUC staff member).

Appendix B.—Regulatory Flexibility Analysis:

I. Need for and Objectives of the Rule

1. The Commission has concluded that revisions of Form L, Annual Report of Licensee in Domestic Public Land Mobile Radio Service, as outlined in a Notice of Proposed Rule Making adopted by the Commission on February 11, 1982, would not provide data essential to the conduct of Commission business. The Commission is providing a cost effective procedure that would facilitate the collection of financial and service data for planning and policy analysis, while at the same time reducing the burden such reports have on Public Mobile Radio Service licensees.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. Issues raised: 2. Some licensees contend that the Commission's reasons for eliminating the annual broadcast financial report (FCC Form 324) should also apply to Form L, and they argue that studies could be conducted as needed. Some commenters suggested reporting on a less frequent basis, such as once during a five-year license term.

B. Assessment: 3. The Commission concluded that the arguments supporting an annual report were not persuasive and that the most cost effective means of obtaining data from PMRS licensees was to tailor special studies to the specific needs of the Commission. Additionally, we conclude that the benefit derived by the private sector from the Commission's reports of PMRS licensees does not warrant the reporting burden.

C. Changes made as a result of such comment: 4. An annual report will no longer be required and it will be replaced with special studies when they are needed.

III. Significant Alternatives Considered and Rejected

4. The *NPRM* contemplated two basic alternatives: (1) Eliminating the annual reporting requirement and replacing it with special data requests, and (2) adopting an abbreviated Form L. We determined that special requests can satisfy our needs and that an abbreviated form would be very limited in value since the financial data would be virtually unverifiable.

Appendix C

PART 1—PRACTICE AND PROCEDURE

§ 1.785 [Amended]

I. In Part 1, Practice and Procedures, § 1.785, paragraph (a)(2) is removed and paragraphs (a)(3) through (a)(6) are renumbered (a)(2) through (a)(5).

PART 22—PUBLIC MOBILE RADIO SERVICES

§ 22.300 [Removed and reserved]

II. In Part 22, Public Mobile Radio Services, § 22.300 is removed and reserved.

PART 43—REPORTS OF COMMUNICATIONS COMMON CARRIERS AND CERTAIN AFFILIATES

III. In Part 43, Reports of Communications Common Carriers and Certain Affiliates, § 43.21, paragraph (a) is revised to read as follows:

§ 43.21 Annual reports of carriers and certain affiliates.

(a) Communications common carriers having annual operating revenues in excess of $1 million. Licensees in the Domestic Public Point-to-Point Microwave Radio Service who are miscellaneous common carriers as defined by § 21.1 of this chapter, communication common carriers operating to overseas points or in the Maritime radio services and having annual operating revenues in excess of $50,000, and certain companies (as indicating in paragraph (c) of this section) directly or indirectly controlling such carriers shall file with the Commission annual reports as provided in this section. Except as provided in paragraph (c) of this section, each annual report required by this section shall be filed not later than March 31 of each year covering the preceding calendar year. It shall be filed on the appropriate report form prescribed by the Commission (see § 1.785 of this chapter) and shall contain full and specific answers to all questions propounded and information requested in the currently effective report forms. The number of copies to be filed shall be as specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible accounting officer. A copy of each annual report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection.

* * * * *

[FR Doc. 82-30671 Filed 11-8-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 22

[CC Docket No. 79-318; FCC 82-466]

Public Mobile Radio Services; Use of Specific MHz Bands for Cellular Communications Systems; and Amendment of the Commission's Rules Relative to Cellular Communications Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Order revises the procedures and the filing dates of cellular mobile radio applications. This action was taken to permit the Commission's staff to keep up in the cellular filings and avoid the applicant's having to rush to prepare applications only to have them receive no attention for months.

EFFECTIVE DATE: October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Gene Belardi, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Cellular radio service, Communications common carriers, Mobile radio service.

In the matter of an inquiry into the use of the bands 825–845 and 870–890 MHz for cellular communications systems; and amendment of Parts 2 and 22 of the Commission's rules relative to cellular communications systems.

Adopted: October 26, 1982.

Released: October 28, 1982.

By the Commission: Commissioner Rivera absent.

1. On February 25, 1982, the Commission adopted a *Memorandum Opinion and Order on Reconsideration* in this proceeding. *Reconsideration Order,* 89 FCC 2d 58 (1982). In the *Reconsideration Order,* the Commission provided, *inter alia,* that applications for the top-30 markets were to be filed on June 7, 1982, and that applications for all other markets were to be filed starting September 7, 1982. 89 FCC 2d at 87–88. In a *Memorandum Opinion and Order on Further Reconsideration (Further Reconsideration Order),* the Commission revised the dates for the filing of applications in markets beyond the top-30. 90 FCC 2d 571 (1982). Applications in markets 31–60 are now to be filed on November 8, 1982; applications for markets 61–90 are to be filed on January 7, 1983; and applications for all other markets are to be accepted starting March 8, 1983. In the *Reconsideration Order,* the Commission also provided that all competing applicants in markets beyond the top-30 must file their affirmative direct cases within 30 days of the date of the Public Notice announcing the mutually exclusive filings. 89 FCC 2d at 93. *See* also § 22.916(b)(1) of our Rules, 47 CFR 22.916(b)(1).

2. Our experience in dealing with applications for the top-30 markets since we established the dates discussed above has demonstrated that the processing of cellular applications requires significantly more staff time than previously contemplated. We have also learned, through informal contacts, that the number of applications to be filed in markets beyond the top-30, and the associated workload for the public and the staff, may be considerably greater than initially expected. As a result, we believe it is necessary to revise some of the time frames for filing applications and submitting direct affirmative cases for applications due to be filed on the future filing dates. By so doing, we can keep the cellular filings more in line with realistic projections of the staff's ability to process applications, and avoid the applicants' having to rush to prepare applications only to have them receive no attention at the Commission for months.

3. We will retain the November 8, 1982, filing date for markets 31–60. This is because we expect to be able to begin processing these applications shortly after this date, and because prospective applicants have already invested considerable time and money in preparing applications to meet this filing date. We will, however, revise the filing dates for markets beyond the top-60 because we do not expect the staff's processing of applications in those markets to keep pace with the application inflow as presently scheduled. Applications for markets 61–90 will be due on March 8, 1983, and applications for all other markets will be accepted starting June 7, 1983, with normal Public Mobile Radio Services notice and cut-off procedures being applicable.

4. We will also revise the due date for submission of affirmative direct cases for mutually exclusive applications. The affirmative direct case, and all accompanying documentary evidence, must be submitted within 90 days, rather than 30 days, of the date of the Public Notice announcing the mutually exclusive findings. This extension is necessary because many of the applicants for the next filing date are also applicants in markets 1–30 and are preparing materials needed for the upcoming hearings. Therefore, the applicants may need additional time to prepare thorough, informative, affirmative direct cases that will assist the Commission in selecting the best-qualified cellular applicants. In addition, the direct cases will not be needed until the staff is ready to work on them. The proposed filing date for the direct cases will more nearly track the time when the Commission's staff will be able to work on the direct case. While we recognize that this revision will increase slightly the time needed to arrive at decisions in comparative hearings, the benefits stemming from the change far outweigh any associated delays.

5. Accordingly, it is ordered, That cellular applications for markets below the 30 largest shall be filed according to the schedule attached in Appendix A; that applications for markets 31 through 60 must be filed on November 8, 1982; that applications for markets 61 through 90 must be filed on March 8, 1983; that applications for all other markets are to be accepted starting June 7, 1983; and that all applications, both wireline and non-wireline, are subject to the requirements of 47 CFR 22.901 *et seq.*

6. It is further ordered, That competing cellular applicants are required to submit their affirmative direct cases within 90 days of the date of Public Notice announcing mutually exclusive filings.

7. It is further ordered, that the Secretary shall cause a copy of this Order to be published in the **Federal Register.**

8. It is further ordered, pursuant to 47 U.S.C. 154 (i), 301 and 303 (r), that Title 47 of the Code of Federal Regulation is amended as set forth in Appendix B. These amendments shall become effective October 28, 1982. [1]

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

Federal Communications Commission.

Williams J. Tricarico,

Secretary.

Appendix A—Schedule for Acceptance of Cellular Applications

All applications, both wireline and non-wireline, listed in Column A, below, are due on November 8, 1982.[2] All applications, both wireline and non-wireline, listed in Column B, below, are due on March 8, 1983.[2] Applications for all other markets will be accepted starting June 7, 1983, with normal Public Mobile Radio Services notice and cut-off procedures being applicable.

Column A (markets 31–60)	Column B (markets 61–90)
Columbus, OH	Charlotte-Gastonia, NC
Hartford-New Britain-Bristol, CT.	New Brunswick-Perth Amboy-Sayreville, NJ
San Antonio, TX	Springfield-Chicopee-Holyoke, MA
Rochester, NY	Grand Rapids, MI
Sacramento, CA	Omaha, NB–IA
Memphis, TN-AR-MS	Youngstown-Warren, OH

[1] Our action today is a rule of agency procedure and practice, rather than a substantive rule, because it affects only the time when applications can be filed. Therefore, there is no need for publication or service prior to the effective date of this order.

[2] Applicants may file within two weeks prior to this date. This will accommodate concerns that because of uncertainties surrounding the mail, an application might be received before or after this date. Applications received before this date will be formally accepted for filing as of this date and will not be made available for public inspection earlier than those actually filed on this date. In the event that one, or both frequency blocks in a market are not applied for on this date, we will accept applications for those frequency blocks starting June 7, 1983, with normal Public Mobile Radio Services notice and cut-off procedures being applicable.

Column A (markets 31–60)	Column B (markets 61–90)
Louisville, KY-IN	Greenville-Spartanburg, SC
Providence-Warwick-Pawtucket, RI.	Flint, MI
Salt Lake City-Ogden, UT	Wilmington, DE-NJ-MD
Dayton, OH	Long Branch-Asbury Park, NJ
Birmingham, AL	Raleigh-Durham, NC
Bridgeport-Stamford-Norwalk-Danbury, CT.	West Palm Beach-Boca Raton, FL
Norfolk-Virginia Beach-Portsmouth, VA-NC.	Oxnard-Semi Valley-Ventura, CA
Albany-Schenectady-Troy, NY.	Fresno, CA
Oklahoma City, OK	Austin, TX
Nashville-Davidson, TN	New Bedford-Fall River, MA
Greensboro-Winston-Salem-High Point, NC.	Tucson, AZ
Toledo, OH-MI	Lansing-East Lansing, MI
New Haven-West New Haven-Waterbury-Meriden, CT.	Knoxville, TN
Honolulu, HI	Baton Rouge, LA
Jacksonville, FL	El Paso, TX
Akron, OH	Tacoma, WA
Syracuse, NY	Mobile, AL
Gray-Hammond-East Chicago, IN.	Harrisburg, PA
Worchester-Fitchburg-Leominster, MA.	Johnson City-Kingsport-Bristol, TN-VA
Northeast Pennsylvania, PA	Albuquerque, NM
Tulsa, OK	Canton, OH
Allentown-Bethlehem-Easton, PA-NJ.	Chattanooga, TN-GA
Richmond, VA	Wichita, KS
Orlando, FL	Charleston-North Charleston, SC

Appendix B

PART 22—[AMENDED]

Title 47, Part 22 of the Code of Federal Regulations, is amended as follows:

1. Section 22.916 is amended by revising paragraph (b)(1) to read as follows:

§ 22.916 Evaluation of cellular applications.

* * * * *

(b)* * *

(1) The affirmative direct case, including all documentary evidence upon which an applicant intends to rely in a comparative context, must be submitted within 90 days of the date of the Public Notice announcing the mutually exclusive filings. An original and four copies must be filed: two to the Mobile Services Division, Common Carrier Bureau, two for the Office of Administrative Law Judges, and one for the Common Carrier Bureau's Separated Trial Staff. The burden will be on each applicant to obtain copies of its mutually exclusive opponent's exhibits in a timely manner, either from the opponents or by duplicating the Commission's copies. We expect all parties to cooperate in making available materials to each other upon request.

* * * * *

[FR Doc. 82-30673 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-418; RM4123]

Radio Broadcast Services, FM Broadcast Station in Luverne, Minn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class C FM Channel 266 for FM Channel 265A at Luverne, Minnesota, and modifies the license of the Class A station, KQAAD(FM), to specify operation on the Class C channel, at the request of the licensee, Siouxland Broadcasting, Inc.

DATE: Effective: January 3, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Luverne, Minnesota).

Report and Order, Proceeding Terminated

Adopted: October 26, 1982.

Released: November 1, 1982.

1. The Commission has under consideration the Notice of Proposed Rule Making, 47 FR 32553, published July 28, 1982, proposing the substitution of Class C FM Channel 266 for Channel 265A at Luverne, Minnesota, in response to a petiton filed by Siouxland Broadcasting, Inc. ("petitioner"), licensee of Station KQAD(FM). The notice also proposed modification of the license for Channel 265A to specify operation on Class C Channel 266. Petitioner submitted comments in support of the proposal and reaffirmed its interest in the Class C channel. No oppositions to the proposal were received.

2. A site restriction of approximately 5.2 miles north of Luverne is required due to Station KOXI at Columbus, Nebraska, and unused Channel 265A at Blue Earth, Minnesota.

3. After consideration of the proposal, we believe that the public interest would be served by the substitution of channels inasmuch as it would provide service to a wide area. We have also authorized, in paragraph 5, herein, a modification of the petitioner's license for Station KQAD(FM) to specify operation on Channel 266, since there has been no other expression of interest in the Class C channel. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

4. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective January 3, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Luverne, Minn.	266

5. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Siouxland Broadcasting, Inc. for Station KQAD(FM), Luverne, Minnesota, is modified, effective January 3, 1983, to specify operation on Channel 266 instead of Channel 265A. Station KQAD(FM) may continue to operate on Channel 265A for one year from the effective date of this action or until it is ready to operate on Channel 266, whichever is earlier, unless the Commission sooner directs, subject to the following:

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

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

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-30670 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

Private Land Mobile Radio Services, Allocation of Frequencies in a Certain MHz band for use by Operational-Fixed Stations in the Automobile Emergency Radio Service

[PR Docket No. 82-121; RM-3964; FCC 82-468]

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is adopting a rule change that would allow the use of 72–76 MHz band frequencies for fixed radio link use by eligibles in the Automobile Emergency, Taxicab, Manufacturers, and Telephone Radio Services. Previously, these frequencies were not allocated to these services. The new rules will benefit the licensees of private land mobile radio systems in these radio services by maximizing their options for obtaining reliable communications in an economical, efficient, and effective manner.

DATE: Effective December 9, 1982.

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

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Industrial radio service, Land transportation radio service.

Report and Order, Proceeding Terminated

Adopted: October 28, 1982.

Released: November 2, 1982.

In the matter of allocation of frequencies in the 72–76 MHz band for use by operational-fixed stations in the automobile emergency radio service.

Background

1. On February 25, 1982, the Commission adopted a Notice of Proposed Rule Making, PR Docket 82–121, 47 FR 11731 (March 18, 1982), which proposed to amend various sections of Part 90 of the Commission's Rules and Regulations to allow the use of 72–76 MHz band frequencies by persons eligible in the Automobile Emergency, Taxicab, Manufacturers, and Telephone Maintenance Radio Services.

2. The NPRM was issued in response to a Petition for Rule Making, filed on August 6, 1981, by the American Automobile Association, Inc. (AAA), which had asked the Commission to allocate frequencies in the 72–76 MHz band for fixed station use by eligibles in the Automobile Emergency Radio Service (AERS).

3. In support of its petition, AAA had noted that automobiles often are disabled in remote locations or are involved in accidents that seriously disrupt the flow of traffic. Therefore, AAA argued, licensees who assist these motorists must be able to communicate with their mobile units in all parts of their service area with a high degree of reliability. This often means that AERS licensees must install multiple base stations at optimum locations. It is desirable, AAA maintained, to control these base stations by fixed radio links rather than by wireline, since telephone lines are often unavailable or costly for control purposes. The number of bands in which fixed links are available, however, is limited. Because it has become increasingly difficult to obtain 450 MHz frequencies for fixed base station control links,[1] AERS licensees may only operate such fixed links by applying in the Business Radio Service for 72–76 MHz band frequencies,[2] or by employing microwave frequencies above 952 MHz. AAA, therefore, asked that AERS eligibles be permitted to apply in the AERS for these fixed links.

4. In the NPRM, we indicated that there appeared to be merit to the AAA request. Also, in the interest of allowing greater flexibility in the use of available spectrum by all private radio services eligibles, we proposed to permit fixed use of 72–76 MHz band frequencies by eligibles in the private land mobile services presently denied access to this band. Specifically, we proposed to extend eligibility to the Manufacturers, Telephone Maintenance, Taxicab and Automobile Emergency Radio Services.[3] As proposed, the use of these frequencies would be subject to the same technical restrictions on geographical location, operating parameters, and interference protection criteria to television channels 4 and 5 which now govern other private land mobile services eligibles operating in the 72–76 MHz band.[4]

[1] These frequencies are available only beyond 65 miles from the centers of the top 40 urbanized areas.

[2] The use of frequencies in the 72–76 MHz band for fixed use is allowed in 15 of the 20 land mobile radio services. In the Manufacturers Radio Service it is allowed only for mobile use on a secondary basis. It is not allowed at all in the Telephone Maintenance, Taxicab, Automobile Emergency, and Radiolocation Radio Services.

[3] Use of 72–76 MHz band frequencies was not proposed for the Radiolocation Service since there does not appear to be a demonstrated need for these frequencies in that service.

[4] 47 CFR 90.252.

Summary of Comments

5. Comments supporting the proposals in the NPRM were received from AAA, the Manufacturers Radio Frequency Advisory Committee (MRFAC), the Special Industrial Radio Service Association (SIRSA), and Teletech, Inc. (TELETECH). Opposing comments were filed jointly by Phonic Ear, Inc., Com-Tek, Inc., Earmark, Inc., and Telex Communications, Inc., entities involved in the production or distribution of auditory training equipment operated under Part 15 of the Rules (hereinafter referred to collectively as the Training Companies).

6. In its comments, AAA essentially reasserted its position that AERS licensees have expanding service areas which in many cases require multiple stations utilizing radio control links, and that eligibles in the AERS should have access to the 72–76 MHz band for fixed control link requirements. MRFAC and SIRSA expressed agreement with all points in the AAA petition and indicated similar fixed needs in the radio services for which they speak. TELETECH also supported the petition and affirmed the economic advantage of 72–76 MHz equipment, stating that the 72–76 MHz band is under-utilized, and claiming that expanding the eligibility for these frequencies would reduce the future burden on 450–470 MHz and microwave frequency users.

7. In opposing comments, the Training Companies claimed that this rule making would result in increased use of the 72–76 MHz band. They maintained this is undesirable because of the adverse effect this increase would have upon hearing impaired users of auditory training devices. They argued that these devices already face interference problems from other services which at times can be very serious. They referred to a recent NPRM [5] in which the Commission proposed to eliminate place-of-use restrictions that currently limit the use of auditory training devices to institutional educational programs. They also stated that AAA has an alternative, namely, the use of frequencies above 952 MHz, and that AAA offered no reason for not using the microwave bands other than cost. Finally, they acknowledged that auditory training devices authorized under Part 15 must operate on a secondary basis to primary licensed services in the band, but claimed that the Commission cannot simply ignore auditory training devices, whether secondary or not, if a new action would

[5] Notice of Proposed Rule Making, General Docket No. 81–786, 47 FR 216 (January 5, 1982).

have a significant adverse impact on such devices.[6]

8. Reply comments were received only from AAA where they state that the Training Companies have raised, but not documented, an alleged potential for interference to auditory training devices. In addition, while stating that the devices that they sell "already face interference problems from other services which at times can be very serious," The Training Companies have not presented a single documented case of interference to an auditory training device.

Discussion

9. We have reviewed the comments and replies concerning our proposal to extend the use of 72–76 MHz frequencies to the Automobile Emergency, Taxicab, Manufacturers, and Telephone Maintenance Radio Services for fixed purposes and we have decided to adopt the rules as proposed. As an initial point, we believe the Training Companies are incorrect in their assertion that the use of the 72–76 MHz band for increased services is undesirable because of the adverse effects on users of auditory training devices. The Training Companies fail to take into consideration that eligibles in the Automobile Emergency, Telephone Maintenance, Manufacturers, and Taxicab Radio Services are all presently also eligible in the Business Radio Service. There is, therefore, no likely significant increase in the use of the band as a result of this action. It is merely an administrative procedure which permits these eligibles to apply in the radio services in which they hold primary eligibility in order to realize the advantages which flow from having the use of these frequencies coordinated among like users, rather than in the Business Radio Service.

10. Moreover, no evidence of interference from operation in this band to auditory devices has been presented to us, nor is the Commission aware of any serious interference problems. In the absence of such documentation we see no reason to deny this operational advantage. Lastly, we emphasize that all Part 15 devices operate on a secondary basis to other spectrum users.[7]

11. Therefore, after considering the record in this proceeding, we are adopting our proposal to extend the use of 72–76 MHz frequencies to the Automobile Emergency, Taxicab, Manufacturers, and Telephone Maintenance Radio Services for fixed purposes. We conclude that these rule changes will benefit the licensees of private land mobile radio systems by maximizing licensee options of securing reliable communications in an economical, efficient, and effective manner.

12. Adoption of these rules will not increase recording, record keeping, or other compliance requirements. Moreover, it will benefit small business entities operating in the private services by enabling them to obtain needed economical communications systems. We, therefore, conclude this action will have no detrimental effect on small business operating in the private land mobile services. We also conclude there is little likelihood of adversely affecting small businesses engaged in the production of auditory training devices since there has been no demonstration either that there will be any significant increased numbers of users in the band which might affect their sales, or that the likelihood of interference which might destroy the effective use of these devices is significant.

Conclusion

13. Accordingly, it is hereby ordered, that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended, effective December 9, 1982, as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

Part 90 of Title 47 CFR is amended as follows:

1. The Automobile Emergency Radio Service Frequency Table in § 90.95(c) is amended by adding the frequency 72–76 as the first entry to the table as follows:

§ 90.95 Automobile emergency radio service.

* * * * *

(c) * * *

AUTOMOBILE EMERGENCY RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz: 72–76	Operational fixed	16

* * * * *

2. A new paragraph, § 90.95(d)(16) is added to read as follows:

§ 90.95 Automobile emergency radio service

(d) * * *

(16) The frequencies available for use at operational-fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

3. The Manufacturers Radio Service Frequency Table in § 90.79(c) is amended by adding the frequency 72–76 as the first entry to the table as follows:

§ 90.79 Manufacturers radio service.

* * * * *

(c) * * *

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz: 72–76	Operational fixed	25

* * * * *

4. A new paragraph § 90.79(d)(25) is added to read as follows:

§ 90.79 Manufacturers radio service.

* * * * *

(d) * * *

(25) The frequencies available for use at operational-fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

5. The Telephone Maintenance Radio Service Frequency Table in § 90.81(c) is amended by adding the frequency 72–76 as the third entry to the table as follows:

§ 90.81 Telephone Maintenance Radio Service.

* * * * *

[6] In support of this statement, they cite *H&B Communications Corp. v. FCC*, 420 F. 2d 638, 17 RR 2d 2069 (D.C. Cir. 1969).

[7] See *Report and Order*, General Docket No. 81–786, FCC 82–331, released July 30, 1982, where the Commission said: "We, therefore, do not see a need at this time to impose any restriction on place-of-use of auditory devices. Use of the devices, however, is subject to the general requirement of operations on the basis of non-interference to licensed service. (See Section 15.3 of the Commission's Rules)".

Section 15.3, General Conditions of Operation, states: "Persons operating restricted or incidental radiation devices shall not be deemed to have any vested or recognized right to the continued use of any given frequency, by virtue of prior registration or certification of equipment. Operation of these devices is subject to the conditions that no harmful interference is caused and that interference must be accepted that may be caused by other incidental or restricted radiation devices, industrial, scientific or medical equipment, or from any authorized radio service."

(c) * * *

TELEPHONE MAINTENANCE RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* * * * *		
Megahertz.		

6. A new paragraph (d)(13) is added to § 90.81 to read as follows:

§ 90.81 Telephone maintenance radio service.

* * * * *

(d) * * *

(13) The frequencies available for use at operational-fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

7. The Taxicab Radio Service Frequency Table in § 90.93(b) is amended by adding the frequency 72–76 as the first entry to the table as follows:

§ 90.93 Taxicab radio service.

* * * * *

(b) * * *

TAXICAB RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz: 72–76	Operational fixed	14

* * * * *

8. A new paragraph (c)(14) is added to § 90.93 to read as follows:

§ 90.93 Taxicab radio service.

(c) * * *

(14) The frequencies available for use at operational-fixed stations in the band 72–76 are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

[FR Doc. 82-30668 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 81-823; RM-3474; RM-3522; RM-3877; FCC 82-455]

Amateur Radio Service, Beacon Operation in the Amateur Radio Service and; Petition for Rulemaking to Authorize Automatic Control of Beacon Operations

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: The Commission is amending the Amateur Radio Service Rules to define certain types of experimental transmissions as "beacon operation." Rules are also included to govern this type of operation, including provisions to permit beacon operation under automatic control. Amateur radio operators have been interested in expanding the use of experimental transmissions for determining radio propagation conditions and adjusting equipment, however they believe that the existing requirements for a control operator to be present at all times during such operation effectively limits this use. The revised rules will permit automatic control of beacon operations without a control operator being in attendance. Amateur operators have also expressed concern about some experimental transmissions being used to harass bona fide operations. The revised rules include provisions to curtail this abuse.

EFFECTIVE DATE: January 3, 1983.

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

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

In the matter of Beacon Operation in the Amateur Radio Service; petition for rule making to authorize automatic control of Beacon Operations.

Report and Order; Proceeding Terminated

Adopted: October 21, 1982.

Released: November 2, 1982.

1. On November 24, 1981, the Commission adopted a Notice of Proposed Rule Making [1] in the matter of *Beacon Operation in the Amateur Radio Service.* That Notice was in response to two petitions for rule making which request changes in the rules governing amateur radio station transmissions made for the purposes of "* * * measurement of emissions, temporary observation of transmission phenomena * * * and similar experimental purposes." [2] The first petition, RM-3474, submitted by the Johns Hopkins University Applied Physics Laboratory Amateur Radio Club (APLARC), seeks amendment of the Amateur Radio Service Rules (Part 97) to classify such transmissions as "Beacon Operation" and "* * * to permit unattended automatic control of amateur stations engaging in 'Beacon Operation' under specific provisions." The second petition, RM-3522, submitted by Charles Spencer *et al,* requests that the Amateur Radio Service Rules be amended to require that an amateur radio station engaging in such transmissions cease operation "* * * upon notification by the Commission (that the transmissions are) causing undue interference."

2. In its Notice of Proposed Rule Making, the Commission specifically proposed to classify beacon operation as a form of amateur radio operation defined in the Rules and to permit automatic control of amateur radio stations in beacon operation. It was also proposed to limit beacon operation, whether manually or automatically controlled, to certain portions of the amateur radio frequency bands above 28 MHz. The Commission proposed to authorize the use of only A0, A1, F0 and F1 emission types on frequencies below 450 MHz and to limit the frequency shift of F1 emissions to less than 900 Hz. A transmitter power input limitation of 100 watts was proposed for stations in beacon operation along with additional requirements for station identification to be made once each minute during operation, using a special "beacon" designator. Finally, the proposed rules included a provision prohibiting beacon operation on more than one frequency in the same band, from the same location, and a provision explicitly stating that the Commission could order the termination of any beacon operation it might deem improper. (This latter provision also explicitly delegated such authority to the Engineers-in-Charge of Commission field facilities.)

3. Virtually all of the comments on the Notice support the Commission's proposal, however there are requests for modifications. By far the greatest objection to a specific aspect of our proposal concerns our choice of frequencies for beacon operation in the 28.0–29.7 MHz frequency band. We had selected the frequencies 28.08–28.10 MHz to authorize for beacon operation since this was consistent with the frequency range requested by RM-3474 and since no widely recognized band plan addressing beacon operations in this band had come to our attention. However, virtually all of the comments recommend that we authorize the frequencies 28.20–28.30 MHz for beacon operation in place of those we had proposed.

4. The comments of the APLARC, petitioner in RM-3474, state, "since filing the petition, we have learned that

[1] 46 FR 60859, December 14, 1981.

[2] Section 97.89 paragraph (b) of the Commission's Rules.

the International Amateur Radio Union (IARU) has established a segment beginning at 28.200 MHz for beacon operation." Typical of other remarks on this issue, the comments of the American Radio Relay League, Incorporated (ARRL)[3] state that replacing our proposed frequencies with the frequencies 28.20–28.30 MHz" * * * would also preclude interference to A1 transmissions which often substantially fill the 28.0–28.1 MHz portion of the amateur 28 MHz band." The ARRL continues that "* * * it would be desirable to have the entire 28.2–28.3 segment available for increased flexibility and to allow for the IARU International Beacon Project concept of cycling each beacon onto 28.2 MHz for a segment of time each hour so that a complete picture of propagation can be gained from monitoring a single frequency." The Commission is persuaded by the overwhelming support for this change and we are adjusting our final rules in this proceeding accordingly.

5. Also with regard to our proposals for band segments to be authorized for beacon operation, some commenters request additional changes. Some comments suggest that the frequencies we have selected to authorize for the bands above 29.7 MHz should be changed slightly and in some cases comments suggest that we should authorize more spectrum for beacon operations. We stated in our Notice in this proceeding that the frequencies we were selecting to propose were chosen to correlate with the widely accepted ARRL band plans. Each of the individual requests of the commenters would be at variance with those plans. Furthermore, the comments which request that we authorize additional spectrum offer no compelling evidence for those requests. Accordingly, in view of the fact that there is no consensus in the comments as to the most desirable approach to take on this issue, we feel compelled to reaffirm our decision to authorize only those frequencies which conform to the widely-accepted band plans. We believe that the amount and placement of spectrum that we are authorizing for beacon operations should at least be adequate for the foreseeable future. If at a later time it appears that some additional adjustment is necessary, we will consider the issues then in the context of a new proceeding.

6. Most of the comments received on our Notice do not address our proposal to prohibit manually, as well as automatically, controlled beacon operations on frequencies other than those specifically designated. However, the few that do request that we reconsider that proposal. We had suggested such a restriction as a means "* * * to prevent beacon transmissions from being used to harass other operations * * * (this being) one instance of increased amateur-to-amateur malicious interference * * *" that we will not tolerate.[4] However the reply comments of the ARRL, typifying comments on this issue, state, "The Commission has stated honorable bases for such prohibition, but in the view of the League, the prohibition incidentally prevents some extremely important amateur activities which, it is believed, the Commission did not intend." The ARRL specifically cites propagation studies on frequencies below 28 MHz "* * * during short-term geophysical occurrences such as for example, eclipses of the sun and moon * * *" as being one case of such amateur activities. "Transmitter hunts" used "* * * to polish the direction-finding skills of amateurs and the development of equipment useful in detecting hidden or covertly operated transmitters * * *" is cited as another example.

7. Specifically with respect to our concern over malicious interference, the ARRL reply comments state:

> The League is sympathetic to, and appreciates the Commission's concern over instances of malicious interference, occasionally perpetrated by means of pseudo-"beacon" operation. However, as recently shown by able Administrative Law Judge Kuhlmann,[5] the distinction between bona fide beacon transmissions and those reasonably calculated to interfere with normal transmissions of radio signals in violation of §§ 97.78 and 97.125 of the Amateur Radio Service rules is easily made in most cases.

While we are still concerned by the growth of malicious interference in the Amateur Radio Service, we are persuaded by the sentiment of these comments and will not place frequency restrictions on manually-controlled beacon operations.[6] However, we wish to reiterate that we will not stand idle when illegally-caused interference occurs and accordingly, we are including in the final rules a provision which will authorize the Engineers-in-Charge of the Commission's field facilities to order the cessation of beacon operation where "* * * the station is operating improperly or causing undue interference."

8. Most of the comments support our proposed power limitation for beacon operations, including those of the APLARC. However in their comments, they state:

> With respect to power, we had proposed that 100 watts *output* be authorized for stations in Beacon Operation.[7] We did this feeling that output is a superior method of measuring RF power than is input. Nevertheless, from the standpoint of utility of beacons, there is little difference between the power we suggested and that proposed by the Commission. Therefore, other than to reiterate our contention with respect to the use of output as a measure of RF power, we have no comments relative to this portion of the subject docket.

9. The Commission is in agreement with this comment of the APLARC. We stated in our Notice that we were "* * * proposing a power input limitation since this would be * * * consistent with our current regulations regarding operating power measurements."[8] However, we are considering a complete revision of our regulations concerning power measurement techniques in a separate proceeding.[9] Our belief, as discussed in the Notice of that proceeding, is that power output is the superior measurement technique. Nonetheless, for the final rules of this proceeding, we are prescribing that the power of a station in beacon operation be measured in terms of input. We intend this as an interim measure until we have completed our findings in the proceeding dealing specifically with power measurement techniques. At that time we will reconcile the measurement specifications for beacon operations with our final decision in that proceeding.

10. The National Radio Astronomy Observatory (NRAO) and the Naval Research Laboratory (NRL) filed comments requesting that provisions be added to the rules for beacon operation to protect their operations from interference in the area known as the "National Radio Quiet Zone"

[3] The American Radio Relay League, Incorporated is an association of radio amateurs that has developed informal recommendations for situating compatible forms of operation on certain frequencies segregated from other, noncompatible forms of operation in each amateur band. These "band plans" have gained widespread acceptance by amateur operators.

[4] Notice at paragraphs 7 and 10.

[5] See *Gary W. Kerr*, —— FCC 2d —, PR Docket 81–66, FCC 82D–24, Initial Decision of Administrative Law Judge Edward J. Kuhlmann, at Paragraphs 13 and 14. (Released April 5, 1982.)

[6] However, we are clarifying our control operator requirements for stations under automatic control as well as stations under manual control.

[7] Emphasis added.

[8] Notice at paragraph 14.

[9] See Notice of Proposed Rule Making in PR Docket No. 82–624, FCC 82–410, Adopted September 1, 1982, Released October 1, 1982.

("NRQZ").[10] Their comments state, "* * * the Commission * * * now requires that proposals to establish Amateur Radio repeaters in the NRQZ must be coordinated with these Agencies before operation can commence.[11] The situation is similar here and demands like protection of these Agencies." They go on the state, "because amateur radio beacons operating in the VHF and UHF bands would often transmit lengthy periods, in some instances 24 hours per day, 7 days a week for propagation and transmission purposes, the potential harmful inteference is perhaps greater than for Amateur Repeaters." We concur that given these unique circumstances, protection for NRAO/NRL is warranted. We are including in the final rules requirements for stations in beacon operation within the NRQZ which parallel those for stations in repeater operation.

11. Finally, the Commission received a petition for rule making, RM-3877 submitted by the Middle Atlantic FM and Repeater Council (T-MARC), on March 26, 1981. That petition requests that the Commission authorize automatic control of beacon transmitters in the Amateur Radio Service. Although the subject of that petition relates directly to the issues addressed in the Notice of this proceeding, it was filed too late for consideration in the Notice. On March 12, 1982, the Commission received a "petition for dismissal" of RM-3877 from T-MARC, the original petitioner. That petition requests dismissal of the original petition, provided that the original petition is associated with the proceeding as a formal comment. We have considered the requests of RM-3877 in the context of this proceeding and with the action we are now taking those issues are moot. Consequently, in accordance with the request of T-MARC, we are dismissing their original petition.

12. Accordingly, it is ordered that effective January 3, 1983, Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as set forth in the attached Appendix. It is further ordered that to the extent specified herein, RM-3474 and RM-3522 are granted, and in all other respects they are denied. It is further ordered that RM-3877 is dismissed. It is further ordered that this proceeding is terminated. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Further information on this matter may be obtained by contacting: Steve Lett, (202) 632-4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

[10] The National Radio Quiet Zone is the area bounded by 39°15' N. on the north, 78°30' W. on the east, 37°30' N. on the south and 80°30' W. on the west.

[11] See Report and Order in SS Docket No. 78-352, 46 FR 21169, April 9, 1981.

Appendix

PART 97—[AMENDED]

Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as follows:

1. In § 97.3, paragraph (l) is revised to read as follows:

§ 97.3 Definitions.

* * * * *

(l) Amateur radio operation. Amateur radio communication conducted by amateur radio operators from amateur radio stations, including the following:

Fixed operation. Radio communication conducted from the specific geographical land location shown on the station license.

Portable operation. Radio communication conducted from a specific geographical location other than that shown on the station license.

Mobile operation. Radio communication conducted while in motion or during halts at unspecified locations.

Repeater operation. Radio communication, other than auxiliary operation, for retransmitting automatically the radio signals of other amateur radio stations.

Auxiliary operation. Radio communication for remotely controlling other amateur radio stations, for automatically relaying the radio signals of other amateur radio stations in a system of stations, or for intercommunicating with other amateur radio stations in a system of amateur radio stations.

Beacon operation. One-way radio communication conducted in order to facilitate measurement of radio equipment characteristics, adjustment of radio equipment, observation of propagation or transmission phenomena, or other related experimental activities.

Radio control operation. One-way radio communication for remotely controlling objects or apparatus other than amateur radio stations.

* * * * *

2. Also in § 97.3, the parenthetical sentence in paragraph (m)(3) is removed.

3. In § 97.61, paragraph (a) is revised and paragraph (e) is added to read as follows:

§ 97.61 Authorized frequencies and emissions.

(a) The following frequency bands and associated emissions are available to amateur radio stations for amateur radio operation, other than repeater operation, auxiliary operation and automatically-controlled beacon operation, subject to the limitations of § 97.65 and paragraph (b) of this section:

Frequency band	Emissions	Limitations (see paragraph (b))
KHz		
1800-1900	A1, A3	
1900-2000	A1, A3	1, 2
3500-4000	A1	
3500-3775	F1	
3775-4000	A3, A4, A5, F3, F4, F5	4
4383.8	A3A, A3J	13
7000-7300	A1	3, 4
7000-7150	F1	3, 4
7075-7100	A3, F3	11
7150-7300	A3, A4, A5, F3, F4, F5	3, 4
14,000-14,350	A1	
14,000-14,200	F1	
14,200-14,350	A3, A4, A5, F3, F4, F5	
21,000-21,450	A1	
21,000-21,250	F1	
21,250-21,450	A3, A4, A5, F3, F4, F5	
28,000-29,700	A1	
28,000-28,500	F1	
28,500-29,700	A3, A4, A5, F3, F4, F5	
MHz		
50.0-54.0	A1	
50.1-54.0	A2, A3, A4, A5, F1, F2, F3, F4, F5.	
51.0-54.0	A0, F0	
144.0-148.0	A1	
144.1-148.0	A0, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	
220-225	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5
420-450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5, 7
1215-1300	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5
2300-2450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 8
GHz		
3.300-3.500	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 12
5.650-5.925	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 9
10.000-10.500	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.	5
24.000-24.250	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	5, 10
48.000-50.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
71.000-76.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
165.000-170.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
240.000-250.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	
Above 300.000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P.	

* * * * *

(e) The following amateur frequency bands and emissions are available for

automatically-controlled beacon operation: 28.20–28.30 MHz, 50.06–50.08 MHz, 144.05–144.06 MHz, 220.05–220.06 MHz, 222.05–222.06 MHz and 432.07–432.08 MHz using type A0, A1, F0, F1, or A2J emissions (when type F1 or A2J emissions are employed in these bands, the radio or audio frequency shift, as appropriate, shall be less than 900 Hz); all amateur frequency bands above 450 MHz using emission types authorized under paragraph (a) of this section. Limitations of paragraph (b) of this section apply.

4. In § 97.67, paragraph (e) is added to read as follows:

§ 97.67 Maximum authorized power.

* * * * *

(e) Within the limitations of paragraph (b) of this section, the power input to the transmitter final amplifying stage of an amateur radio station in beacon operation shall not exceed 100 watts, exclusive of power for heating the cathode of a vacuum tube(s).

5. In § 97.79, paragraph (b) is revised to read as follows:

§ 97.79 Control operator requirements.

* * * * *

(b) Every amateur radio station, when in operation, shall have a control operator. The control operator shall be present at a control point of the station, except when the station is operated under automatic control. (Automatic control is only permitted where specifically authorized by the rules of this part.) The control operator may be the station licensee, if a licensed amateur radio operator, or may be another amateur radio operator with the required class of license and designated by the station licensee. The control operator shall also be responsible, together with the station licensee, for the proper operation of the station.

* * * * *

6. In § 97.84, paragraph (d) is revised and paragraph (d)(3) is added to read as follows:

§ 97.84 Station identification.

* * * * *

(d) When an amateur radio station is in repeater, auxiliary or beacon operation, the following additional requirements shall apply:

* * * * *

(3) When identifying by radiotelephony, a station in beacon operation shall transmit the word "beacon" at the end of the station call sign. When identifying by radiotelegraphy, a station in beacon operation shall transmit the fraction bar DN followed by the letters "BCN" or "B" at the end of the station call sign. This station identification shall be made at intervals not to exceed one minute during any period of operation.

* * * * *

7. A new § 97.87, is added to read as follows:

§ 97.87 Beacon operation.

(a) A station in beacon operation shall not concurrently operate on more than one frequency in the same amateur frequency band, from the same location.

(b) A station in beacon operation, either locally controlled or remotely controlled, may also be operated by automatic control when devices have been installed and procedures have been implemented to ensure compliance with the rules when the duty control operator is not present at a control point of the station.

(c) Beacon operation shall cease upon notification by any Engineer-in-Charge of a Commission field facility that the station is operating improperly or causing undue interference to other operations. Beacon operation shall not resume without prior approval of the Engineer-in-Charge.

(d) The licensee of an amateur radio station, before modifying an existing station in automatically-controlled beacon operation in the National Radio Quiet Zone, or before placing his/her station in automatically-controlled beacon operation in the National Radio Quiet Zone, shall give written notification thereof to the Director, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944. Station modification is any change in frequency, power, antenna height or directivity, or the location of the station. In such cases, the rules of § 97.85(f) (1), (2) and (3) shall apply.

8. In § 97.89, paragraph (b) is revised to read as follows:

§ 97.89 Points of communications.

* * * * *

(b) Amateur radio stations may transmit one-way signals to receiving apparatus while in beacon operation or radio control operation.

9. Section 97.91 is revised to read as follows:

§ 97.91 One-way communications.

In addition to beacon operation and radio control operation, the following kinds of one-way communications, addressed to amateur stations, are authorized and will not be construed as broadcasting: (a) Emergency communications, including bona fide emergency drill practice transmissions; (b) Information bulletins consisting solely of subject matter having direct interest to the amateur radio service as such; (c) Round-table discussions or net-type operations where more than two amateur stations are in communication, each station taking a turn at transmitting to other station(s) of the group; and (d) Code practice transmissions intended for persons learning or improving proficiency in the international Morse code.

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Proposed Rules

Federal Register
Vol. 47, No. 217
Tuesday, November 9, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota and Marketing Reglations for the 1983 Through 1985 Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth the regulations for: (1) Establishing State and farm poundage quotas and farm yields; (2) providing for transfers of quota; (3) determining undermarketings; (4) identification of marketings; (5) determining marketing penalties; and (6) handling marketing violations. These regulations are necessary in order to implement amendments made to the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 by the Agriculture and Food Act of 1981 with respect to the 1983 through 1985 crops of peanuts. The most significant provisions of this proposed regulation are those relating to the reduction of individual farm poundage quotas for those farms from which the farm poundage quota was leased to another farm and produced by a different farm operator.

DATES: Comments must be received before December 27, 1982, in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 and 4:45, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David L. Kincannon (ASCS) 202–382–0154. The Preliminary Impact Analysis describing the options considered in developing this proposed rule is available upon request.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this proposed rule applies are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

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

Background

The Agriculture and Food Act of 1981 (the "1981 ACT"), which was enacted on December 22, 1981, amended the Agricultural Adjustment Act of 1938 (the "1938 Act") and the Agricultural Act of 1949 (the "1949 Act") to make significant changes in the administration of the peanut production and price support program. The changes required by the 1981 Act were incorporated into the regulations governing 1982 poundage quotas (7 CFR 729.111 through 729.164) in a final rule published April 13, 1982, (47 FR 15966) and in an interim rule, governing the marketing of peanuts (7 CFR 729.165 through 729.210) published August 31, 1982 (47 FR 38259).

This proposed regulation sets forth the procedures for the establishment of farm poundage quotas and other terms and conditions of the program affecting the production and marketing of peanuts. This includes transfers of quotas, determination of yields, identification of marketings, and the determination, assessment, and review of marketing penalties. These regulations are basically the same as the regulations that are applicable to the 1982 crop, with the exception of the manner in which the individual farm poundage quotas will be determined and the dates for making transfers of farm poundage quota. These regulations will be codified at 7 CFR 729.211 through 729.306.

Poundage quotas establish eligibility for quota price support and are an important part of a farmer's financial planning. Since the planting season for peanuts begins in late March, farmers need to know the details of the peanut program authorizing price support and poundage quotas for the 1983 through 1985 crops of peanuts as soon as possible. Therefore, it has been determined that the comment period with respect to this rule shall be limited to a period of 45 days after the publication of this document in the **Federal Register** in order that comments received can be reviewed and a Final Rule can be published at the earliest possible date.

Statutory Requirements

Section 358 of the 1938 Act provides that there shall be a national poundage quota for each marketing year as follows: 1,200,000 tons for 1982; 1,167,300 tons for 1983; 1,134,700 tons for 1984; and 1,100,000 tons for 1985. The national poundage quota is apportioned to individual States on the basis of State's share of the national poundage quota for the 1981 marketing year. The State poundage quota is then apportioned to individual farms. Section 358 (1)(2) of the 1938 Act provides that the yearly reductions in the State poundage quotas:

> * * * shall insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, be accomplished by reducing the farm poundage quota for each farm in the State to the extent that the farm poundage quota has not been produced on such farm. For purposes of the foregoing sentence, the farm poundage quota shall be considered as not having been produced on a farm to the extent that (i) during any crop year immediately preceding the crop year for which the adjustment is being made, such quota was not actually produced on the farm because there was inadequate tillable cropland available on the farm to produce such quota; or (ii) during any two of the three crop years immediately preceding the crop year for which the adjustment is made, (I) such quota was not actually produced for any

other reason (other than natural disasters or such other reasons as the Secretary may prescribe), or (II) such quota was produced but by another operator on a farm to which the poundage quota (or the acreage allotment upon which such poundage quota was based) was transferred by lease. To achieve the reduction in the State poundage quota in any marketing year, the reductions in farm poundage quotas shall be made first under clause (i) of the preceding sentence and, if necessary, under clause (ii)(I) and then clause (ii)(II) thereof * * *.

Basically, the 1938 Act sets forth farm poundage quota reduction categories for the purpose of establishing priorities in determining individual farm poundage quota reductions. The first category is for farms which did not actually produce peanuts on the farm because there was inadequate tillable cropland available on the farm to produce the quota quantity in the preceding crop year. The second category consists of those farms where peanuts were not actually produced in two out of the three preceding years, except in those situations where peanuts were not produced because of a natural disaster or such other reasons as are prescribed by the Secretary. The third category contains those farms for which the quota quantity was produced but by another operator on a farm to which the quota (or the allotment on which the quota was based) has been transferred by lease two out of the three preceding years. The third category also covers hybrid situations in which during the three base period years a farm had both nonproduction of quota quantity and transfers of quota by lease to another operator on another farm. The fourth category consists of all farms which were not reduced to a zero poundage quota under the first three categories. Reductions will be apportioned on a pro rata basis within a category in any State in which the quota poundage in that category exceeds the remaining required poundage quota reduction for the State.

The 1938 Act requires the Secretary to make reductions in this order and in accordance with such regulations as the Secretary determines to be fair and equitable.

Application of Quota Reduction for 1982 Farm Poundage Ouotas

During the development of the proposed regulations in early 1982 to implement the 1981 Act for the 1982 crop, it became apparent that there were a large number of farms falling into the third category. It was also apparent that the application of the poundage quota reduction to farms in the third category might, in some instances, cause significant individual hardships and the disruption of normal production practices in a number of peanut growing areas. In particular, because of the late date on which the 1981 Act became law, the Department had inadequate time to gather sufficient information upon which to evaluate the impact of reductions of farm poundage quotas in the third category. Moreover, producers had to prepare for planting the 1982 crop of peanuts without knowing the specific manner in which the Department intended to implement the poundage quota reductions mandated by the Act.

In view of this situation, the Secretary proposed (March 8, 1982, 47 FR 9972) that in order to implement the amendments made by the 1981 Act in a fair and equitable manner, no individual farm poundage quota reductions would be made in the third category for the 1982 crop. Instead, a uniform State factor would be applied to all farms in the State if the poundage quota reductions in the first category and second category were insufficient to meet the required overall reduction in the State poundage quota.

The proposed rule was adopted as a final rule (April 13, 1982, 47 FR 15966) applicable to the 1982 crop of peanuts only.

Application of Quota Reductions for the 1983 Through 1985 Crop Years

This proposed rule would define the four categories for reducing farm poundage quotas for the 1983 through 1985 crop years in the following manner:

A. *Category 1. Inadequate Tillable Cropland.* Adequate tillable cropland is land determined by the county committee for the preceding crop year to be: (1) Suitable for the production of peanuts; and (2) land on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable for the production of peanuts includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncrop uses as determined by the county committee.

B. *Category 2. Nonproduction of the quota during two out of the three preceding years.* In this category, the farm poundage quota shall be reduced for the current year to the extent that the county committee determines that peanuts were not actually produced during two out of the three preceding years, except when the county committee determines that quota quantity was not produced because of natural disaster or other reasons beyond the control of the producer.

C. *Category 3. Farms from which quota was transferred by lease.* Category 3 applies to situations in which the farm poundage quota was produced two of the three preceding years but by another operator on a farm to which the poundage quota was transferred by lease. This category of reduction is expected to have the largest impact of the three categories. The lease and transfer authority under which such leases were executed was added to the 1938 Act by Pub. L. 90–211, 81 Stat. 658, December 18, 1967, and requires the owner and operator of the transferring farm to approve the transfer. In addition, Section 358a(b)(4) of the 1983 Act provides that: "no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county in which such transfer complies with the provisions of this section." The record used by ASCS to accomplish the transfer is Form ASCS–375, Record of Transfer of Allotment or Quota. This record was required to be executed for each year of the base period showing the names of the operator and owner of the transferring farm and the name of the owner or operator (but not both) of the receiving farm. The ASCS–375 transfer record, as well as other similar records, are to be used in making determinations with respect to reductions in category 3.

Transfers between farm tracts within a reconstituted farm (combined worksheet) and leasing arrangements which did not involve a transfer are not treated in the proposed rule as being in category 3, since these arrangements are not transfers of farm poundage quota by one operator to a different operator on a different farm.

However, the proposed rule treats "hybrid situations" as being in category 3. A hybrid situation can occur when during the three base period years (1980, 1981, 1982, for the 1983 crop) a farm has both nonproduction of the farm poundage quota and production of farm poundage quota by another operator on a farm to which the farm poundage quota (or portion thereof) was transferred by lease. The proposed rule takes into account the potential cumulative effect of both nonproduction and leasing of poundage quota, and provides a method for allocating reductions in the farm poundage quota between category 2 and category 3. It would also prevent duplication of reductions in both categories. It is anticipated that there will not be a significant number of farms falling into a hybrid situation.

D. *Category 4. Farms not reduced to zero in categories 1, 2 or 3.* A uniform

State factor will be determined and applied against the preliminary farm poundage quotas on all farms not reduced to zero in the first three reduction categories. Because each State's reduction will be made independent of other States, the application and size of the factor may vary with respect to categories between States. Included in this group will be farms that received a partial reduction in categories 1, 2, or 3 and still retained farm poundage quota. Also, some farms may be reduced in two or three categories prior to a factor being applied because of a combination of circumstances. For example, a farm may take a partial reduction in category 1 because of inadequate tillable cropland and also a reduction for not producing in category 2.

E. *Calculation of the farm poundage quota reduction in categories 1, 2, and 3.* Calculations of farm poundage quota reductions will be done by individual categories in order of priority. In category 1, the reduction will equal the percentage of nonproduction of the farm poundage quota that is attributable to inadequate tillable cropland during the previous crop year, *times* the preliminary farm poundage quota. (The preliminary farm poundage quota is equal to the farm poundage quota for the farm for the immediately preceding crop year.)

In category 2, the reduction will be based on the average of the two highest percentages of nonproduction of the farm poundage quota during the three base period years. The amount of the reduction would equal: (1) The product of the average percentage *times* the preliminary farm poundage quota, *minus* (2) the amount of any reduction made under category 1, but may not be less than zero. The amount of reduction under category 1 is subtracted in order to prevent a duplication of reductions between the two categories. Otherwise, the cumulative effect of reductions in categories 1 and 2 could cause the farm poundage quota to be reduced below the amount of actual production of peanuts on the farm during the base period years.

In category 3, the reduction will be based on the average of the two highest percentages of the combined amount of quota produced by lease by another operator and nonproduction of the farm poundage quota. This procedure will accommodate both the pure category 3 situation and the hybrid situation discussed above. The amount of the reduction would equal: (1) The product of the average percentage *times* the preliminary farm poundage quota, *minus* (2) the amount of any reductions made under category 1 and category 2. As explained above, the amount of reductions under category 1 and category 2 are subtracted in order to prevent duplication of reductions between the three categories.

The following is an example of how the calculations described above would be made for the 1983-crop farm poundage quota. The example assumes that the farm poundage quota for the base period years was 65,000 pounds for 1980; 60,000 pounds for 1981, and 50,000 pounds for 1982. In 1983, the preliminary farm poundage quota is 50,000 pounds (the 1982 farm poundage quota).

EXAMPLE OF QUOTA REDUCTION CALCULATIONS

[All numbers in pounds]

Category	Year		
	1980	1981	1982
1—Inadequate tillable cropland		3,000	1,000
2—Nonproduction of quota	5,000	4,000	1,000
3—Production of quota transferred by lease	20,000	11,000	1,000
4—Actual production of quota on the farm	40,000	45,000	48,000
Farm Poundage Quota	65,000	60,000	50,000

Category 1

Percentage of nonproduction due to inadequate tillable cropland=1,000 divided by 50,000=.02

Reduction (percentage × preliminary farm poundage quota)=.02×50,000=1,000

Category 2

Two highest percentages of nonproduction=5,000 divided by 65,000=.0769 (1980) and 4,000 divided by 60,000=.0667 (1981)

Average of two highest percentages=.0718

Reduction (average percentages × preliminary farm poundage quota, minus Category 1 reduction)=(.0718×50,000) minus 1,000=2,590

Category 3

Two highest percentages of *combined* leased production (Category 3) and nonproduction (Category 2)=25,000 divided by 65,000=.3846 (1980) and 15,000 divided by 60,000=.25 (1981)

Average of two highest percentages=.3173

Reduction (average percentage × preliminary farm poundage quota, minus Category 1 and Category 2 reduction)=(.3173×50,000) minus (1,000+2,590)=12,275

Total reduction (Category 1 plus 2 plus 3)=15,865

1983 Adjusted Preliminary Quota=50,000 minus 15,865=34,135 [1]

Reserves for Correction of Errors and Quota Reduction Exemptions

The 1938 Act requires the Secretary to accomplish the reduction in farm poundage quotas in each State by reducing the farm poundage quota on individual farms on such fair and equitable basis as is practicable. To accomplish this objective, the proposed rule would establish two separate State reserves to be allocated to individual counties upon request.

A. *Correction of errors.* The State Agricultural Stabilization and Conservation committee will establish a State Reserve of poundage quota (not to exceed 1 percent of the State poundage quota) to be used to the extent available to correct errors, including, but not limited to, missed farms and errors in establishing preliminary farm poundage quotas.

B. *Quota reduction exemptions.* In addition to the reserve for the correction of errors, the State committee will establish a State reserve of poundage quota (not to exceed 1 percent of the State poundage quota) to be used to the extent available to exempt farms from poundage quota reductions where transfers by lease have been made to another farm with a different operator in one or more years of the base period, if the county committee determines that the transfer was made to facilitate sound management practices. Such practices include:

(1) Crop rotation to control plant disease or soil borne pests such as black root rot, nematodes, or other similar conditions.

(2) Economical use of farm equipment. This exemption will apply only when the county committee determines that a producer on the receiving farm was a producer of record on the transferring farm during the base period.

(3) Difficulty in settling an estate. This exemption applies to a farming operation involving an estate where the ownership share of heirs in the estate property cannot or has not been determined. For example, all heirs to the property may not be known, or property boundaries are in dispute with adjacent landowners, or other similar situations.

In considering whether exemptions will be granted, the county committees will be required to consider all relevant factors, including, but not limited to, the following: available cropland,

[1] Prior to the application of any uniform State factor should further reductions in category 4 be necessary.

experience of the quota holder, and availability of equipment on the farm. In order to obtain a quota reduction exemption, the owner or operator of the affected farm must request the exemption from the county committee. The decision of the county committee may be appealed to the State committee under the provisions of Part 780 of this Chapter. The decision of the State committee shall be administratively final.

Impact of Quota Reductions

The method of calculating quota reductions as proposed by this rule will have the greatest impact on farms in category 3, in that this rule separates category 3 and category 4 for quota reduction purposes, whereas the method adopted for the 1982 crop combined those two categories. The magnitude of the 240,000 ton reduction (from 1,440,000 tons in 1981 to 1,200,000 tons in 1982, or 16.7 percent) in the national farm poundage quota for the 1982 crop was a major factor in the decision to combine categories 3 and 4 for the 1982 crop. This situation was further complicated by the late date on which the statute mandating quota reductions was enacted and the uncertainty surrounding the implementation of the statute.

Had categories 3 and 4 been separated for purposes of the 1982 crop, the 16.7 percent national poundage quota would have resulted in an average quota reduction of 86 percent for farms in category 3, rather than the 15 percent reduction with the method adopted. In contrast, farms in category 4 were reduced an average of 15 percent in 1982 rather than 7 percent, which would have been the case had categories 3 and 4 not been combined.

Upon preliminary analysis, it would appear that the reasons for combining categories 3 and 4 are no longer present. During the process of determining quota reductions for the 1982 crop year, the Department collected data related to potential 1983 crop reductions of individual farm poundage quotas by category for two of the three base period years and has used the analysis of that data in developing this proposed rule. Producers have also had an adequate amount of time to analyze the new statutory requirements and will have had sufficient time to make appropriate plans and preparations with respect to the 1983 crop of peanuts by the time planting season begins next spring. Moreover, the required reduction in the national poundage quota is only 2.7 percent in 1983; 2.8 percent in 1984; and 3.1 percent in 1985. Accordingly, this proposed rule provides that separate poundage quota reductions will be made for categories 3 and 4.

It is anticipated that in 1983 through 1985 most States will have only negligible reductions in categories 1 and 2. Therefore, the reductions will have a proportionately greater impact on category 3.

It is estimated that in 1981 there were about 270,000,000 pounds of quota in category 3. The average reduction for 1982 for each farm in category 3 was about 15 percent. This would leave nearly 230,000,000 pounds in category 3 in 1982, assuming there were no significant changes in leasing patterns during the base period of 1980, 1981 and 1982. Data on the amount of farm poundage quota leased in 1982 is not available at this time, but the amount of quota leased in 1982 is expected to decline somewhat. The 65,400,000 pounds reduction in the 1983 national poundage quota would therefore represent an average decrease of about 23 percent for each farm in category 3 in 1983.

Transfer Dates

The 1938 Act provides that producers and handlers may enter into contracts for the sale and purchase of additional peanuts for exportation or crushing. Such contracts must be completed and submitted to the Secretary of Agriculture prior to April 15 of the marketing year.

The 1938 Act also provides that producers may transfer poundage quota by lease under regulations promulgated by the Secretary. In the past, there have been two types of transfers by lease permitted: "spring transfers" and temporary "fall transfers." Spring transfers refer to the type of transfer which is generally completed prior to the end of the normal planting season. In that case, peanuts would not normally have been planted on the transferring farm.

The temporary fall transfer occurs after the normal planting season, and may only be exercised if the: (1) Acreage of peanuts planted on the transferring farm was equal to at least 80 percent of the acreage determined by dividing the effective farm poundage quota by the larger of the current farm yield or the highest actual yield for the farm for any one of the three preceding crop years; and (2) the production of peanuts was limited to less than the effective farm poundage quota because of conditions beyond the control of the producer. The fall transfer is designed solely to help alleviate the effects of a natural disaster on a producer who planted peanuts but is unable to fill the effective farm poundage quota because of the disaster.

For the 1982 crop year, many problems were encountered because farm poundage quotas could not be determined and farm operators notified until after April 15. Consequently, farm operators could not complete transfers of quota before the closing date for filing of contracts for production of additional peanuts for export or crushing, thus creating considerable confusion and difficulty in administration of the peanut program. In some cases, transfers made after the April 14 contracting deadline changed the farm numbers as shown on the contract (CCC–1005), and in other cases, the transfer resulted in a different producer, operator, or owner than the one shown on the contract. For 1983, farm operators should be notified of their 1983 farm poundage quotas (excluding undermarketings) several weeks before the April 14 contracting deadline. However, it is believed that this problem could be further alleviated if the final date for contracting for planting purposes was later than the date for filing transfers. Therefore, a spring transfer closing date of April 1 is proposed. In addition, it is proposed that temporary fall transfers to accommodate marketing should not be approved until after July 31 in order to further assure that transfers to accommodate planting would be completed before the contracting deadline. The Department especially requests comments on the filing dates. For example, will the issuance of notices to farmers before the contracting deadline correct the problem or is there some other solution that would be more appropriate than that proposed?

List of Subjects in 7 CFR Part 729

Poundage quotas, Penalties, Reporting requirements.

Proposed Rule

PART 729—[AMENDED]

Accordingly, it is proposed to amend 7 CFR Part 729 as set forth below:

1. The title "Subpart—Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts" is revised to read "Subpart—Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 through 1981 Crops of Peanuts".

2. The text of 7 CFR 729.1 is revised to read as follows:

§ 729.1 Basis and purpose.

The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) and

are applicable to peanuts for the 1978 through 1981 crops. They govern the establishment of farm acreage allotments and marketing quotas, farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, and the keeping of records, and making reports incident thereto. The allotment and marketing quota regulations for peanuts of the 1972 and subsequent crops (37 FR 2645 and 37 FR 3629, as amended) are superseded but remain effective with respect to the 1972 through 1977 crops of peanuts.

3. The text of 7 CFR 729.7(b)(2) is revised to read as follows:

§ 729.7 Determination of farm peanut history acreage.

* * * * *

(b) * * *

(2) Farm acreage allotment times the national quota for the 1978 through 1981 crop years.

* * * * *

4. The italicized heading of 7 CFR 729.46(b)(2) is revised to read as follows:

§ 729.46 Penalty rate.

* * * * *

(b) * * *

(2) *1979 through 1981 marketing years.* * * *

* * * * *

5. A new subpart is added to 7 CFR Part 729, as follows:

Subpart—Poundage Quota and Marketing Regulations for the 1983 Through 1985 Crops of Peanuts

General

Sec.

729.211 Basis and purpose.
729.212 Extent of calculations and rule of fractions.
729.213 Definitions.
729.214 Types of peanuts.
729.215 Supervisory authority of State committee.
729.216–729.219 [Reserved].

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Apppeals

729.220 Instructions and forms.
729.221 Determination of State poundage quota.
729.222 Reserves for corrections and quota reduction exemptions.
729.223 Determination of preliminary farm poundage quota.
729.224 Determination of farm poundage quota.
729.225 Determination of undermarketings.
729.226 Determination of effective farm poundage quota.
729.227 Determination of farm yield.
729.228 Determination of farm yield for reconstituted farm.
729.229 Approval of farm poundage quota and notice to farm operator.
729.230 Erroneous notice of effective farm poundage quota.
729.231 Request for reconsideration or appeal.
729.232 Farms with one acre or less of peanuts.
729.233–729.239 [Reserved]

Transfers of Farm Poundage Quota

729.240 Transfer by sale or lease.
729.241 Transfer by owner or operator.
729.242 Transfer within State.
729.243 Witness of signatures.
729.244 Filing transfer agreement and time for filing.
729.245 Maximum period of transfer.
729.246 Transfer not to be approved.
729.247 Consent of lienholder.
729.248 Transfer to and from a farm (subleasing).
729.249 Effect of permanent transfer on determination of farm poundage quota.
729.250 County committee action.
729.251 Withdrawl or minor revision.
729.252 Recomputation of previously approved multiple year transfer.
729.253 Amendment of multiple year transfer agreements approved on or before December 22, 1981.
729.254–729.264 [Reserved]

Marketing Cards and Producer Identification Cards

729.265 Issuance of cards.
729.266 Claim stamping marketing cards.
729.267 Invalid cards.
729.268–729.270 [Reserved]

Marketing Penalties

729.271 Basic penalty rate.
729.272 Peanuts on which penalties are due.
729.273 Peanuts on which penalties are not to be assessed.
729.274 Persons to pay penalty.
729.275 Payment of penalty.
729.276 Lien for penalty.
729.277 Assessment of penalties.
729.278 Reduction or waiver of penalty.
729.279 Appeals.
729.280–729–285 [Reserved]

Producer Identifcation and Designation of Peanuts Marketed

729.286 Identification of producer marketings.
729.287 Designation of peanuts.
729.288–729.289 [Reserved]

Producer Records and Reports

729.290 Report of marketing green peanuts.
729.291 Report of acquisition of seed peanuts.
729.292 Peanuts marketed to persons who are not registered handlers.
729.293 Report on marketing card.
729.294 Report of production and disposition.
729.295–729.299 [Reserved]

Handler's Registration, Responsibilities and Records

729.300 Registration of handlers.
729.301 Records and reports required of handlers.
729.302 Persons engaged in more than one business.
729.303 Penalty for failure to keep records and make reports.
729.304 Examination of records and reports.
729.305 Length of time records and reports are to be kept.
729.306 Information confidential.
729.307–729.310 [Reserved]

Authority: Secs. 301, 357, 358, 358a, 359, 372, 373, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 62, as amended, 63, as amended, 64, 65, as amended, 66, as amended, 70 Stat. 206, as amended, Secs. 801, 802, 803, 804, 805, 806, 91 Stat. 91 Stat. 944, as amended, 95 Stat. 1248, (7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375, as amended); sec. 108A, 95 Stat. 1954 (7 U.S.C. 1445c–1).

Subpart—Poundage Quota and Marketing Regulations for 1983 Through 1985 Crops of Peanuts

General

§ 729.211 Basis and purpose.

The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, and are applicable to the 1983 through 1985 crops of peanuts. They govern the establishment of farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, the keeping of records, and the making of reports incident thereto.

§ 729.212 Extent of calculations and rule of fractions.

Computations shall be rounded according to Part 793 of this chapter. The terms set forth below shall be expressed as follows:

(a) Acreage in acres and tenths of acres.

(b) Penalties or damages in dollars and cents.

(c) The quantity of peanuts produced, considered produced and marketed; a preliminary farm poundage quota; a farm poundage quota; an effective farm poundage quota; a farm yield; and an actual yield per acre, in whole pounds.

(d) Factors as a four place decimal except where a different place decimal factor is established by the Deputy Administrator.

§ 729.213 Definitions.

The definitions in and provisions of Parts 718, 719, and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise. References to other parts of this chapter or title include any amendments to the referenced parts. Unless the context or subject matter require otherwise, the following words and phrases, as used in

this subpart and in all related instructions and forms shall mean:

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Areas.*—(1) The southeastern area consisting of Puerto Rico, the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The southwestern area consisting of the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

(3) The Virginia-Carolina area consisting of the States of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Base period.* The 3 calendar years immediately preceding the year for which a farm poundage quota is being established.

(d) *Buyer.* A person who:

(1) Buys or otherwise acquires peanuts in any form;

(2) Markets, as a commission merchant, broker, or cooperative, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(3) Receives peanuts as collateral for or in settlement of a price support loan.

(e) *Considered produced.* The number of pounds of peanuts to be considered produced for the current year or for a base period year for use in computing a future farm poundage quota. Considered produced pounds for a farm will be the sum of the pounds (limited to the farm poundage quota less the pounds of peanuts marketed) which:

(1) Were not produced because of a natural disaster as determined by the county committee in accordance with instructions issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as the "Deputy Administrator");

(2) Were equal to the farm poundage quota on a farm where the farm was either purchased, or a transfer by sale was approved, or the farm was acquired by an agency having the right of eminent domain, after the latest normal planting date for peanuts for the county, and only to the extent that such farm poundage quota was produced or considered produced on the farm to which allocated during the following crop year.

(f) *Cropland.* Land on a farm which is determined by the county committee to be suitable for the production of peanuts and on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncrop uses as determined by the county committee.

(g) *Crushing.* The processing of peanuts (1) to extract oil for food uses and meal for feed uses, or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(h) *Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(i) *Domestic edible use.* Domestic edible use means, for purposes of the regulations found in this part: (1) Use for milling to produce domestic food products (including the processing of peanuts into flakes for traditional domestic edible uses); (2) use of peanuts for seed, excluding unique strains which are not commercially available and which are used for the production of green peanuts; and (3) use of peanuts on a farm.

(j) *Effective farm poundage quota.* The quota determined in accordance with § 729.226.

(k) *Excess peanuts.* The quantity of peanuts marketed or considered marketed for domestic edible use in the current marketing year in excess of the effective farm poundage quota.

(l) *False identification.* False identification shall include the following:

(1) Identifying or permitting the identification of peanuts at time of marketing as having been produced on a farm other than the farm of actual production; or

(2) Marketing or permitting the marketing of peanuts from a farm without identifying the peanuts with a peanut marketing card issued for the farm; or

(3) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, no peanuts were marketed from the farm.

(m) *Farm poundage quota.* The quota determined in accordance with § 729.224.

(n) *Farm yield.* The farm yield determined in accordance with § 729.227.

(o) *Farmers stock peanuts.* Dug peanuts produced in the United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanut are customarily marketed by producers.

(p) *Final acreage.* The acreage on the farm from which peanuts are produced as determined and adjusted in accordance with Part 718 of this chapter.

(q) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(r) *Inspector.* A Federal or Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(s) *Loan additional peanuts.* Peanuts which are not eligible for marketings as quota peanuts, are not subject to delivery to fulfill a contract for additional peanuts, and which are pledged as collateral for price support loan at the additional loan rate.

(t) *Marketed.* To dispose of peanuts (including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form) by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "market", "marketing", and "for market" shall have corresponding meanings to the term "marketed" in the connection in which they are used. The terms "barter" and "exchange" shall include the payment by the producer of any quantity of peanuts, for the harvesting, picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to the producer by anyone. Any lot of farmers stock peanuts will be considered as marketed when delivered by the producer to the buyer pursuant to an oral or written sales agreement. Peanuts which are delivered by the producer as collateral for or in settlement of a price support loan will be considered as marketed at the time of delivery. Delivery shall be deemed to have occurred when unloaded at the delivery point. Any peanuts retained on the farm for seed or other use shall be considered marketings of quota peanuts or marketings for domestic edible use.

(u) *Marketing year.* For each crop of peanuts, the period beginning August 1 of the current year and ending July 31 of the following year.

(v) *National poundage quota.* 1,167,300 tons for 1983; 1,134,700 tons for 1984; and 1,100,000 tons for 1985.

(w) *Peanuts.* All peanuts produced, excluding: (1) Any peanuts which were not dug or were not picked or threshed before or after marketing from the farm; and (2) any peanuts marketed by the producer for consumption exclusively as boiled peanuts before drying or removal of moisture from such peanuts by natural or artificial means (referred to as "green peanuts"). If a lot of farmers stock peanuts has been inspected by the Federal-State Inspection Service at the time of marketing, the quantity in the lot shall be the gross weight thereof less foreign material and excess moisture (moisture in excess of 7 percent in traditional peanut producing States in the southeastern and southwestern areas, 8 percent in traditional peanut producing States in the Virginia-Carolina area, and 8 percent in all States not in the traditional peanut producing areas). If the lot of peanuts is not inspected by the Federal-State Inspection Service, the quantity in the lot shall be the gross weight thereof. If shelled peanuts are marketed by a producer, the quantity in the lot (farmers stock basis) shall be determined by multiplying the poundage of the shelled peanuts by 1.5.

(x) *Planted acreage.* The final acreage of peanuts on a farm determined in accordance with the provisions of Part 718 of this chapter.

(y) *Preliminary farm poundage quota.* The quota determined in accordance with § 729.223.

(z) *Produced.* The total pounds of peanuts dug.

(aa) *Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts which are dug on a farm except the following: (1) Green peanuts; (2) peanuts which are placed under loan at the additional support rate and not redeemed by the producer; or (3) peanuts which are marketed under a contract between a handler and a producer for exportation and/or crushing.

(bb) *Seed sheller.* A person who in the course of his usual business operations shells peanuts for producers for use as seed for the subsequent year's crop.

(cc) *Segregation 1 peanuts.* A lot of farmers stock peanuts which: (1) Has at least 99 percent peanuts of one type; (2) has not more than 2 percent damaged kernels nor more than 1 percent concealed damage caused by rancidity, mold, or decay; and (3) is free from visible Aspergillus flavus mold.

(dd) *Undermarketings.* The number of pounds determined in accordance with § 729.225.

(ee) *Yield per acre or actual yield.* The actual yield per acre for the farm obtained by dividing the total production of peanuts for the farm by the final acreage of peanuts.

§ 729.214 Types of peanuts.

The generally known types of peanuts have identifying characteristics as follows:

(a) *Runner type peanuts.* These peanuts are commonly known as African Runner, Alabama Runner, Georgia Runner, Carolina Runner, Wilmington Runner, Dixie Runner, or Runner. They are produced principally in the southeastern peanut producing area of the United States and are identified by the following characteristics: Typically two-seeded pods which are practically cylindrical, medium-sized, stem end round and the other pointed with a slight keel having shells fairly thick and strong, with shallow veining and corrugation; seeds crowded in pod with adjacent ends sharply shouldered.

(b) *Spanish type peanuts.* These peanuts are commonly known as White Spanish, Small Spanish, Medium-Small Spanish, or Spanish. They are produced principally in the southeastern and southwestern peanut-producing areas of the United States and are identified by the following general characteristics: Typically two-seeded pods which are small, with both ends rounded, the end opposite the stem having an inconspicuous point or keel, and the waist slender; shells very thin, with veining and corrugation but not deep, and seed globular to oval and practically smooth.

(c) *Valencia type peanuts.* These peanuts are commonly known as New Mexico Valencia, Tennessee Valencia, Tennessee White, Tennessee Red, or Valencia. They are produced principally in Tennessee and New Mexico and are identified by the following general characteristics: Typically three or four-seeded, and sometimes five-seeded pods which are long and slender, with the end opposite the stem having a definite point or keel with conspicuous veining and corrugation, and seeds globular to oval.

(d) *Virginia type peanuts.* These peanuts are commonly known as Virginia Runner, Virginia Bunch, North Carolina Runner, North Carolina Bunch, Jumbo, or Virginia. They are produced principally in North Carolina, Virginia, northeastern South Carolina, and Tennessee, and are identified by the following general characteristics: Typically two-seeded pods which are of an average size larger than any other type, pods are roughly cylindrical, with veining and corrugation deep, and seeds cylindrical with pointed ends, length two or three times diameter, and practically smooth.

§ 729.215 Supervisory authority of State committee.

The State committee shall take any action required to be taken by the county committee which the county committee fails to take. The State committee shall correct or require the county committee to correct any action taken by the county committee which is not in accordance with this subpart. The State committee shall also require the county committee to withhold taking any action which is not in accordance with this subpart.

§§ 729.216–729.19 [Reserved]

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

§ 729.220 Instructions and forms.

The Director shall cause to be prepared and issued, such forms and instructions as are necessary for carrying out the regulations in this subpart. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator.

§ 729.221 Determination of State poundage quota.

The State poundage quota shall be the State's share of the current year's national poundage quota calculated to equal the percentage of the 1981 national poundage quota allocated to farms in the State.

§ 729.222 Reserves for corrections and quota reduction exemptions.

(a) For the purpose of correcting errors, the State committee shall establish a reserve not to exceed 1 percent of the State poundage quota. If the amount of poundage quota necessary to correct errors is in excess of the reserve established by the State committee, such errors may nevertheless be corrected with the approval of the Deputy Administrator. However, the Deputy Administrator may require the State committee to recalcuate the farm poundage quotas for all farms in the State, if the Deputy Administrator determines that the amount of poundage quota necessary to correct errors is substantially in excess of the reserve. In such case, the State committee shall

reissue corrected farm poundage quotas for all farms in the State and such corrected farm poundage quota shall be considered the farm poundage quota for the farm for all purposes.

(b) In addition to the reserve established in accordance with paragraph (a) of this section, the State committee shall establish a State reserve for quota reduction exemptions based on estimated requirements. Such reserve shall not exceed 1 percent of the State poundage quota.

§ 729.223 Determination of preliminary farm poundage quota.

The preliminary farm poundage quota shall be the farm poundage quota established for the farm for the preceding year.

§ 729.224 Determination of farm poundage quota.

The farm poundage quota shall be the preliminary farm poundage quota adjusted downward for poundage quota reductions as required by this section, plus permanent adjustments from reserves and permanent transfers.

(a) *Poundage quota reductions.* The preliminary farm poundage quota for each farm shall be reduced by the county committee in the following order of priority to the extent necessary, in whole or in part, to accomplish the reduction in the total of the preliminary farm poundage quotas for the State to the State poundage quota less the amount withheld for reserves for the current marketing year.

(1) *Inadequate tillable cropland.* The preliminary farm poundage quota shall be reduced for a farm to the extent the county committee determines that the farm did not have adequate tillable cropland to produce the farm poundage quota during the preceding crop year. Farms on which there is inadequate tillable cropland as the result of performance of a conservation practice shall not be exempt from poundage quota reductions under this paragraph. If the constitution of the farm differs from the constitution of the farm for the preceding crop year, an individual determination shall be made for each separately indentifiable farm tract as it was constituted during the preceding crop year.

(2) *Quota not produced.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that the farm poundage quota for such farm was not produced or considered produced during any two of the base period years. If the constitution of the farm differs from the constitution of the farm for any one or more of the base period years, an individual determination shall be made for each separately identifiable farm tract as it was constituted for that year of the base period.

(3) *Quota transferred by lease and produced on another farm by a different farm operator.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that any of the following situations apply:

(i) The farm poundage quota was transferred in whole or in part by a lease filed during the normal planting period for peanuts as determined in accordance with § 729.30(b)(1) for the crop years 1980 and 1981, by July 31 for crop year 1982, and by April 1 for 1983 and subsequent crop years, and was produced or considered produced on a receiving farm where the operator of the receiving farm was a different person than the operator of the transferring farm, for 2 or more years of the base period.

(ii) The farm poundage quota (A) was transferred in whole or in part by a lease filed during the normal planting period for peanuts as determined in accordance with § 729.30(b)(1) for the crop years 1980 and 1981, by July 31 for crop year 1982, and by April 1 for 1983 and subsequent crop years, and was produced or considered produced on the receiving farm where the operator of the receiving farm was a different person than the operator of the transferring farm for 2 or more of the base period years, and (B) was not 100 percent produced or considered produced in 1 or more of the same base period years.

(iii) The farm poundage quota (A) was not 100 percent produced or considered produced in 2 or more of the base period years, and (B) was transferred in whole or in part by a lease filed during the normal planting period for peanuts as determined in accordance with § 729.30(b)(1) for the crop years 1980 and 1981, by July 31 for crop year 1982, and by April 1 for 1983 and subsequent crop years, and was produced or considered produced in part on a receiving farm where the operator of the receiving farm was a different person than the operator of the transferring farm in 1 or more of the same base period years.

(iv) The farm poundage quota (A) was transferred in whole or in part by a lease filed during the normal planting period for peanuts as determined in accordance with § 729.30(b)(1) for the years 1980 and 1981, by July 31 for crop year 1982, and by April 1 for 1983 and subsequent crop years, and was produced or considered produced on the receiving farm and the operator of the receiving farm was a different person than the operator of the transferring farm for 1 or more of the base period years, and (B) was not 100 percent produced or considered produced in 1 or more of the other base period years.

If the constitution of the farm differs from the constitution of the farm for any one or more of base period years, an individual determination shall be made for separately identifiable farm tracts as they were constituted for that year of the base period.

(b) *Calculation of farm poundage quota reductions under paragraph (a) (1), (2) and (3).*—(1) The amount of the farm poundage quota reduction made under paragraph (a)(1) of this section shall equal the preliminary farm poundage quota times the percentage of the farm poundage quota that was not produced on the farm during the previous crop year because of inadequate tillable cropland.

(2) The amount of the farm poundage quota reduction made under paragraph (a)(2) shall equal: (i) The preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota that was not produced or considered produced during two of the three base period years, minus (ii) the amount of any reduction under paragraph (b)(1) of this section, but not less than zero.

(3) The amount of the farm poundage quota reduction made under subparagraph (a)(3) shall equal: (i) The product of the preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota which, during two of the three base period years, was produced or considered produced by another operator to which the farm poundage quota was transferred by lease and which was not produced or considered produced, minus (ii) the amount of any reduction calculated under paragraphs (b)(1) and (b)(2) of this section, but not less than zero.

(c) *Application of State factor.*—(1) If the cumulative totals of individual farm poundage quota reductions computed in accordance with paragraphs (b) (1), (2), or (3) of this section are more than the required reduction (including amounts withheld for reserves) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the reductions of farm poundage quotas computed for the farms in the category for which the farm poundage quota reduction exceeds the total of the required reduction for the State, so as to cause the cumulative total of reductions of individual farm poundage quotas to

equal the total reduction for the State plus amounts withheld for reserves.

(2) If the cumulative total of individual farm poundage quota reductions in paragraphs (a) (1), (2), and (3) of this section is less than the required reduction (including amounts withheld for reserves) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the preliminary farm poundage quotas on the remaining farms in the State (including those not reduced to zero in paragraphs (a) (1), (2), and (3) of this section), so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for reserves.

(d) *Exemption from quota reduction.*—(1) Within the limitations set forth in this paragraph and upon request by a county committee, the State committee may make poundage quota reserved under § 729.222(b) available to the county committee for exempting a farm in whole or in part from quota reduction. Where a farm poundage quota on a farm would otherwise be reduced in accordance with paragraph (a)(3) of this section, exemptions may be made where the county committee determines that the farm poundage quota on the transferring farm was transferred to another farm during one or more of the base period years to facilitate sound management practices associated with: (i) Crop rotation to control plant disease or soil borne pest; (ii) the economical use of farm equipment, but only to the extent that a producer on the farm to which quota was transferred by lease has a producer interest in the farm from which the quota was transferred; and (iv) difficulty in settling an estate.

(2) In considering whether an exemption is to be granted in accordance with the provisions of paragraph (d)(1) of this section, the county committee shall consider factors such as, but not limited to, the availability of land, labor, equipment, and an experienced peanut producer to produce peanuts on the farm, to the extent that such factors affected the production of peanuts on the farm during the base period years.

(e) *Permanent adjustments.* The preliminary farm poundage quota, after adjustments under paragraph (a) of this section, if any, shall be adjusted by the county committee to reflect permanent transfers or adjustments from reserves as set forth in this subpart.

(f) *Eminent domain pool quota.* In order to preserve peanut farm poundage quotas on farms acquired by an agency having the right of eminent domain, such quota must be transferred pursuant to the provisions of this subpart.

§ 729.225 Determination of undermarketings.

(a) *Actual undermarketings.* Actual undermarketings are the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1980 crop) were less than the total amount of the applicable effective farm poundage quotas (disregarding adjustments for undermarketings from prior marketing years. For purposes of the foregoing sentence, total marketings of quota peanuts for any marketing year shall be the larger of (1) the total production of segregation 1 peanuts on the farm for such year, or (2) the total amount of quota peanuts which were marketed or considered marketed from the farm. However, the total marketings of quota peanuts for any marketing year shall not exceed the effective farm poundage quota for that farm for such year.

(b) *Effective undermarketings.*—(1) If 10 percent of the national poundage quota for the marketing year to which the actual undermarketings are to be applied is equal to or greater than the actual undermarketings on all farms, the effective under marketings for the farm shall be the same as the actual undermarketings.

(2) If the conditions in paragraph (b)(1) of this section are not applicable, the actual undermarketings will be apportioned to each farm in such manner that the effective undermarketings: (i) Will not be less than the smaller of the actual undermarketings on all farms to equal 10 percent of the national poundage quota for the marketing year to which the effective undermarketings are to be applied.

§ 729.226 Determination of effective farm poundage quota.

The effective farm poundage quota shall be the farm poundage quota adjusted for temporary transfers and effective undermarketings.

§ 729.227 Determination of farm yield.

The farm yield established for a farm for which a farm poundage quota is established for the current year shall be the farm yield established for the farm for the immediately preceding year. If a farm yield is not established for a farm on which a farm poundage quota is established, the county committee shall establish a farm yield in accordance with instructions issued by the Deputy Administrator.

§ 729.228 Determination of farm yield for reconstituted farm.

For reconstitutions which are effective after farm yields have been established the farm yield shall be determined as follows:

(a) *Combination*—(1) *Quota farm.* The farm yield for a combined farm shall be the weighted average of the farm yields for the tracts being combined.

(2) *Quota and nonquota farm.* A combined farm shall be assigned the farm yield of the tract with an established quota if placed in combination with a nonquota tract even though a farm yield previously had been established for such nonquota.

(3) *Nonquota farms.* The yield for combined nonquota tracts shall be established by the county committee in accordance with § 729.227 even though a farm yield had been previously established for such tracts.

(b) *Divisions*—(1) *No identifiable tracts having tract yield established.* The farm yield shall be the same for each tract as the farm yield for the parent farm.

(2) *Identifiable tracts with tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is divided from the parent farm.

(3) *Division of an identifiable tract having a tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is being divided.

729.229 Approval of farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm yield, preliminary farm poundage quota, farm poundage quota, and effective farm poundage quota shall be determined under the supervision of, and approved by, the county committee of the county in which the farm is administratively located, subject to the concurrence of the State committee or a representative of the State committee. The initial notice of farm poundage quota shall not be mailed to a farm operator until the farm poundage quota has been approved. A revised notice may be mailed without prior approval in any case resulting from: (1) Farm reconstitution that does not require allocation of additional poundage quota; or (2) a transfer by lease, sale, owner or operator, of poundage quota.

(b) *Notice to farm operator.*—(1) As soon as possible after the farm poundage quota or the effective farm poundage quota is approved, an official notice of such quota shall be mailed to the farm operator.

(2) If a farm poundage quota is reduced to zero for the current year, the county committee shall mail to the farm operator a notice of such determination.

(3) A revised notice of farm poundage quota or the effective farm poundage quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed or the county committee takes an action which requires a revision of the previously determined quota.

(4) The notice to the operator shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper have an interest in the farm for which the quota is established.

§ 729.230 Erroneous notice of effective farm poundage quota.

If the official notice of effective farm poundage quota issued for a farm erroneously stated a quota larger than the correct effective farm poundage quota, the quota shown on the erroneous notice shall be used as the effective farm poundage quota. Such quota shall serve as the basis for marketing penalty computations for the farm for the current marketing year, only if the county committee determines and the State Executive Director concurs that: (1) The error was not so substantial as to place the operator on notice thereof; and (2) the operator was not notified of the correct effective farm poundage quota prior to marketing peanuts as quota peanuts in excess of the correct effective farm poundage quota. Notwithstanding the foregoing, under-marketings for farms for which the erroneous notice of the effective farm poundage quota is applied shall be determined on the basis of the correct effective farm poundage quota for the farm.

§ 729.231 Request for reconsideration or appeal.

Any producer who is dissatisfied with the initial determination of the farm poundage quota or the effective farm poundage quota which is established for such farm may file a request for reconsideration with the county committee in accordance with Part 780 of this Chapter. Such request must be filed no later than 15 days after the producer receives the notice of the farm poundage quota or effective farm poundage quota. If after reconsideration the producer remains dissatisfied with the determination, the producer may appeal such determination to the State committee in accordance with Part 780 of this Chapter. Determinations rendered by the State committee with respect to the determination of individual farm poundage quotas and effective farm poundage quotas shall be final and there shall be no further administrative appeal.

§ 729.232 Farms with one acre or less of peanuts.

Peanuts produced on a farm on which the acreage of peanuts is one acre or less are eligible to be marketed for domestic edible use provided that all producers that share in the peanuts produced on such farm do not share in the peanuts produced on any other farm.

§§ 729.233–729.239 [Reserved]

Transfers of Farm Poundage Quota

§ 729.240 Transfer by sale or lease.

The owner and operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer for sale or lease of all or any part of the farm poundage quota to any other owner or operator of a farm in the same county. The receiving farm need not have a farm poundage quota. If the owner(s) and operator of the farm from which the transfer by sale or lease is to be made are different persons, each shall execute the record of transfer. However, only the owner(s) or operator of the receiving farm is required to execute the record of transfer.

§ 729.241 Transfer by owner or operator.

The owner or operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer to transfer the farm poundage quota from such farm to another farm owned or controlled by the applicant: (a) In the same county; or (b) in a county that is contiguous to the transferring county in the same State if the receiving farm had a farm poundage quota established for the 1981 crop.

§ 729.242 Transfer within State.

Notwithstanding the provisions of § 729.240 and § 729.241, a transfer of a farm poundage quota by sale, lease, owner or operator, may be made to any other farm in the same State, pursuant to instructions issued by the Deputy Administrator, in the States of Arizona, Arkansas, California, Louisiana, Mississippi, Missouri, New Mexico and Tennessee.

§ 729.243 Witness of signatures.

A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations, or who may be unduly inconvenienced, may be waived provided the county office mails Form ASCS–375 or such other form approved by the Deputy Administrator to such person for the required signature. In the case of a transfer by sale, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

§ 729.244 Filing transfer agreement and time for filing.

No transfer of any quota under this section shall become effective until a record of transfer, determined by the county committee to be in compliance with the provisions of this subpart, has been executed on Form ASCS–375 or such other form approved by the Deputy Administrator and filed within the time periods set forth in this section with the county committee in the county where the farms are administratively located.

(a) *Transfer filed by April 1.* A record of transfer filed after April 1 but prior to April 14 may be considered timely filed by April 1 if the county committee, with approval of the State committee, finds that: (1) the transfer was agreed upon no later than April 1; and (2) the record of transfer was not filed by April 1 because of conditions beyond the control of the parties to the transfer.

(b) *Transfer filed after April 1.* A transfer filed after April 1 but by July 31 shall not become effective until August 1. A transfer filed after July 31 shall not become effective unless filed no later than December 31 of the current year. A record of transfer filed after December 31 but prior to January 31 may be considered timely filed by December 31 if the county committee with approval of the State committee finds that (1) the transfer was agreed upon no later than December 31, and (2) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the parties to the transfer.

§ 729.245 Maximum period of transfer.

(a) *Owner transfer.* (1) An owner transfer may be approved to a farm owned by such person temporarily (but not beyond the 1985 marketing year) or permanently. (2) An owner transfer to a farm controlled by such person may be approved for only one year.

(b) *All other transfers.* Transfers by lease and by operator may only be approved for one year. Multiyear leases

and permanent operator transfers shall not be permitted.

§ 729.246 Transfer not to be approved.

The county committee shall not approve:

(a) A transfer of poundage quota by sale if poundage quota was transferred to the farm by sale within the 3 preceding crop years.

(b) Temporary transfers by an operator for more than one year.

(c) Permanent transfers by an operator.

(d) Transfers filed after April 1 for more than 1 marketing year.

(e) Transfers of actual or effective undermarketings.

(f) Transfers of poundage quota to farms with inadequate tillable cropland to produce the poundage quota.

§ 729.247 Consent of lienholder.

A transfer of poundage quota from a farm which the county committee has been informed is subject to a mortgage or other lien shall not be approved unless the transfer is agreed to in wrting by the lienholder.

§ 729.248 Transfer to and from a farm (subleasing).

(a) *Transfer filed before April 1.* Generally the county committee shall not approve a transfer which is filed (or considered filed) on or before April 1 if the approval would result in a transfer both to and from the farm during the period ending April 1 of the same crop year. However, a transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(b) *Transfer filed after April 1.* A temporary transfer of poundage quota either to or from a farm (but not both) may be approved by the county committee if filed after April 1, regardless of whether a transfer which was filed on or before April 1 is in effect for such farm, provided that the producers on the transferring farm certify, and the county committee determines, that the (1) acreage of peanuts planted on the transferring farm was equal to at least 80 percent of the acreage determined by dividing the effective farm poundage quota by the larger of the current farm yield or the highest actual yield for the farm for any one of the preceding three crop years, and (2) the production of peanuts was limited to less than the effective farm poundage quota because of conditions beyond the control of the producer.

§ 729.249 Effect of permanent transfer on determination of farm poundage quota.

The quota, pounds produced, pounds considered produced, pounds transferred and produced on a receiving farm for both the transferring farm and the receiving farm shall be adjusted for the current year and for the 2 preceding years to reflect the applicable increase or decrease in the farm poundage quota and other historical data or farm practices affecting the determination of farm poundage quotas.

§ 729.250 County committee action.

(a) *Approval of transfer.* The county committee shall approve the transfer of poundage quota only if it determines that a timely filed record has been received and that the transfer complies with the requirements of this subpart. A transfer shall not be effective until approved by the county committee. The county committee may delegate authority to the county executive director and to other county office employees to approve transfers of poundage quotas.

(b) *Notice of revised quotas.* A revised notice of farm poundage quota must be issued for each farm affected by the transfer of farm poundage quota.

(c) *Cancellation of transfer.* (1) A transfer approved on the basis of incorrect information furnished by the parties to the transfer agreement or approved due to error by the county committee shall be canceled effective as of the date of approval. However, the cancellation shall not be effective for the current marketing year if:

(i) The transfer approval was made on the basis of incorrect information unknowingly furnished in good faith by the parties to the transfer agreement or the transfer approval was made in error by the county committee, and

(ii) The parties to the transfer agreement were not notified of the cancellation prior to the marketing of quota peanuts in excess of the revised effective farm poundage quota.

(2) Where cancellation of a transfer is required, the county committee shall issue revised notices of poundage quota showing the reasons for cancellation.

§ 729.251 Withdrawal or minor revision.

Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the peanut program will not be impaired, the county committee may permit withdrawal or minor revisions of a transfer upon written request by all parties to the transfer. However, a temporary transfer may be withdrawn or revised before peanuts are harvested during any year of the agreement, and a permanent transfer may be withdrawn or revised before peanuts are harvested only during the first year of the agreement.

§ 729.252 Recomputation of previously approved multiple year transfer.

For a multiple year temporary transfer approved on or before December 22, 1981, the county committee shall annually recompute the transfer by limiting the poundage quota transferred to the smaller of: (a) The poundage quota initially transferred, or (b) the farm poundage quota for the transferring farm.

§ 729.253 Amendment of multiple year transfer agreements approved on or before December 22, 1981.

Notwithstanding any other provision in this subpart, a multiple year temporary transfer approved on or before December 22, 1981, shall not be effective for the 1982 through 1985 crop years unless an amended record of transfer is filed. The county committee shall notify the operator of both the transferring farm and the receiving farm of the requirement for filing an amended record of transfer in order for the previously filed transfer agreement to remain in effect. The amended record of transfer must be filed at the county ASCS office within 30 days from the date of notification by the county committee that an amended transfer agreement is required. The amended agreement shall be on the basis of the farm poundage quota established for the applicable crop year and shall be agreed upon and signed by each person whose signature is required and in accordance with the provisions of this subpart.

§ 729.254–729.264 [Reserved]

Marketing Cards and Producer Identification Cards

§ 729.265 Issuance of cards.

(a) *Issuance of marketing cards.* A marketing card (ASCS–1002) shall be issued in the name of the farm operator for each farm on which peanuts are produced in the United States in the current year for use by each producer on the farm for marketing such producer's share of the peanuts produced, except that: (1) A card issued for experimental peanuts shall be issued in the name of the experiment station; and (2) a card issued to a successor-in-interest shall be issued in the name of the successor-in-interest. The face of the marketing card may show the names of other interested producers.

(b) *Issuance of producer identification cards.* A producer identification card shall be issued in the same name that is

entered on the marketing card(s) for each eligible farm. The producer identification card will be used to identify the farm on which the peanuts were produced and the card must accompany each lot of peanuts when offered for sale. Producer identification cards shall be issued at the time marketing cards are issued.

(c) *Person authorized to issue cards.* The county executive director shall be responsible for the issuance of marketing cards and producer identification cards.

(d) *Rights of producers and successors-in-interest.* (1) Each producer having a share in the peanuts available for marketing from a farm shall be entitled to the use of the marketing and identification cards for marketing such producer's proportionate share of the peanuts produced on the farm.

(2) Any person who succeeds, in whole or in part, to the share of a producer in the peanuts available for marketing from a farm, shall, to the extent of such succession, have the same rights to the use of the marketing and identification cards and bear the same liability for penalties as the original producer.

(e) *Data on marketing card and supplemental card.* (1) Before issuance, the following data and information must be entered on the marketing card in the spaces provided: (i) Effective farm poundage quota; (ii) if applicable, the pounds of additional peanuts contracted and the handler number of the contracting handler; and (iii) if applicable, the converted basic penalty rate determined in accordance with § 729.272(b).

(2) A supplemental marketing card bearing the same name identification as shown on the original marketing card may be issued for a farm upon return to the county office of an original marketing card or a supplemental marketing card. The balance of the poundage quota from the returned marketing card shall be entered as the effective farm poundage quota on the supplemental card.

(3) Two or more marketing cards may be issued for a farm if the farm operator specifies in writing the poundage quota (not to exceed the balance of poundage quota available) to be assigned to each card.

(4) The face of the marketing card shall show the entry "Eligible for Buyback" if the farm operator authorizes the handler to purchase peanuts under the "Immediate Buyback" purchase as provided in Part 1446 of this Chapter. Two or more marketing cards may be issued for a farm if the producer wishes to obtain an additional card for purposes of indicating or not indicating "Eligible for Buyback."

(5) Other data specified in instructions issued by the Deputy Administrator shall be entered on the marketing card.

(f) *Data on producer identification cards.* (1) The identification card issued in the name of the farm operator shall be embossed to show the: (i) Name and address of the farm operator; and (ii) State, county code, and farm serial number. If an embossed identification card is not available, the above information shall be entered by the county ASCS office.

(2) A farm operator may recevie as many identification cards as may be needed at any one time to accompany each lot of peanuts offered for sale until such time as the peanuts are inspected and an ASCS–1007 has been executed by the inspection service.

(3) After the identification card is returned to the operator, it may be used again to identify another lot of peanuts.

(g) *Replacing a lost, stolen, or destroyed marketing card.* A new marketing card shall be issued to replace a card which has been determined by the county executive director who issued the card to have been lost, destroyed, or stolen: *Provided,* That the farm operator gives immediate written notice of such fact and furnishes a satisfactory report of the quantity of peanuts which was marketed using the marketing card prior to the time such card was lost, stolen, or destroyed.

§ 729.266 Claim stamping marketing cards.

If a person is indebted to the United States and the indebtedness is listed on the county office claim record, any marketing card issued for the farm on which the person has an interest as a producer shall bear the notation "U.S. Claim" or "PPQ" (peanut poundage quota) followed by the amount of the indebtedness. The name of the indebted producer, if different from the farm operator, shall be recorded directly under the notation. A notation showing "PPQ" as the type of indebtedness shall constitute notice to any peanut buyer that until the amount of penalty and accrued interest is paid, the United States has a lien on the crop of peanuts with respect to which the penalty was incurred and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest. Peanut poundage quota liens shall be collected and paid to the Agricultural Stabilization and Conservation Service prior to making collection for any other lien or claim. A notation showing "U.S. Claim" shall constitute notice to any peanut buyer that, to the extent of the indebtedness shown, and subject to prior liens, the net proceeds from any price support loan or purchase settlement due the debtor must be paid to the Agricultural Stabilization and Conservation Service. The acceptance and use of a marketing card bearing a notation concerning indebtedness to the United States shall not constitute a waiver by the indebted producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action. A lien-free or claim-free marketing card shall be issued by the county ASCS office when the lien or claim has been paid.

§ 729.267 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid under any one of the following conditions:

(1) It is not issued or delivered in the form and manner prescribed.

(2) Any entry is omitted or is incorrect.

(3) It is lost, destroyed, stolen, or becomes illegible.

(4) An erasure or alteration has been made and not initialed by the county executive director.

(b) *Validating invalid cards.* If a marketing card is invalid because an entry is not made as required, the farm operator or other producer shall return the marketing card to the county office. Except for an incorrect entry of the converted basic penalty rate determined in accordance with § 729.272(b), the marketing card may be made valid by entering data previously omitted or by correcting any incorrect data previously entered. The county executive director shall initial each correction made on the marketing card. An invalid card, if not validated, shall be canceled and a replacement card shall be issued.

§§ 729.268–729.270 [Reserved]

Marketing Penalties

§ 729.271 Basic penalty rate.

The basic penalty rate is 140 percent of the national average support level for quota peanuts, as determined for the marketing year in which the peanuts were produced.

§ 729.272 Peanuts on which penalties are due.

Penalty is due at the basic penalty rate on:

(a) The quantity of peanuts which is marketed or considered to be marketed from a farm for domestic edible use in excess of the effective farm poundage quota for the farm.

(b) All peanuts marketed from the farm, if the certified acreage differs from the measured acreage by more than the tolerance provided in Part 718 of this Chapter: *Provided,* That such penalty shall be paid on each lot of peanuts marketed from a farm based on a converted basic penalty rate as shown on the marketing card. The converted basic penalty rate shall be determined by: (1) Calculating the percentage of incorrect certification; and (2) multiplying the percentage by the basic penalty rate per pound.

(c) All peanuts produced on a farm for which the producer: (1) Failed to certify peanut acreage as provided in Part 718 of this Chapter; or (2) refused to permit entry on the farm to authorized representatives of the Secretary for the purpose of determining the acreage of peanuts on the farm.

(d) The quantity of peanuts marketed without identification by a valid marketing card.

(e) The quantity of peanuts falsely identified, as determined by the county committee with State committee concurrence.

(f) All peanuts, the disposition of which the producer has failed to account for to the satisfaction of the county committee. The quantity of peanuts subject to penalty under this provision shall be the amount of peanuts determined by the county committee to have been marketed or considered marketed from the farm for domestic edible use in excess of the effective farm poundage quota for that farm.

(g) All additional peanuts marketed as contract additional peanuts in excess of the pounds contracted on CCC–1005 between the producer and handler as provided in Part 1446 of this title. Any penalty collected pursuant to this paragraph may be refunded to the extent that the total of all marketings for domestic edible use from the farm for such marketing year do not exceed the farm's effective farm poundage quota.

§ 729.273 Peanuts on which penalties are not to be assessed.

(a) *Error in weight.* Penalty is not due and shall not be collected if the error in net weight as reported on each ASCS–1007, Inspection Certificate and Sales Memorandum, does not exceed one-tenth of 1 percent. However, in the case of fraud or conspiracy, a penalty shall be due for any error in the net weight, regardless of the size of the error.

(b) *Peanuts grown on State prison farms.* No penalty shall be collected on peanuts grown on State prison farms for consumption within such State prison system.

(c) *Peanuts grown for experimental purposes.* No penalty shall be collected on the marketings of any peanuts which are grown only for experimental purposes on land owned or leased by a publicly-owned agricultural experiment station and produced at public expense by employees of the experiment station, or peanuts produced by farmers for experimental purposes pursuant to an agreement with a publicly-owned experiment station: *Provided,* That the director of the publicly-owned agricultural experiment station must furnish the State Executive Director a list by counties showing the following information for farms in the State on which peanuts are grown for experimental purposes only:

(1) Name and address of the publicly-owned experiment station;

(2) Name of the owner, and name of the operator if different from the owner, of each farm in the State on which peanuts are grown for experimental purposes only;

(3) The acreage of peanuts grown on each farm for experimental purposes only; and

(4) A signed statement that such acreage of peanuts was grown on each farm only for experimental purposes and was necessary for carrying out experimentation, and that the peanuts were produced under the direction of representatives of the publicly-owned experiment station.

(d) *Unique strains used to plant green peanut acreage.* Seed peanuts shall not be subject to penalty if the county committee determines, based upon guidelines furnished by the Deputy Administrator, that such peanuts are unique strains, are not commercially available, and are used to plant green peanut acreage.

§ 729.274 Persons to pay penalty.

(a) *Marketings to handlers.* The handler is liable for the penalty due on peanuts which the handler buys or otherwise acquires from a producer. The handler may deduct the penalty from the price paid to the producer. If a handler fails to collect the penalty due on any marketing of peanuts from a farm, the handler and each of the producers on the farm shall be held jointly and severally liable for the amount of the penalty.

(b) *Other marketings.* The producer is liable for the penalty due on any peanuts marketed to persons who are not peanut handlers.

(c) *Penalty for error on marketing card.* The producer and the handler are jointly and severally liable for any penalties which may be due if the handler made an error or failed to properly record the pounds of peanuts marketed on the producer's marketing card and such error resulted in the effective poundage quota or the pounds contracted in accordance with Part 1446 of this Chapter to be exceeded.

(d) *Notice to affected parties.* Penalties shown on a farm marketing card shall be deemed to be notice to all affected parties of such penalties. In addition, all affected parties shall be deemed to be on notice that penalties are due when the marketings of peanuts for domestic edible use exceed the effective poundage quota indicated on the marketing card.

§ 729.275 Payment of penalty.

(a) A draft, money order, or check made payable to the Agricultural Stabilization and Conservation Service, may be used to pay any penalty, other indebtedness, or interest thereon. A draft or check shall be received subject to collection and payment at face value. The penalty becomes due on the date of marketing, or in the case of false identification or failure to account for the disposition of peanuts, the date the producer is notified of the false identification or the failure to account, as applicable.

(b) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of interest charged CCC for its borrowings by the United States Treasury on the date such penalty became due. Interest shall accrue from the date the penalty was due if the penalty is not remitted by Monday of the third calendar week following the week in which the penalty is assessed in accordance with § 729.277. For cases of false identification or failure to account, if the penalty is not paid within 15 days after receipt of written notice by the person liable for such penalty, interest shall accrue from the date of receipt of the written notice by such person.

§ 729.276 Lien for penalty.

A lien on the crop of peanuts on which the penalty is incurred, and on any subsequent crops of peanuts subject to poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States until the penalty is paid. The lien on a subsequent crop takes precedence over all other claims as of the time the debt is entered on a county claim record in the county ASCS office for the county in which the subsequent crop is grown. Each county ASCS office shall maintain a list of peanut marketing penalty liens on subsequent crops which have been entered on the county claim

record. The list shall be available for examination upon written request by an interested person.

§ 729.277 Assessment of penalties.

Any producer, farm operator, or handler against whom a penalty is assessed in accordance with this subpart, shall be notified of the penalty assessment in writing by the appropriate county committee. Such notice shall state the amount of the penalty and the basis upon which the penalty is being assessed. The notice shall also state that the person against whom the penalty is being assessed has the right to appeal the assessment of the penalty in accordance with §§ 729.278 and 729.279.

§ 729.278 Reduction or waiver of penalty.

(a) *General.* The county committee may, in accordance with instructions and guidelines issued by the Deputy Administrator, reduce or waive any penalty required to be assessed by this subpart in cases in which the county committee determines that the violations upon which the penalties were based were unintentional or without knowledge on the part of the parties concerned.

(b) *Time of reduction or waiver.* The county committee may reduce or waive a penalty either before or after it has been assessed in accordance with § 729.277. In those instances where the county committee makes the reduction or waiver prior to assessment, the notice of assessment issued under § 729.277 shall state the amount of reduction or waiver and the basis upon which the reduction or waiver was made.

(c) *Appeal procedure.* Any person against whom a penalty is assessed under this subpart may request that the penalty be reduced or waived in accordance with guidelines issued by the Deputy Administrator and the producers set forth under § 729.279.

(d) *Review authority.* The Deputy Administrator may, either upon his own motion or in response to appeals which are being taken under § 729.279, require that any determination of a county committee with regard to the reduction or waiver of penalties be reviewed by the State committee or the Deputy Administrator for the purpose of maintaining consistency between different counties in the application of this authority. The Deputy Administrator or the State committee may require a county committee to reverse or otherwise modify its previous determination if the Deputy Administrator or State committee determines that the county committee's previous determination was not made in accordance with the instructions and guidelines issued by the Deputy Administrator. Any person who is adversely affected by any action of the Deputy Administrator or State committee taken under this paragraph may appeal such action by filing a request for reconsideration (or an appeal, if the action was taken by the State committee) with the Deputy Administrator in accordance with Part 780 of this chapter.

§ 729.279 Appeals.

(a) *General.* Any person who is dissatisfied with the penalties assessed by the county committee may file a written request for reconsideration with the county committee in accordance with Part 780 of this chapter. Such request must be filed no later than 15 days after such person receives the notice of assessment issued pursuant to § 729.277. If the person is dissatisfied with the determination, the determination may be appealed to the State committee in accordance with Part 780 of this chapter. If the person is dissatisfied with the State committee's determination, the person may request a review of the determination by the Deputy Administrator by filing an appeal with the Deputy Administrator in accordance with Part 780 of this Chapter.

(b) *Scope.* In any request for reconsideration or appeal, any adversely affected party may both contest liability for the penalty and, in the alternative, request a reduction or waiver of the penalty.

(c) *Waiver of procedural requirements and delegation of authority.*—(1) Nothing herein shall be construed as limiting the authority conferred upon the reviewing authority by Part 780 of this Chapter to waive compliance with the procedural requirements for making a request for reconsideration or an appeal.

(2) Nothing contained herein shall preclude the Administrator, ASCS, or his designee, on his own motion, from determining any question arising under the programs to which the regulations in this part apply or from reversing or modifying any determinations made by a State or county committee or the Deputy Administrator.

§ 729.280–729.285 [Reserved]

Producer Identification and Designation of Peanuts Marketed

§ 729.286 Identification of producer marketings.

The producer must identify each lot a peanuts offered for marketing through a handler by furnishing to the handler the farm operator identification card (ASCS–1003) and the peanut marketing card (ASCS–1002) which was issued for the farm on which the peanuts were produced.

§ 729.287 Designation of peanuts.

Any marketings of peanuts which are not inspected by the Federal-State Inspection Service prior to marketing shall be deemed to be a marketing of quota peanuts. If a lot of peanuts is inspected by the Federal-State Inspection Service, the producer shall designate to the handler whether the lot of peanuts is to be marketed as quota, loan additional, or contract additional as defined in Part 1446 of this Chapter. The designation must be made within the time allowed by the handler but not later than the close of inspection on the first workday (excluding Saturday, Sunday, or legal holiday) after the peanuts are inspected. In the absence of a designation, any segregation 1 peanuts shall be marketed in the following order of priority:

(a) As quota peanuts to extent of the unused poundage quota on the peanut marketing card which is used to identify the peanuts for marketing;

(b) As contract additional to the extent of the unused contract poundage balance on the peanut marketing card which is used to identify the peanuts for marketing if the peanuts are being marketed through the contracting handler; or

(c) As loan additional peanuts.

§ 729.288–729.289 [Reserved]

Producer Records and Reports

§ 729.290 Report of marketing green peanuts.

(a) The operator of each farm from which green peanuts are marketed shall report the marketing of green peanuts. The operator shall make the report by filing Form ASCS–1011 at the county ASCS office of the county in which the farm is administratively located. The report shall show for the farm:

(1) The number of acres on the farm planted from seed stocks of peanuts;

(2) The acreage on the farm from which peanuts were marketed as green peanuts; and

(3) The name and address of the buyer to or through whom each lot of green peanuts was marketed and the quantity in each lot marketed and the date marketed: *Provided, however,* That if green peanuts are marketed by the producer in small lots directly to consumers, such as in the case of local street sales, the report may be made as either a daily or weekly summary of the quantity so marketed and the place of

marketing may be reported in lieu of the name and address of each buyer.

(b) Failure to file any report of the marketing of green peanuts as required by this section or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts produced on the farm which will subject the producer to marketing penalties as set forth in § 729.272.

§ 729.291 Report of acquisition of seed peanuts.

(a) If peanuts are planted on a farm in the current year and the seed peanuts were acquired by purchase or gift, the farm operator shall file a report with the county ASCS office of the acquisition(s) of the seed peanuts. The report must be filed by the farm operator at the time a report of planted acreage of peanuts is made under Part 718 of this title. The report shall include:

(1) The name and address of the handler or person from whom peanuts were purchased or obtained as a gift for the purpose of planting the peanut acreage on the farm in the current year;

(2) The pounds of peanuts acquired for seed;

(3) The basis (farmer's stock or shelled) of determining the quantity acquired;

(4) The type of peanuts acquired; and

(5) The date of acquisition.

(b) Unique strains of peanuts that are not commercially available and are retained on a farm to plant 1983 through 1985 crops of green peanuts shall also be reported to the county ASCS office.

§ 729.292 Peanuts marketed to persons who are not registered handlers.

(a) If peanuts are marketed to persons other than registered peanut handlers, the operator of the farm on which the peanuts were produced shall file a report of the marketings by executing Form ASCS–1011, Report of Acreage and Marketing of Peanuts to Nonestablished Buyers. The ASCS–1011 must be mailed or delivered to the county executive director of the county in which the farm is administratively located whithin 15 days after the marketing of peanuts from the farm has been completed. If peanuts are marketed by the producer in small lots directly to consumers, such as in the case of local street sales, a daily or weekly summary of the quantity marketed and the place of marketing may be reported in lieu of the name and address of each buyer.

(b) Failure to file an ASCS–1011 as required or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts on the farm and may result in the assessment of marketing penalties, as provided in § 729.272.

(c) All peanuts marketed to persons other than registered handlers shall be considered as marketings of quota peanuts.

§ 729.293 Report on marketing card.

The farm operator shall return each peanut marketing card to the issuing county ASCS office as soon as marketings from the farm are completed or at such earlier time as the county executive director may request. At the time the last marketing card for a farm is returned, the farm operator shall execute the certification on the marketing card as to the pounds of peanuts retained for seed or other uses. Failure to return a marketing card or failure to execute the certification of the quantity of peanuts retained for seed or other uses shall constitute failure to account for the disposition of peanuts marketed from the farm for which marketing penalties may be assessed as provided in § 729.272, unless a satisfactory report of disposition is furnished to the county committee.

§ 279.294 Report of production and disposition.

(a) In addition to any other reports which may be required under this subpart, the farm operator or any producer on the farm shall furnish, upon written request by certified mail from the State Executive Director, a report of production and disposition of the peanuts grown on the farm to the State committee. The report must be filed on ASCS–1010, Report of Production and Disposition, within 15 days after the request is mailed. The report shall show:

(1) The final acreage of peanuts on the farm;

(2) The total production of peanuts on the farm; and

(3) The name and address of the buyer to or through whom each lot of peanuts was marketed, the number of pounds in each lot, and the date marketed: *Provided, however,* That where peanuts are marketed in small lots to persons who are not established buyers, the report may be made as either a daily or weekly summary of the number of pounds marketed and the place of marketing may be reported in lieu of the name and address of each buyer; and

(4) The quantity and disposition of peanuts not marketed.

(b) Failure to file the ASCS–1010 as requested or the filing of an ASCS–1010 which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for the production and disposition of peanuts produced on the farm for which marketing penalties may be assessed, as provided in § 729.272.

§ 729.295–729.299 [Reserved]

Handler's Registration, Responsibilities and Records

§ 729.300 Registration of handlers.

(a) *Registration requirements.* Each person who plans to acquire peanuts for processing or resale shall register as a handler in accordance with the provisions of this section prior to the acquisition of any peanuts.

(b) *Persons acquiring noninspected peanuts.* A person who has not registered under the provisions of paragraph (c) of this section and who plans to buy or otherwise acquire peanuts for processing or resale prior to the peanuts being inspected by a duly authorized inspector of the Federal-State Inspection Service must register with the State ASCS office of the State in which the person will operate as a handler, or if operating in more than one State, the State of residence or principal business location. A person may register by completing an MQ–96, Application for Peanut Handler Card, and submitting it to the appropriate State ASCS office.

(c) *Persons acquiring inspected peanuts.* A person who plans to acquire peanuts that have been inspected by a duly authorized inspector of the Federal-State Inspection Service must register as a handler by completing an MQ–96, Application for Peanut Handler Card, and submitting it to the Virginia, Georgia, or Texas State ASCS Office in the marketing area in which the handler is located.

(d) *Peanut buyer card and buying point card.* The office through which a handler registers will issue an embossed peanut buyer card on which will be entered the handler's registration number, name and address. The buyer card will be used by the handler for identification when the handler buys or sells peanuts. A buying point identification card will be issued by ASCS to the Federal-State Inspection Service for delivery to each handler who operates a buying point at which peanuts are inspected. The buying point card will be embossed with a number and used to identify the physical location of the buying point at which the peanuts are inspected.

§ 729.301 Records and reports required of handlers.

Each handler shall keep records and make reports as required by this section.

(a) *Marketing records.* The handler shall maintain the following records

with respect to each lot of farmer's stock peanuts which the handler acquires for his own account:

(1) Farm number (including State and county code) of the farm on which peanuts were produced (obtained from producer's identification card or marketing card), or if purchased from a handler, the handler's number;

(2) Name of seller:

(3) Date of marketing;

(4) Pounds of peanuts marketed as commercial quota or contract additional;

(5) Type of peanuts; and

(6) Amount of penalty due and amount collected from the producer.

(b) *Resales.* Each handler who resells farmer's stock peanuts shall keep records of:

(1) The name and address of the buyer;

(2) The handler number of the buyer if the peanuts are sold to a handler;

(3) The date of the sale;

(4) The type of peanuts sold; and

(5) The pounds (net weight) of peanuts sold.

(c) *Inspected peanuts.* If a lot of peanuts was inspected by the Federal-State Inspection Service, the handler shall complete ASCS–1007, Inspection Certificate and Sales Memorandum, on which the following information must be entered:

(1) Name and address of the farm operator and the State and county code and farm number of the farm on which the peanuts were produced if the peanuts are marketed by the producer, or the handler number if the peanuts are marketed by a handler;

(2) Buying point number assigned to identify the physical location of the buying point at which the peanuts were marketed;

(3) Name, address, and handler number of the handler, or the association number, name and address if the peanuts are accepted for loan through the association;

(4) Net weight of the peanuts;

(5) Quality of peanuts marketed as either loan quota, loan additional, commercial quota or contract additional;

(6) Date of purchase; and

(7) Amount of penalty collected.

(d) *Noninspected peanuts.* A handler who purchases farmer's stock peanuts which have not been inspected by the Federal-State Inspection Service shall complete ASCS–1030, Report of Purchase of Noninspected Peanuts, for each lot of farmer's stock peanuts purchased. The handler shall complete the ASCS–1030 to show the following:

(1) The name and address of the seller;

(2) Name and address of farm operator and the State and county code and farm number if the peanuts are purchased from the producer of the peanuts, or if the peanuts are purchased from a handler, the ASCS–1030 shall show the handler's name, address, and registration number;

(3) The type of peanut purchased;

(4) The date of purchase;

(5) Quality purchased; and

(6) Method of determining the weight. After the required information has been recorded, the seller shall sign and date the ASCS–1030. The handler shall use ASCS–1030–P, Handler's Report of Purchases of Noninspected Peanuts, to transmit the ASCS–1030 to the State ASC committee in the State in which the handler's business is located. The ASCS–1030's shall be transmitted weekly.

(e) *Marketing card entries.* Immediately after each lot of peanuts is marketed, the handler shall make the following entries on the marketing card from the ASCS–1007 or ASCS–1030:

(1) The ASCS–1007 serial number which identifies the lot of peanuts, or the date of marketing if the peanuts were not inspected;

(2) The net pounds marketed;

(3) The unused poundage quota balance remaining after the marketing;

(4) The unused contract additional poundage balance remaining after the marketing;

(5) The handler's number or, for loan peanuts, the association number;

(6) For inspected peanuts, the buying point number;

(7) Type of peanuts marketed; and

(8) Any penalties or claims collected.

(f) *Transmittal of panalties.* Form ASCS–1012 Peanuts, "Buyer's Transmittal of Claims and/or Marketing Penalty", shall be used by a handler to transmit a collection of a penalty or a claim. Each collection shall be sent to the county ASCS office which issued the marketing card. The transmittal shall be made within two weeks after the end of the week in which the collection is made.

(g) *Peanuts shelled for a producer.* The handler shall maintain records of peanuts shelled for a producer as follows:

(1) Date of shelling;

(2) Name and address of the producer for whom the peanuts were shelled;

(3) State and county code and farm number of the farm on which the peanuts were produced;

(4) Quantity of peanuts (farmer's stock basis) shelled;

(5) Quantity of shelled peanuts retained by the sheller; and

(6) Quantity returned to the producer.

(h) *Peanuts dried for a producer.* The handler shall maintain records of peanuts dried for a producer as follows:

(1) State and county code and farm number of the farm on which the peanuts were produced;

(2) Name and address of the producer for whom the peanuts were dried; and

(3) Quantity dried (weight after drying, farmer's stock basis) and date drying is completed.

(i) *Green peanuts purchased from producer.* Each buyer of green peanuts shall report on Form ASCS–1011 the purchase of green peanuts, except small lot purchases such as street sales, local market sales, and grocery store sales. The report of the purchase of green peanuts by the buyer shall subject the buyer to a review of the purchase and sales records. Any buyer of green peanuts who fails to keep records as required by this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than $500. Each buyer shall keep the following records of green peanuts purchased:

(1) Date of purchase;

(2) Name and address of producer selling green peanuts;

(3) Name and address of farm operator and farm number (including State and county code) of the farm on which the green peanuts were produced; and

(4) Pounds of green peanuts purchased.

§ 729.302 Persons engaged in more than one business.

Any person who is required under this subpart to keep any record or make any report as a buyer, processor, or other person engaged in the business of shelling or crushing peanuts, and who is engaged in more than one such business, shall keep such records for each business.

§ 729.303 Penalty for failure to keep records and make reports.

Any person, who dries farmers stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any agency marketing peanuts for a buyer or dealer, any peanut growers cooperative association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts, or manufacturing peanut products, or any person owning or operating a peanut picking or peanut threshing machine, or any farmer engaged in the production of peanuts, who fails to make any report or keep

any record as required under this subpart or who makes any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.

§ 729.304 Examination of records and reports.

The Deputy Administrator, the Director of the Tobacco and Peanuts Division, the State Executive Director, or any person authorized by any one of such persons, and any auditor or agent of the Office of Inspector General, is authorized to examine any records pertinent to the peanut poundage quota program. Upon request from any such person, any person who dries farmers stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any farmer engaged in the production of peanuts, any agent marketing peanuts for a producer or acquiring peanuts for a buyer or association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts or manufacturing peanut products, or any person owning or operating a peanut-picking or peanut-threshing machine, shall make available for examination such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are under his control which any person hereby authorized to examine records has reason to believe are relevant to any matter under investigation which relates to the provisions of this subpart.

§ 729.305 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained for a period of 3 years after the end of the marketing year. Records shall be kept for such longer periods of time as may be requested in writing by the State Executive Director. or the Director of the Tobacco and Peanuts Division.

§ 729.306 Information confidential.

All data requested and obtained by the Secretary which are required in accordance with the provisions of this subpart shall be kept confidential by all employees of the U.S. Department of Agriculture. Such data shall be released only at the discretion of the Deputy Administrator and then only in a suit or administrative hearing under title III of the Agricultural Adjustment Act of 1938, as amended.

§§ 729.307–729.310 [Reserved]

Signed at Washington, D.C. on November 3, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82-30630 Filed 11-8-82; 8:45 am]

BILLING CODE 3410-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 35, 120, and 131

[WH-FRL 2113-3]

Water Quality Standards Regulation

Correction

In FR Doc. 82–29543 appearing on page 49234 in the issue for Friday, October 29, 1982, the date under the DATES caption should read "January 27, 1983".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-730; RM-4195]

FM Broadcast Station in Imperial, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 221A to Imperial, Nebraska, in response to a petition filed by Jerrell E. Kautz. The assignment could provide a first FM service to that community.

DATES: Comments must be filed on or before December 17, 1982, and reply comments must be filed on or before January 3, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Imperial, Nebraska), BC Docket No. 82–730, RM–4195.

Notice of Proposed Rule Making

Adopted: October 26, 1982.

Released: November 2, 1982.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed September 8, 1982, by Jerrell E. Kautz ("petitioner"), proposing the assignment of Channel 221A [1] to Imperial, Nebraska, as its first FM assignment. Petitioner expressed his interest in applying for a channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a first FM broadcast service to Imperial, Nebraska, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission Rules, with respect to the following community:

City	Channel No.
Imperial, Nebr.	221A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 17, 1982, and reply comments on or before January 3, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevent provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504, 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to

[1] The petition, as filed, sought the assignment of Channel 276A to Imperial, Nebraska. However, Channel 276A would be short spaced approximately 13 miles to Station KZMC-FM, McCook, Nebraska. A staff study shows that Channel 221A is available for assignment to Imperial, Nebraska, without a site restriction.

Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (f), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.181(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *notice of proposed rule making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced, in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commissions's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-30874 Filed 11-8-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-729; RM-4189]

FM Broadcast Stations in Cabo Rojo and Hormigueros, Puerto Rico; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 272A to Cabo Rojo, Puerto Rico, in response to a petition filed by Nestor Perez. In addition, we are proposing to reassign Channel 221A from Cabo Rojo to Hormigueros, Puerto Rico, to reflect its use there.

DATES: Comments must be filed on or before December 17, 1982, and reply comments on or before January 3, 1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: October 25, 1982.

Released: November 2, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cabo Rojo and Hormigueros, Puerto Rico).

1. Nestor Perez (petitioner) filed a petition for rule making on August 16, 1982, seeking to assign Channel 272A to Cabo Rojo, Puerto Rico. Although Cabo Rojo presently has Channel 221A assigned, that channel is being used at Hormigueros, Puerto Rico, under § 73.203(b) of the Commission's Rules. Thus, we are proposing to reassign the channel to reflect its actual use in that community. Petitioner stated his intention to apply for Channel 272A at Cabo Rojo, if assigned.

2. In support of the proposal, the petitioner submitted population and economic data. However, in view of the action taken in the *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), this information is no longer relevant.

3. The proposed assignment requires a site restriction of approximately 7 miles southwest of the city, due to Station WCHQ in Camuy, Puerto Rico. Petitioner proposes to locate the transmitter approximately 7.6 miles southwest of the city. In comments on this proposal, petitioner should furnish information demonstrating that a transmitter located at this distance could provide a 70 dBu signal over Cabo Rojo.

4. In view of the foregoing and the fact that the proposed assignment would provide a first FM broadcast service to Cabo Rojo, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following cities:

City	Channel No.	
	Present	Proposed
Cabo Rojo, Puerto Rico	221A	272A
Hormigueros, Puerto Rico		221A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 17, 1982, and reply comments on or before January 3, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. As *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Proceedings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-30675 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

[PR Docket No. 82-728; RM-3916; FCC 82-458]

Inquiry About the Characteristics of Radio Rescue Devices That May Be Used by Small Vessels in the Maritime Service

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: In this Notice of Inquiry the Commission invites public comments regarding the technical and non-technical standards that might be used to facilitate the operation of radio rescue devices by small vessels. This action is taken in response to a petition for rulemaking (RM-3916) filed by Gerald T. Weiss, of WREN Industries, in May 1981. During distress situations, crews of small vessels, such as recreational boats, would be able to use the signals of these radio rescue devices to "home in" and rescue persons that fall overboard from their vessels.

DATES: Comments must be received by November 29, 1982, reply comments must be received by December 14, 1982.

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

FOR INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 4 CFR Part 83

Maritime safety.

Notice of Inquiry

Adopted: October 21, 1982.

Released: October 28, 1982.

In the matter of amendment of Part 83 of the Commission's rules to allow the

use of radio rescue devices by small vessels in the Maritime Services.

Introduction

1. Gerald T. Weiss, of WREN Industries, has filed a petition (RM-3916) requesting the Commission to amend Parts 2 and 83 of its rules to provide for the operation of portable, low power and relatively inexpensive Emergency Position Indicating Radio Beacons (EPIRB's) that can be used by the crew of a relatively small vessel to rescue its members during "man overboard" situations, without the need of outside assistance.

2. In support, the petitioner notes that the existing classes of EPIRB's are designed primarily for use by comparatively large vessels and life rafts. These EPIRB's are large and expensive. They require outside monitoring. Some models rely on aircraft or land-based Coast Guard stations to receive their distress signals. EPIRB's depend heavily on other vessels and planes to "home in" to the distress area for search and rescue (SAR) operations. For the millions of recreational boats there is no rescue device that is designed to be used for the "man overboard" cases which occur during poor visibility and adverse weather conditions or at night.

Description of System

3. The petitioner states that he has developed an inexpensive device, called WREN, which is small, lightweight and can be attached to personal clothing or a life preserver by a clasp or lanyard. A person who has fallen overboard would activate a WREN manually, extend its antenna, and hold it above water to alert his/her vessel's crew at short range that one of its members is in distress. By using the WREN radio signal, the crew would then be able to "home-in" on and rescue the person fallen overboard. The vessel must be equipped with a special alarm system that responds to the time duration and frerquency tone of the WREN signal only, in order to prevent accidental alarm responses by other transmissions utilizing the WREN frequencies. If the alarm system were inoperative, a "beep" signal acting as a "back up" alarm would be heard by the crew, through the vessel's marine receiver, to alert it that one of its members is overboard. Thus, the petitioner states, the use of the WREN device would improve the ability of recreational vessel crews to rescue persons who fall overboard from their boats, without the need of outside assistance.

4. For maximum effectiveness and minimum cost, the petitioner proposes two types of WREN's: one operating between 4,075 kHz and 4,200 kHz and the other operating on two VHF frequencies simultaneously, 156.30 MHz (channel 6) and 156.80 MHz (channel 16). Their transmission range would be 2 to 3 miles and their operating life expectancy 6 to 8 hours. Power for the WREN devices would be provided by a small, nine volt battery.

5. The petitioner selected the 4,075 kHz to 4,200 kHz band for the operation of one WREN type because, he states, the crystals used in this band are reliable and inexpensive. He also estimates that 60% of recreational boats that have installed Radio Direction Finder (RDF) equipment operate in the 2,000 kHz to 5,000 kHz band and would be able to utilize these WREN devices. Nevertheless, the petitioner states, any other frequency in the maritime mobile band would be acceptable, provided inexpensive crystals are available.

6. The emission of the 4,075 kHz to 4,200 kHz WREN would be pulsed CW (A9). Its effective radiated power would be less than 200 milliwatts and its deviation 5 kHz. The carrier would be modulated with an 800 Hz tone, pulsed for 0.75 seconds "on" and 0.25 seconds "off". The tolerance of the pulsing rate would be ±20 ppm. Many receivers in the maritime mobile radio service, the petitioner claims, would not be able to receive the WREN A9 signal because they utilize A3 emission. But typical RDF receivers utilize A9 emission and would be able to receive the WREN signal without requiring additional equipment.

7. The frequencies of 156.30 MHz and 156.80 MHz were selected for the VHF WREN because their use is mandatory on all U.S. marine radio telephones for emergency and SAR operations. The emission on both VHF frequencies would be pulsed CW (F9). The effective radiated power would be less than 300 milliwatts and the deviation 5 kHz. Both carriers would be modulated with an 800 Hz tone pulsed for 0.75 seconds "on" and 0.25 seconds "off". Both carriers would remain "on" continously; that is, during both "on" and "off" periods of the pulsed modulation. The tolerance of the pulsing rate would be ±5 ppm.

8. To use the VHF WREN, in addition to the use of the special alarm system that is responsive to the WREN signal only, the vessel would have to be equipped with a special hand-held portable directional antenna. This antenna would consist of two ¼ wave vertical elements spaced ¼ wavelength apart. This type of antenna can produce an unambiguous signal null when its elements are oriented in line with the antenna of an incoming transmitted signal. During normal VHF communications, the standard marine VHF anntenna would be used with the receiver. If a WREN distress signal were received on either frequency, 156.30 MHz or 156.80 MHz, the crew would replace the standard VHF receiver antenna with the special hand-held portable directional antenna. The antenna replacement would be accomplished by utilizing either connect/disconnect plugs or a switch. By rotating the hand-held antenna, an audio null would be obtained to determine the direction of the incoming WREN signal, thus enabling the crew to "home-in" to the distress area to search for and rescue its "overboard" member, without the need of outside assistance.

Inquiry

9. The Commission recognizes that recreational boaters could use radio beacons for "man overboard" distress purposes. Our staff has received a number of letters and telephone inquiries regarding the operational authorization of such devices. We feel, however, that some aspects of the devices proposed by the petitioner require futher consideration. For this reason, we seek public comments to determine what rules should be proposed to accommodate their operation.

10. Specifically, after reviewing the petitioner's request with the U.S. Coast Guard, the opinion of our staff is that the proposed operation of these radio beacons in the 4,075 kHz to 4,200 kHz band would interfere with the operations of other maritime radio services that are currently authorized in these frequencies.[1] Likewise, their transmissions on 156.30 MHz would interfere with the SAR operations on this frequency by ships, aircraft and the U.S. Coast Guard.[2] In addition, the uninterrupted transmissions of the 156.30 MHz and 156.80 MHz carriers would prevent ship, plane and coast stations in the vicinity of these radio beacons from detecting any other more distant distress and SAR signal, whose arriving strength is substantially reduced. To avoid these problems, it would appear prudent for these devices to utilize the same frequencies and modulation schemes that are presently utilized by EPIRB's for similar purposes. Thus, they could utilize 2,182 kHz or 8,364 kHz in the low band, and on an alternative basis, the frequencies of

[1] For the allocation of the 4,075 kHz to 4,200 kHz band see Section 2.106 of the Commission's rules.

[2] See § 83.359, channel 06, in the Commission's rules.

156.75 MHz (channel 15) and 156.80 MHz (channel 16) in the VHF band.[3] An 800 Hz tone could modulate these radio frequencies, so that the transmissions of these devices can be distinguished from the transmissions of other similar systems. The modulating duration in the low band frequency could be 1.5 seconds "on" and 14.5 seconds "off". The modulating duration in the VHF band could be 1.5 seconds "on" and 14.5 seconds "off" in the 156.80 MHz frequency and 14.5 seconds "on" and 1.5 seconds "off" in the 156.75 MHz frequency. Accordingly, we will pose questions as to the appropriate frequencies and technical requirements for these devices.

11. If it is determined that rules should be proposed to authorize the operation of these devices, we believe they should be inexpensive, in order to facilitate their wide use by recreational boaters. Nevertheless, we cannot ignore that such authorization by the Commission would suggest to the public that the use of these devices would be reliable for alert, search and rescue operations during distress situations. We question, therefore, whether they should be subject to stringent, non-technical requirements (temperature, shock, physical configuration, maintenance, record keeping and the like) similar to those found in § 83.144, 83.145, 83.146 and 83.406 of the Commission's rules that govern the operation of Class A, B and C EPIRB's. We also question the type of equipment authorization procedures we must establish.

12. Similarly, we believe that the licensing requirements for the operation of these devices should be lenient. We are inclined to permit their use under an expansion of the authority of an existing station license. We will pose a question, therefore, regarding the licensing requirements of these devices.

13. Finally, the foregoing discussion indicates that the means which may be employed for search and rescue operations when the proposed devices are used would be of a limited nature. Also, many of the rules that will govern their operation would differ significantly from the rules that govern the operation of ordinary EPIRB's. Therefore, in order for the public to distinguish them from the Emergency Position Indicating Radio Beacons (EPIRB's) that are presently available, we propose to designate these devices "Limited Radio Rescue Devices" (LRRD's).

[3] The 2,182 kHz and 8,364 kHz frequencies may be used for radio direction-finding purposes during distress. See § 83.401(c) of the Commission's rules. The 156.75 MHz and 156.80 MHz frequencies are used by class "C" EPIRB's. See § 83.137(j) of the Commission's rules.

14. In view of the foregoing, we request comments on the following questions:

(a) Are the proposed frequencies of 2,182 kHz, 8,364 kHz, 156.75 MHz and 156.80 MHz acceptable for the operation of LRRD's? If not, what frequencies are recommended, keeping in mind that these devices would be utilizing frequencies that are currently authorized for the operation of other maritime radio services?

(b) What technical requirements (e.g. modulating tone, "on/off" periods) should be regulated by the Commission?

(c) What operating rules or limitations should be placed on these devices to prevent them from interfering with co-channel operation of maritime radio services that are currently authorized to utilize the same frequencies?

(d) Should the non-technical requirements (e.g., temperature, shock, physical configuration, maintenance) be regulated by the Commission? And if so, what form of equipment authorization should the Commission employ?

(e) What scheme of licensing should the Commission require for the operation of these devices?

Order

15. For the reasons set forth above, it is ordered, That this Notice of Inquiry is adopted.

16. Authority for this inquiry is contained in Sections 1, 4(i) and 303(b), (c), (e), (g), and (r) of the Communications Act of 1934, as amended. Pursuant to procedures set out in § 1.1415 of the Commission's rules, 47 CFR 1.415, interested persons may file comments on or before November 29, 1982, and reply comments on or before December 14, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in its Report and Order.

17. In accordance with the provisions of § 1.419 of the Commission's rules, 47 CFR 1.419 formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All filings will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

18. For questions on matters covered in this document contact William P. Berges (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-30672 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 82-726; FCC 82-456]

Amateur Radio Service; Elimination of Logging Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the Amateur Radio Service Rules to eliminate requirements that station licensees maintain detailed logs of station operation. Most of the current requirements were first established decades ago, although they have been relaxed somewhat during the past decade. Still, many of the logging requirements which exist today serve no regulatory purpose, or are unnecessarily complex or confusing. Eliminating requirements for station logs and placing requirements which are still useful in a more simple and appropriate rule format will relieve licensees of an unnecessary paperwork burden and clarify the intent of the Rules.

DATES: Comments are due by January 14, 1983 and replies by February 14, 1983.

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

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, (202) 632-7125 or (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Adopted: October 21, 1982.

Released: November 3, 1982.

In the matter of elimination of logging requirements in the Amateur radio service.

Introduction

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given.

2. The Commission, on its own initiative, is proposing to delete from the Amateur Radio Service Rules the requirements that an account of operation be maintained in a log for each amateur radio station. The present rules require each amateur radio station to maintain such a log and to include in it a variety of information regarding station activity, operators, facilities and communications. In an effort to eliminate rules and requirements which are not essential to the administration of the Amateur Radio Service, the Commission intends to delete many of these requirements since they serve no regulatory purpose. That information which would still be useful to the Commission in carrying out its regulatory responsibilities would simply be included by the licensee with other "station records." No record of routine station activity would be required.

Background

3. Section 97.103 of the Commission's Rules requires that "(a)n accurate legible account of station operation shall be entered into a log for each amateur radio station." The items to be entered as a minimum include the call sign of the station, the signature of the station licensee, or a photocopy of the station license; the locations and dates upon which fixed or portable operation was initiated and terminated; the date and time periods the duty control operator for the station was other than the licensee, together with the signature and primary station call sign of that duty control operator; and a notation of third-party traffic sent or received, including the names of all third parties and a brief description of the traffic content.

4. In addition, the log of a remotely controlled station must have entered the names, addresses and call signs of all authorized control operators; a functional block diagram and a technical explanation of the operation of the control link; and a description of the measures taken for protection against access to or operation of the remotely controlled station by unauthorized persons, for shutting down the station in the case of control link malfunction, and for monitoring the transmitting frequencies.

5. When a station has one or more associated stations, that is, stations in repeater or auxiliary operation, a system network diagram must be entered in the station log.

6. The log of a station in repeater operation transmitting with an effective radiated power (ERP) greater than that authorized as a general case (by § 97.67(c)) must contain the location of the antenna marked on a topographic map, the antenna height above average terrain, the ERP and relative gain in the horizontal plane of the antenna pattern, the transmitter output power, the loss in the transmission line, and the horizontal and vertical radiation patterns of the antenna shown on polar coordinate graph paper and the method used to determine them.

7. The log of a station in auxiliary operation must contain a system network diagram for each associated system, and must specify the transmitting bands and the transmitter input power.

8. The logging requirements specified in § 97.103 were intended to serve a variety of regulatory purposes, most of which are no longer valid. The requirements for noting various aspects of routine station operation were intended to provide the Commission with a means to verify when the station was in operation and whether communications from the station were of a permissible nature. The Commission has rarely used this information from the log, preferring to rely instead on monitoring data it has collected. Other regulations for logging actually imply requirements which more appropriately should be explicitly stated elsewhere. For example, the station log for a remotely controlled station must include "(a) description of the provisions for shutting down the station in the case of control link malfunction * * *" even though no current rule specifies explicitly that such provisions exist. Finally, the remainder of the logging regulations require that certain documentation be on hand at the station to confirm that technical aspects of the station's operation, which are unique to that particular station, are within the confines of the rules and that the station is operated in good faith. Examples of this last case are the requirements for documentation of a station licensee's calculation of the station's antenna height above average terrain when the station is in repeater operation with a power level greater than that authorized as a general case. This information should be compiled by the licensee regardless of the logging requirements and it remains beneficial to the Commission for this information to be retained by the licensee for Commission review during station inspections.

Proposal

9. The Commission proposes to eliminate all requirements that routine station activity be accounted for in a station log. We would no longer require that information which appears on the station license be duplicated in the log. We would no longer require that entries be made specifying the dates upon which fixed or portable operation was initiated and terminated or the locations of such operations. We would no longer require notations describing third party traffic sent and received. The only routine logging activities which currently serve a regulatory purpose are the entries made in the log when the control operator of a station is someone other than the station licensee. This information is used to determine who is the control operator at any given time and thus who shares responsibility with the station licensee when a rule violation occurs. The Commission believes that while this information is valuable for assigning responsibility for station operation, there is no reason that this information must be kept in the form of a log. Instead, we are proposing to let each individual licensee determine how he/she wishes to document the identity of control operators other than the station licensee. This documentation could be in the form of a statement signed by the control operator acknowledging the times and dates during which he/she was the control operator, or could be in the form of a tape recording of the control operator, acknowledging that he/she is the control operator, or could be in any other form the station licensee finds adequate. In any instance where such a record did not exist, the Commission would presume that the station licensee was the control operator.

10. The Commission further proposes to remove the implied operational requirements from the logging requirements and place them explicitly in the rule sections to which they apply. Specifically, this means that we would delete the requirements that the station log of a remotely controlled station must contain a description of measures taken for protection against unauthorized operation, a description of the provisions for shutting down the station in case of a control link malfunction, and a description of the means for monitoring the transmitting frequencies. Instead, we would place a single requirement in the section regarding "operation of a station by remote control" (§ 97.88) which would specify that "each remotely controlled station

shall be protected against unauthorized station operation. * * *"

11. Finally, the Commission proposes to allow licensees to keep those few records which we would still require—that is, certain technical documentation regarding repeater operation, auxiliary operation and operation of stations by remote control—in any form which could be made readily available to the Commission rather than requiring that information to specifically be placed in the station log. This would prevent licensees from having to duplicate information which might be available elsewhere. The requirements that this technical documentation be available will be placed in the rule sections addressing the type of operation involved.

12. The Commission believes that with adoption of our proposal it may be desirable to delegate authority to the Engineers-in-Charge of Commission field facilities to require individual station licensees to maintain a log with certain items of information that are currently required. This authority would be used on those occasions when it would clearly benefit Commission enforcement activities. We specifically invite comments as to the desirability and scope of this authority.

Conclusion

13. The net effect of our proposals described above would be to eliminate from the Rules any requirement that station licensees maintain a log and would also eliminate all references to logs in the Rules. As a practical matter, our proposals would eliminate most of the record keeping burden which we place on amateur radio operators. We wish to emphasize, however, that nothing in our proposal would prevent station licensees from maintaining a station log in the current fashion or from including in it any information that they so desire to include. In fact, the few requirements for record keeping which would remain in the rules could be satisfied quite adequately by the traditional amateur station log. The Commission is merely interested in giving licensees a choice of either maintaining a thorough and complete chronology of all station operation for the licensee's personal benefit or maintaining only those records which the Commission may need to review to determine that the station is being operated in good faith within the rules.

14. Accordingly, notice is hereby given that it is proposed to amend 47 CFR Part 97 in accordance with the proposal set forth in the attached Appendix.

Procedural Matters

15. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before January 14, 1983, and reply comments on or before February 14, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, DC 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

17. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC Washington, DC 20554, (202) 632–7000.

18. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding since this proposal would simply eliminate certain individual record-keeping requirements for amateur radio operators. These proposals are either insignificant in effect or deregulatory. Consequently, there would be no economic impact on small businesses, small organizations or small governmental jurisdictions.

19. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the **Federal Register.**

20. For further information on this proceeding, contact Steve Lett, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

It is proposed that Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, be amended as follows:

PART 97—[AMENDED]

1. In § 97.79, paragraph (b) would be revised to read as follows:

§ 97.79 Control operator requirements.

* * * * *

(b) Every amateur radio station, when in operation, shall have a control operator at an authorized control point. The control operator shall be on duty, except where the station is operated under automatic control. The control operator may be the station licensee, if a licensed amateur radio operator, or may be another amateur radio operator with the required class of license and designated by the station licensee. The control operator shall also be responsible, together with the station licensee, for the proper operation of the station. [For purposes of enforcement of the rules of this part, the FCC will presume that the station licensee is, at all times, the control operator of the station, unless documentation exists to the contrary.)

* * * * *

2. In § 97.85, a new paragraph (g) would be added to read as follows:

§ 97.85 Repeater operation.

* * * * *

(g) Each station in repeater operation transmitting with an effective radiated power greater than 100 watts on frequencies between 29.5 and 420 MHz, or 400 watts on frequencies between 420 and 1215 MHz, shall have the following information included in the station records during any period of operation:

(1) The location of the station transmitting antenna marked upon a topographic map having contour intervals and having a scale of 1:250,000 (indexes and ordering information for suitable maps are available from the U.S. Geological Survey, Washington, D.C. 20242, or from the Federal Center, Denver, CO 80255);

(2) The transmitting antenna height above average terrain (see Appendix 5);

(3) The effective radiated power in the horizontal plane for the main lobe of the antenna pattern, calculated for the maximum transmitter output power which occurs during operation;

(4) The maximum transmitter output power which occurs during operation;

(5) The loss in the transmission line between the transmitter and the antenna (including devices such as duplexers, cavities or circulators), expressed in decibels; and

(6) The relative gain in the horizontal plane of the transmitting antenna.

3. In § 97.87 the designation "[Reserved]" would be replaced with the following:

§ 97.87 System network diagram required.

When a station has one or more associated stations, that is, stations in repeater or auxiliary operation, a system network diagram [see § 97.3(v)] shall be included in the station records during any period of operation.

4. In § 97.88, paragraph (a) would be revised, paragraphs (a)(1) and (a)(2) would be removed, and new paragraphs (f) and (g) would be added to read as follows:

§ 97.88 Operation of a station by remote control.

* * * * *

(a) A photocopy of the remotely controlled station license shall be posted in a conspicuous place at the station location.

* * * * *

(f) The station records shall include during any period of operation:

(1) The names, addresses, and call signs of all persons authorized by the station licensee to be control operators; and

(2) A functional block diagram of the control link and a technical explanation sufficient to describe its operation.

(g) Each remotely controlled station shall be protected against unauthorized station operation, whether caused by activation of the control link, or otherwise.

§ 97.99 [Amended].

5. In § 97.99, paragraph (c) would be removed in its entirety.

§§ 97.103 and 97.105 [Removed].

6. Sections 97.103, 97.105 and the undesignated heading "Logs" which precedes § 97.103 would be removed in their entirety.

§ 97.417 [Removed].

7. In § 97.417, paragraph (d) would be removed in its entirety.

[FR Doc. 82-30667 Filed 11-8-82; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 217
Tuesday, November 9, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States, to be held at 9:30 a.m., Tuesday, November 16, 1982, at 400 Maryland Avenue, SW., Room 7002, Washington, D.C. 20546.

The Committee will meet primarily to discuss consultant draft recommendations on officials' liability for constitutional violations.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a writen statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone 202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
November 5, 1982.

[FR Doc 82–30850 Filed 11–8–82; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Coal Leasing Within Grand Mesa, Uncompahgre, and Gunnison National Forests—Delta, Garfield, Gunnison, Mesa, Montrose, and Ouray Counties, Colorado; Application of Coal Unsuitability Criteria

Pursuant to the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083–1092) and Title 43, Subpart 3461, of the Code of Federal Regulations (43 CFR Part 3461), the Forest Service, Department of Agriculture, has applied coal unsuitability criteria to lands in which the United States owns an interest in the coal resource within the boundary of the Grand Mesa, Uncompahgre, and Gunnison National Forests. These criteria were applied as part of the Grand Mesa, Uncompahgre, and Gunnison National Forests' land and resource planning process to identify lands suitable for further consideration for coal leasing. If and when the Bureau of Land Management proposes to lease specific tracts which are suitable, mineral leasing direction in the Forest Plan will be applied.

The coal unsuitability criteria were applied to a total of 755,862 acres.

A preliminary coal unsuitability assessment is in Appendix F of the Draft Environmental Impact Statement on the Proposed Grand Mesa, Uncompahgre, and Gunnison National Forests' Land and Resource Management Plan. Copies are available for public review at Forest Service Offices in Collbran, Delta, Denver, Grand Junction, Gunnison, Montrose, Norwood, and Paonia, Colorado. Detailed maps and information are available at the Forest Supervisor's Office in Delta, Colorado.

Comments on the draft coal unsuitability assessment must be sent to Forest Supervisor; Grand Mesa, Uncompahgre, and Gunnison Forests; 2250 Highway 50; Delta, Colorado 81416; by February 19, 1983, to be considered. For further information, contact Arnie Arneson at the above address or call (303) 874–7691.

Dated: October 29, 1982.
William W. Sutton,
Acting Forest Supervisor, Grand Mesa, Uncompahgre, and Gunnison National Forests.

[FR Doc. 82–30874 Filed 11–8–82; 8:45 am]
BILLING CODE 3410–11–M

Agricultural Marketing Service

Agricultural Stabilization and Conservation Service and Agricultural Marketing Service

Wool and Mohair Advertising and Promotion

AGENCIES: Agricultural Stabilization and Conservation Service (ASCS) and Agricultural Marketing Service (AMS), USDA.

ACTION: Notice of Referendum.

SUMMARY: The purpose of this notice is to announce that a referendum will be conducted on December 6–17, 1982, among mohair producers to determine if such producers are in favor of a proposed agreement between the Mohair Council of America (MCA) and the United States Department of Agriculture with respect to advertising and sales promotion programs. Under the proposed agreement, the Department would make deductions for the 1982 through 1985 marketing years from price support payments which are made to angora goat producers for mohair under the National Wool Act of 1954, as amended (hereinafter referred to as the "Act"). The amounts so deducted would be used by the MCA for advertising and sales promotion programs and for programs pertaining to the dissemination of information concerning mohair or the products thereof.

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer, Emergency Operations and Livestock Programs Division, ASCS, USDA, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013. (202) 447–7674. A final regulatory impact analysis is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of referendum has been reviewed

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

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

The title and number of the Federal assistance program that this notice of referendum applies to are: Title—National Wool Act Payments: NUMBER–10.059 as found in the Catalog of Federal Domestic Assistance.

Section 708 of the Act authorizes the Secretary of Agriculture to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvements for wool, mohair, sheep, or goats or their products. These activities are administered for the Secretary by the Agricultural Marketing Service (AMS) of the Department of Agriculture. In order to defray the expenses for carrying out these activities, the agreements may provide for deductions to be made from price support payments which are paid to producers under the Act. However, as required by Section 708 of the Act, no agreement providing for any such deduction shall become effective unless the agreement is approved in a referendum by at least two-thirds of the producers voting or by producers with at least two-thirds of the volume of production represented in the referendum.

Mohair producers approved agreements for advertising and sales promotion activities between the Secretary and the Mohair Council of America (MCA) in referendums conducted in 1967 and 1971. The 1971 agreement was approved by 81 percent of the producers voting. Funds generated under the 1971 agreement were exhausted in 1978. Since 1978 MCA activities have been funded by the Texas Mohair Board.

It is proposed that a new agreement be entered into between the Secretary and the MCA for the 1982–1985 marketing years. The proposed agreement will be similar to the most recent agreement dated July 15, 1971 (published at 36 FR 13168), except that the maximum amount which can be deducted from price support payments which are made to angora goat producers for mohair sold during the specified marketing years is being increased from 1½ cents to 4½ cents per pound of mohair marketed.

Since the purpose of this notice is only to announce the period when the referendum will be conducted and certain eligibility requirements for producers to participate in such referendum it has been determined that no further public rulemaking is required.

Notice of Referendum

1. *Period of Mohair Referendum for the 1982, 1983, 1984, and 1985 marketing years.* In accordance with Section 708 of the National Wool Act of 1954, as amended, the Secretary of Agriculture will conduct a referendum among mohair producers to determine whether they approve of the proposed agreement between the Mohair Council of America, and Agricultural Marketing Service regarding advertising and sales promotion programs for goats, mohair or the products thereof. The referendum will be conducted in accordance with the provisions of 7 CFR Part 1270 during the period December 6–17, 1982, inclusive. Voting will conducted through county offices of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture. Copies of the proposed agreement are available at ASCS county offices and will be mailed to individual producers.

2. *Eligibility requirements to participate in the referendum.* Only those producers who owned angora goats (6 months old or older) in the United States for at least 30 consecutive days during 1981 are eligible to vote.

(Sec. 708, 68 Stat. 912, as amended (7 U.S.C. 1787))

Signed at Washington, D.C., on October 26, 1982.

Everett Rank

Administrator, Agricultural Stabilization and Conservation Service.

Vera F. Highley,

Administrator, Agricultural Marketing Service.

[FR. Doc. 82–30635 Filed 11–8–82; 8:45 am]

BILLING CODE 3410–05–M

Soil Conservation Service

Mud River Watershed, Kentucky; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mud River Watershed, Butler, Logan, Muhlenberg and Todd Counties, Kentucky.

FOR FURTHER INFORMATION CONTACT: Eddie L. Wood, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone 606–233–2749.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The original work plan called for twenty two (22) floodwater retarding structures, four (4) multi-purpose structures and sixteen (16) miles of channel improvement. Nineteen (19) floodwater retarding structures, four (4) multi-purpose structures and sixteen (16) miles of channel improvement have been completed. Two flood water retarding structures, at the request of the sponsors, have been deleted from the project. The planned action is to continue ongoing land treatment programs and construct one (1) remaining floodwater retarding structure. This planned action will

reduce upland erosion, downstream flooding and sedimentation.

The Finding of No Significant Impact (FONSI), has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: November 1, 1982.

Eddie L. Wood,

State Conservationist.

[FR Doc. 82-30712 Filed 11-8-82; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Retail Sales and Inventories; Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1983 the Annual Retail Trade Survey, which has been conducted each year since 1951 (except 1954) under title 13, United States Code, sections 182, 224, and 225. This survey of retail firms is conducted to collect data covering year-end inventories, accounts receivable balances, and annual sales. This survey, which would provide data for 1982, is the only continuing source available on a comparable classification and timely basis for use as a benchmark for developing estimates of retail inventory, accounts receivable, and sales. Such a survey, if conducted, shall begin not earlier than December 31, 1982.

Information and recommendations received by the Bureau of the Census indicated that the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of firms operating retail establishments in the United States, with probability of selection based on their sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey will receive consideration if submitted in writing to the Director of the Bureau of the Census on or before December 17, 1982.

Dated: November 3, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-30785 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Carbon Steel Wire Rod From Belgium and France; Termination of Countervailing Duty Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Termination of countervailing duty investigations.

SUMMARY: The petitioners in the investigations have withdrawn their petitions concerning carbon steel wire rod. Therefore, we are terminating these countervailing duty investigations.

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1779.

SUPPLEMENTARY INFORMATION:

Case Histories

On February 8, 1982, we received petitions from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corporation, and Raritan River Steel Company, filed on behalf of the U.S. industry producing carbon steel wire rod. The petitions alleged that certain benefits constituting subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), were being provided, directly or indirectly, to the manufacturers, producers or exporters in Belgium and France of carbon steel wire rod. We found that these petitions contained sufficient grounds upon which to initiate countervailing duty investigations and initiated such investigations on March 1, 1982 (47 FR 9261, 5739). On July 8, 1982, we issued our preliminary determinations in these investigations (47 FR 30541, 30553) and issued our final determinations on September 21, 1982 (47 FR 42403, 42422). These final determinations stated our conclusions that the governments of Belgium and France were providing certain of their manufacturers, producers or exporters of carbon steel wire rod with benefits constituting subsidies within the meaning of the countervailing duty law.

Scope of Investigations

For the purpose of these investigations the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Withdrawal of Petitions

On November 3, 1982, the petitioners in these investigations notified us that they were withdrawing their petitions and requested that the investigations be terminated. Under section 704(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. All parties to these investigations have been notified of the petitioners' withdrawals. We have determined that the termination of these cases is in the public inferest.

Customs officers have been instructed to refund any estimated countervailing duties collected and to release any bonds or deposits posted with respect to carbon steel wire rod affected by these terminations.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

November 4, 1982.

[FR Doc. 82-30780 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-25-M

Fireplace Mesh Panels From Taiwan; Postponement of Countervailing Duty; Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of countervailing duty preliminary determination.

SUMMARY: The countervailing duty preliminary determination involving fireplace mesh panels from Taiwan is being postponed upon request of counsel for the petitioners in this case. We intend to issue the countervailing duty preliminary determination no later than December 20, 1982.

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Lim, Office of Investigations, Department of Commerce, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C., (202) 377–4136.

SUPPLEMENTARY INFORMATION: On August 11, 1982, we announced the initiation of a countervailing duty investigation to determine whether the manufacturers, producers, or exporters of fireplace mesh panels from Taiwan receive subsidies within the meaning of the countervailing duty law. The notice of initiation stated that if the investigation proceeded normally we would issue a preliminary determination on or before October 15, 1982. However, since initiation of this investigation, petitioners have requested, pursuant to section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), that the period for the preliminary determination be extended in this case. The petitioners request this extension to allow additional time to prepare comments on the questionnaire responses of the respondents in this case.

Based on this request, in accordance with section 703(c)(1)(A) of the Act, we are extending the period for our preliminary determination in this case to not later than December 20, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

November 1, 1982.

[FR Doc. 82-30715 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-25-M

Tomato Products From Greece; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on tomato products from Greece. The review covers the period January 1, 1980 through December 31, 1980. As a result of the review, the Department has preliminarily determined the amount of net subsidies to range from 3.65 to 28.45 drachmas per gross kilogram, depending on the specific product. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 51425) the final results of its first administrative review of the countervailing duty order on tomato products from Greece (T.D. 72–88, 37 FR 6360) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are tomato paste and sauce, peeled tomatoes and tomato juice. Such imports are currently classifiable under items 141.6520, 141.6540, 141.6600 and 166.3000 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1980 through December 31, 1980, and is limited to a program of "production aid" to processors of tomato products.

Analysis of Program

On August 16, 1979, the Greek government abolished its regime of production subsidies for tomato growers and adopted an acquisition assistance program for processors in anticipation of joining the European Communities ("the EC"). Under the adopted program the Greek government made payments to processors of tomatoes.

The amount of aid was calculated to compensate for the difference between the price to the processors of EC tomato products and of those from non-member countries. The aid was granted only to processors which concluded contracts withproducers at or above a minimum price, and whose products met the quality standards of the EC.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the net subsidies conferred on tomato products from Greece during the period of review are those shown in the Appendix to this notice.

Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties at those rates on all shipments of this merchandise exported on or after January 1, 1980 and before January 1, 1981.

Further, as provided for by section 751(a)(1) of the Tariff Act, we intend to instruct the U.S. Custom Service to collect cash deposits of estimated countervailing duties at the rates specified in the Appendix on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

November 4, 1982.

Appendix

Subsidies Conferred

(1) Tomato paste and sauce:

Concentration (percent)		Drachmas per gross kilogram (packing size)				
From	To	More than 1.5 kJ.	From 1.5 to 0.7 kJ.	From 0.7 to 0.25 kJ.	From 0.25 to 0.15	0.15 and less
12	14	6.9	8.09	8.75	10.60	11.93
14	16	7.54	8.84	9.56	11.58	13.03
16	18	8.17	9.58	10.36	12.56	14.12
18	20	8.82	10.34	11.19	13.55	15.25
20	22	9.46	11.09	11.99	14.53	16.34
22	24	10.09	11.83	12.80	15.51	17.44
24	26	10.73	12.58	13.61	16.48	18.54
26	28	11.36	13.32	14.41	17.46	19.64
28	30	12.00	14.07	15.22	18.44	20.74
30	32	12.64	14.81	16.03	19.42	21.84

Concentration (percent)		Drachmas per gross kilogram (packing size)				
From	To	More than 1.5 kJ.	From 1.5 to 0.7 kJ.	From 0.7 to 0.25 kJ.	From 0.25 to 0.15	0.15 and less
32	34	13.27	15.56	16.83	20.39	22.94
34	36	13.91	16.31	17.64	21.37	24.04
36	38	14.54	17.05	18.45	22.35	25.10
38	40	15.19	17.81	19.27	23.34	26.26
40	42	15.83	18.56	20.08	24.32	27.36
42	93	16-46	19.31	20.88	25.30	28.45
93	100	46-80	46.80	46.80	46.80	46.80

(2) Tomato juice: 3.65 drachmas per gross kilogram.

(3) Peeled tomatoes: 6.30 drachmas per gross kilogram.

[FR Doc. 82-30779 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 628]

Ingeneria y Desarrollo; Order Vacating Temporary Denial of Export Privileges

By Order of June 4, 1982, 46 FR 25396 (June 11, 1982), the respondent, Ingeneria y Desarrollo Industrial, S.A. ("INDEIN") Guzman el Bueno, 121 and 133, Parque de las Naciones, Edificio Britannia, Madrid 3, Spain, was temporarily denied, pursuant to § 388.19 of the Export Administration Regulations (15 C.F.R. Part 368, *et seq.* (1982)) (the "Regulations"), all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data.

The Department of Commerce (the "Department") has now filed an Amended Answer joining in Respondent's Motion to Vacate the Temporary Denial Order, giving as reasons for the amended answer: (1) Additional information provided by INDEIN; (2) other facts available to the Department, and (3) a settlement reached by the parties, constituting final disposition of the administrative proceeding initiated against INDEIN by the Department.

Based upon the representations made by the parties, I find that it would be appropriate to vacate the temporary denial order.

Accordingly, it is hereby

Ordered that, effective immediately, the Order of June 4, 1982 is Vacated.

A copy of this vacation of the Order of June 4, 1982 shall be served upon the respondent and published in the Federal Register.

Dated: November 2, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-30777 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-25-M

Joint Business-Department of Commerce Hearings on the Export Administration Act of 1979; Correction

A document previously published in 47 FR 49879 (FR Doc. 82-30260) on Wednesday, November 3, 1982. Hearing procedures were inadvertently omitted. These procedures would have followed the date in the document and are set out below.

Hearing Procedures

Submission of Written Comments

In order to assure that comments may be given the fullest possible consideration, interested persons are urged to submit their written comments as early as possible. Comments postmarked on or before December 10, 1982, will be considered in the Development of the Administration position on the Export Administration Act. Comments postmarked after December 10 will be accepted but cannot be assured consideration.

Persons appearing at a hearing should submit five copies of their written comments at the hearing. Other persons may deliver their comments at any one of the hearings or send them to: Paige Bryan, U.S. Department of Commerce, ITA, Room 3898B, Washington, D.C. 20230.

Persons making presentations at the hearings will be given five minutes to deliver a prepared statement. Accordingly, such persons should be prepared to summarize their written comments, if they are comprehensive in length. Subsequent to the five minute presentation, the panel members will have an opportunity to question the presentor. Only panel members will be permitted to ask questions.

A transcript or summary of the hearing will be prepared.

The transcript or summary, as well as all written comments, will be made available for public review and copying. Any information received with instructions that it be treated as confidential will not be accepted. All public comments, both written and made at the hearing, will be a matter of public record.

The public record concerning this subject will be maintained in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, Main Building, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230. All records in this facility on the subject of these hearings may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about inspecting and copying records at the facility may be obtained from Ms. Patricia Mann, the International Trade Administration's Freedom of Information Officer, at the above address, or by calling (202) 377-3031.

Selection of Presentors at Hearings

Requests to appear at a hearing should be made to the Department of Commerce District Office located in the city where the hearing will take place. Because it may be necessary to limit the number of persons making presentations, requestors may be asked to provide the following information to assist in the selection process: Describe requestor's interest in the proceeding; explain whether the requestor represents a certain group of interested parties, e.g., an association, a public interest group; explain the nature of the comments to be presented.

The District Office will notify each person selected to present comments at a hearing no later than two days prior to the hearing in question.

The Department of Commerce reserves the right to select the persons to be heard at each meeting, schedule their respective presentations and establish the procedures governing the conduct of the hearing. In light of the time limitations of the hearings, no person or organization should expect to be permitted to speak at more than one hearing.

Dated: November 5, 1982.

Lawrence J. Bradey,

Assistant Secretary for Trade Administration.

[FR Doc. 82-30847 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Evaluation of Coastal Zone Management Programs

AGENCY: Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Mississippi, Washington, Puerto Rico, and Alaska Coastal Zone Management Programs.

Section 312 of the Coastal Zone Management Act of 1972, as amended, requires a continuing review of the performance of each coastal state with respect to the implementation of its federally approved coastal management

program. The states evaluated were found to be adhering both to the programmatic items of their financial assistance awards and to their approved coastal management programs; and to be making satisfactory progress on grant tasks, special award conditions, and significant improvement tasks. Accomplishments were occurring with respect to the national coastal management objectives identified in Section 303(2)(A)–(I) of the Coastal Zone Management Act.

A copy of the findings made by the acting Assistant Administrator for Coastal Zone Management for each of these states may be obtained on request from: Harriet Knight, Chief of Program Evaluation, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (telephone: 202/634–4245).

Dated: October 28, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-30714 Filed 11-8-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare an Environmental Impact Statement; Military Ocean Terminal, Sunny Point, N.C.

AGENCY: U.S. Army Military Traffic Management Command, DOD.

ACTION: Notice.

Notice of intent to prepare National Environmental Policy Act (NEPA) documents for the following proposed actions at the Military Ocean Terminal, Sunny Point, N.C.:

Upland diked disposal area 5 and reconfiguration of the MOTSU channels and basins—supplement to the final Environmental Impact Statement, MOTSU;

Bulkheads and scour jet arrays for the MOTSU wharves and rehabilitation of upland diked disposal area 2—Environmental Assessment;

Scour jet test array—Environmental Assessment; and

Modification of seasonal restrictions to maintenance dredging at MOTSU—supplement to the final Environmental Impact Statement, MOTSU

SUMMARY:

1. A multifaceted plan of action is proposed to address the problems caused by siltation within the MOTSU channels and ship basing namely: rapid decrease in the overall defense preparedness arising from the immediate and continuing reduction in navigation depths following maintenance dredging operations; operational impediments with respect to vessel movement, berthing and cooling water intake; and, costly and recurring requirements for dredging and dredged material disposal. The foundation of the plan is the reconfiguration of the MOTSU channels and basins, which will improve circulation and cause shoaling to occur in a manner less restrictive to facility operations. Associated with the reconfiguration is the installation of scour jets and bulkheads along the wharves to maintain project depths in the berthing areas (within 100 feet of the wharves) between dredging operations. Also included in the plan of action is the construction of a new diked upland disposal area (disposal area 5) and the rehabilitation of an existing diked upland disposal area (disposal area 2) through the use of a slurry wall and well/pumping system. The plan contains a proposed modification of the seasonal restrictions on maintenance dredging to allow maintenance dredging whenever required.

2. The alternatives to the proposed plan of action include ocean dumping of dredged material, continuation of present diked upland disposal areas, construction of new diked upland disposal areas, various combinations of the components of the proposed action, and no action.

3. a. Participation and public involvement of affected Federal, State, and local agencies, private organizations and parties are invited. Input to the NEPA process will be solicited through: letters to State and Federal agencies, and environmental action groups; a Notice of Intent published in the Federal Register and a public notice published by the Wilmington District, Corps of Engineers.

b. Significant issues to be addressed in the NEPA documents mentioned above will include: loss of habitat associated with construction of a new diked upland disposal area, effects dredging new areas of river bottom as a result of channel and basin reconfiguration, potential for saltwater intrusion to ground water associated with new and rehabilitated dredged material disposal areas and the effects of dredging during seasonally restricted periods.

c. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service will furnish input as cooperating agencies to the NEPA documents which contain alternatives in environments within their respective jurisdictions.

4. A scoping meeting will be held 19 November 1982, beginning at 10:00 a.m. in the Headquarters conference room of the Military Ocean Terminal, Sunny Point, North Carolina. The meeting will consist of three parts: an overview of the MOTSU facility and the proposed plan of action; a project area site visit; and finally, and most importantly, discussion by concerned agencies and individuals of significant issues related to the proposed plan of action which should be addressed in the NEPA documents.

5. Estimated date of the NEPA documents being made available to the public:

a. Scour jet test array (Environmental Assessment)—April 1983.

b. Bulkheads and scour jet arrays for the MOTSU wharves and rehabilitation of upland diked disposal area 2, (Environmental Assessment)—October 1983.

c. Upland diked disposal area 5 and reconfiguration of the MOTSU channels and basins (supplement to the final EIS)—February 1984.

d. Modification of seasonal restrictions to maintenance dredging at MOTSU (supplement to the final EIS)—February 1985.

ADDRESS: Questions about the proposed action and NEPA documents can be answered by Mr. Philip M. Payonk/SAWPD–EW, U.S. Army Engineer District, Wilmington, P.O. Box 1890, Wilmington, NC 28402.

Dated: October 14, 1982.

William A. Heizmann III,

Colonel, Transportation Corps Commander.

[FR Doc. 82-30720 Filed 11-8-82; 8:45 am]

BILLING CODE 3710-08-M

Defense Audit Service

Bonus Awards Schedule for Senior Executive Service (SES)

AGENCY: Defense Audit Service, DOD.

ACTION: Notice of schedule for awarding bonuses to SES members.

SUMMARY: The Defense Audit Service plans to grant performance awards to SES members on or about November 22, 1982.

EFFECTIVE DATE: October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Susan E. Irons, Defense Audit Service, 1300 Wilson Boulevard, Arlington, VA 22209, (202) 694–5317.

Robert J. Coffey,

Staff Manager.

[FR Doc. 82-30713 Filed 11-8-82; 8:45 am]

BILLING CODE 3620-01-M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

CHAMPUS Prepaid Health Benefits Demonstration (CHAMPUS CHOICE)

The survey will provide information on the health insurance offered to CHAMPUS eligible families through other employers. This information will be used to help determine the cost-effectiveness of a nationwide offer of prepaid plans as an alternative to CHAMPUS.

Employers in Portland: 144 responses; 24 hours

Forward comments to Ed Springer, OMB desk officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, Agency clearance officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301.

A copy of the information collection proposal may be obtained from LTC Joseph C. H. Smith, OCHAMPUS, Health Systems Research, Aurora, Colorado 80045, telephone (303) 361–8608.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

November 4, 1982.

[FR Doc. 82-30786 Filed 11-8-82; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement; Request Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains: (1) Type of Submission; (2) title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected: (4) Type pf Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Supplemental Application for Employment with DoD Overseas Dependent Schools

To provide in brief, personal, professional, and academic data for use in screening applicants for employment with the Department of Defense Dependent Schools—overseas.

Professional Educators; 4, 500 responses; 2,250 burden hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the information collection request may be obtained from Mr. Robert L. Newhart, OASD, MRA&L (PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695–0643. This survey is under contract.

November 4, 1982.

M. S. Healy

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-30787 Filed 11-8-82; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposed may be obtained.

Extension

Raw, Basic, Processed and Semi-fabricated Stock Form Bill of Material for Sub-contracted Parts or Purchased Parts/GFP (DD Forms 346 and 347).

DD Forms 346 and 347 are used in the development of current and mobilization requirements for materials for support of the Defense Materials System and the DoD Industrial Preparedness Planning Program.

DoD Contractors and Suppliers; 290 responses; 870 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503 and John V. Wenderoth, Agency Clearance Officer, OASD(C), IRMS, IRAD, Room 1A 658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from Kenneth Foster, OUSDRE(AM)IR, Room 2A 330, Pentagon, Washington, D.C. 20301, telephone (202) 694–4783.

M. S. Healy,

OSD Federal Register Officer, Department of Defense.

November 4, 1982.

[FR Doc. 82-30788 Filed 11-8-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: December 1, 2, and 3, 1982.

ADDRESS: The Century Plaza Hotel, 2025 Avenue of the Stars, Century City, Los Angeles, California 90067.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Education, 425 Thirteen Street NW.; Suite 529, Washington, D.C. 20004, Telephone: (202) 376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on

Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) the preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education; and

(c) activities that will lead to changes in the legislative provisions of this title and other federal laws affecting federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The Council meeting will be held from 2:00 p.m. until 5:00 p.m., and from 7:00 p.m. until 9:00 p.m. on December 1; from 9:00 a.m. until 5:00 p.m. on December 2; and from 9:00 a.m. until 12:00 Noon on December 3,. 1982.

The proposed agenda includes:

—The Chairperson's Report
—The Executive Director's Report
—Legislative Update
—Guest speakers from industry, business, and Government on Federal policies dealing with training of the American workforce.
—Council budget
—Work assignments
—Future meetings

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteen Street NW., Room 529, Washington, D.C.

Signed at Washington, D.C., on November 4, 1982.

William G. Shannon,

Executive Director.

[FR Doc. 82-30696 Filed 11-8-82; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Education; Closing Date for Submission of Proposals

AGENCY: National Institute of Education, ED.

ACTION: Closing date for submission of proposals.

SUMMARY: This notice sets forth the closing date and schedule for consideration of unsolicited proposals.

FOR FURTHER INFORMATION CONTACT: Sarah Price, national Institute of Education, Room 637, 1200 19th Street, NW., Washington, D.C. 20208: 202–254–6778.

SUPPLEMENTARY INFORMATION: The National Institute of Education announces February 3, 1983, as the next closing date for receiving proposals under the unsolicited proposals program.

Unsolicited proposals may be submitted at any time to the NIE Proposals Clearinghouse, Room 813, 1200 19th Street, NW., National Institute of Education, Washington, D.C. 20208. Funding decisions for proposals received by 4:30 P.M., February 3, 1983 are expected by August, 1983, with awards planned for October, 1983.

Dated: November 3, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-30789 Filed 11-8-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery will meet in November 1982. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its second meeting on Thursday, November 18, 1982, starting at 9:00 a.m. in the Consulate Room of the Westin Oaks, 5011 Westheimer, Houston, Texas.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group formation.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 3, 1982.

Jan W. Mares,

Assistant Secretary for Fossil Energy.

[FR Doc. 82-30729 Filed 11-8-82; 8:45 am]

BILLING CODE 6450-01-M

Receipt and Financial Settlement Provisions for Nuclear Research Reactor Fuels

AGENCY: Department of Energy.

ACTION: Notice

SUMMARY: The Department of Energy is extending until December 31, 1987, its policy of receiving, and making financial settlement for, United States origin spent reactor fuels from research reactors not owned and operated by the Department. This policy had been scheduled to expire December 31, 1982. Additionally, the Department is revising its financial settlement terms for these services, to reflect changes in the Department's cost for providing the services.

FOR FURTHER INFORMATION CONTACT: Roger K. Heusser, Office of Nuclear Materials Production DP–132, U.S. Department of Energy, Washington, D.C. 20545, (301) 353–5496.

SUPPLEMENTARY INFORMATION: Since 1968, the Department of Energy (DOE) and its predecessor agencies, the Atomic Energy Commission, and the Energy Research and Development

Adminstration, have undertaken to receive, at DOE fuel processing sites, and to make financial settlement for, spent reactor fuel from non-Departmental research reactors. The specific terms and conditions for such services were first set forth in a Federal Register Notice entitled "Spent Fuel—Chemical Processing and Conversion" (33 FR 30, January 3, 1968). Subsequently, that Notice was amended on five occasions (35 FR 8715, June 4, 1970; 35 FR 18302, December 1, 1970; 40 FR 3031, January 17, 1975; 40 FR 59774, December 30, 1975; and 41 FR 36144, August 27, 1976). The amendments generally updated the terms for settlement on specific fuels delivered to the Department or its predecessors, and extended the allowable date for delivery. The current deadline for receipt and settlement for United States-origin spent reactor fuels from non-Departmental owned and operated research reactors is December 31, 1982.

There are two conditions for providing this service. First, commercial fuel processing must be unavailable at reasonable terms and conditions, and, second, the reactor fuel must be of United States origin—that is, composed of nuclear materials produced or enriched in this country. The fuel processing charges used for settlement under this program are based upon either the actual processing costs, if the fuel can be processed at a DOE facility, or the conceptual capital and operating costs for an assumed plant. There are a number of non-Departmental research reactor operations in the United States that utilize the processing service provided by DOE. Additionally, a large number of foreign reactor operators using nuclear materials of United States origin have returned fuels to this country under this policy.

DOE has recently reviewed its policy on receipt and financial settlement for nuclear research reactor fuels of United States origin. Because (1) no commercial fuel processing services are currently available, or projected to become available, to meet current needs; (2) basic beneficial nuclear research would have to be curtailed absent a spent fuel disposal capability; and (3) the existence of the policy provides a mechanism for the return of highly enriched uranium to the United States, the Department has determined to extend until December 31, 1987, the deadline for receipt and settlement of spent fuel from non-Departmental research reactors.

The terms and conditions upon which the Department will provide these services are as follows:

1. This policy applies to irradiated nuclear research reactor fuels and blanket materials (reactor materials). This policy pertains only to reactor materials from research reactors other than those involved in the conduct of research and development activities leading to the demonstration of the practical value of such reactors for industrial or commercial purposes.

2. Commercial fuel processing must be unavailable at reasonable terms and conditions.

3. The fuel must be of United States origin—that is, composed of nuclear materials produced or enriched in the United States.

4. This policy applies solely to the following types of reactor fuels:

a. Aluminum-clad, uranium-aluminum (other than uranium–233) alloy fuel types with a uranium-235 content of greater than 20 percent, by weight, of the total uranium content.

b. Aluminum-clad, uranium (other than uranium-233) oxide fuel types with a uranium–235 content greater than 20 percent, by weight, of the total uranium content.

c. Aluminum-clad, uranium-aluminide (other than uranium–233) fuel types with a uranium–235 content of greater than 20 percent, by weight, of the total uranium content.

d. Aluminum or stainless steel-clad, uranium-zirconium hydride (other than uranium–233) TRIGA fuel types.

The percentage of uranium-235 of the eligible fuel types shall be that measured or estimated at the time of delivery to the DOE.[1]

5. DOE will undertake, under contracts individually negotiated with persons licensed pursuant to sections 53.a.(4), 63.a.(4), 103, or 104 of the Atomic Energy Act of 1954, and persons operating research reactors abroad fueled with material produced or enriched by the United States, who possess or will possess eligible reactor materials, to receive such reactor materials at DOE-designated facilities, and to make a settlement therefor in accordance with this Notice and other established DOE policies. This settlement will take into account the charges for the chemical processing of received reactor materials and any conversion of recovered uranium to the standard form, uranium hexafluoride, for which specifications and prices have been established by DOE. Furthermore, DOE may chemically process and convert all or part of such received reactor materials to the extent, in such manner, and at such time and place as it determines advisable, or otherwise dispose of such materials as it may deem advisable.

6. Firm charges for DOE services provided under this policy will be a part of each contract. These charges will be expressed in terms of a unit weight charge fixed by DOE to the reactor materials in question, to apply over the total number of units of weight.

The charges for chemical processing services provided under this policy will reflect the Government's full cost for providing this service, in accordance with the provisions of 10 CFR Part 1009. The basic charges for processing services will be reviewed periodically and adjusted when necessary.

7. As of January 1, 1983, the following charges will be applied to DOE processing services under this policy:

a. For aluminum-clad research reactor fuels, including alloy, oxide, and aluminide composition, $1,000 per kilogram of total delivered weight. Of this charge, $375 is capital-related and $625 is related to operating costs.

b. For aluminum and stainless steel-clad uranium-zirconium hydride research reactor fuels, $1,050 per kilogram of total delivered weight. Of this charge, $395 is capital-related and $655 is related to operating costs.

The capital-related for those DOE-provided services shall be adjusted to reflect changes in price levels from the base date of June 1982, in accordance with the Official Monthly Construction Cost Indices appearing in "Engineering News Record." The operations-related charges for the services shall be adjusted to reflect changes in price levels from the base date of June 1982, in accordance with the Basic Inorganic Chemicals Index appearing in "Wholesale Price Indexes", published by the U.S. Bureau of Labor Statistics.

8. The charge for the conversion to uranium hexafluoride of the purified nitrate salt of uranium that is converted by DOE in its processing of reactor materials is $175/kg of contained uranium.

9. A minimum charge of $44,500 will be applied to each batch of fuel material delivered to DOE under the provisions

[1] The processing of aluminum-clad research reactor fuels with uranium enrichments (i.e., uranium-235 contents as a percentage of total contained uranium) of less than 20 percent is currently being evaluated. Similarly, the reprocessing of uranium silicide research reactor fuel types is now under study. If these studies show that these research reactor fuel types can be reprocessed in available DOE facilities, the provisions of this policy will be extended to include receipt of these fuels.

of this policy. This charge reflects the minimum cost to DOE of providing processing services for small-batched fuel materials. The size of the processing batch to be shipped shall be as specified by the person seeking the processing services. DOE will permit a person to combine its batch with those of other persons in order to avoid the full impact of the minimum charge for handling a small batch size. Persons must notify DOE of their intent to combine batches prior to the delivery of any reactor materials to be included in a proposed batch. Specific arrangements must include a formula for distributing the processing charges and other settlement factors associated with the delivery of the reactor materials to DOE.

10. DOE has the option of compensating the reactor operator for enriched uranium recovered in the processing of reactor materials delivered to DOE facilities in accordance with the appropriate DOE-published price schedule for enriched uranium material. Such compensation by DOE will consist of providing materials or services of equivalent value. DOE will, thereby, acquire title to the uranium for which it provides compensation. DOE also will acquire title, without cost, to all waste and other materials, including plutonium, contained in the reactor materials.

The enriched uranium recovered in processing reactor materials (or its equivalent) delivered to DOE facilities and not compensated for by DOE, shall be returned to the reactor operator. Enriched uranium will be returned to the reactor operator f.o.b. the DOE processing site, in a reactor-operator furnished cask suitable for shipment offsite.

11. In lieu of processing uranium-zirconium hydride fuel types, DOE will agree to provide disposition services for such fuels. In this case, no compensation for recovered uranium will be made. Research reactor operators may prefer to write-off the value of the uranium contained in the fuel and accept this service. Additional information concerning DOE's disposition service may be obtained from the Manager, Idaho Operations Office, U.S. Department of Energy, Idaho Falls, Idaho 83401.

Issued in Washington, D.C., October 26, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc. 82-30656 Filed 11-8-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ES83-8-000]

Interstate Power Co.; Application

November 2, 1982.

Take notice that on October 25, 1982, Interstate Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204(a) of the Federal Power Act, seeking an order authorizing entry into a loan agreement related to the issuance of up to $2,800,000 of pollution control revenue bonds by Louisa County, Iowa, for the Louisa Generating Station Unit No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 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 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30576 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-56-000]

Allegheny Power Service Corp.; Filing

November 2, 1982.

Take notice that on October 22, 1982, Allegheny Power Service Corporation (APSC) tendered for filing on behalf of Monongahela Power Company (Monongahela), the Potomac Edison Company (Potomac), and West Penn Power Company (West Penn), the electric utilities which make up the integrated Allegheny Power System, Amendment No. 9 dated as of September 1, 1982 to the Operating Agreement dated January 1, 1973 among Monongahela, Potomac and West Penn and Virginia Electric and Power Company (VEPCO) designated Monongahela Rate Schedule FERC No. 32, Potomac Rate Schedule FERC No. 33, West Penn Rate Schedule FERC No. 31, and VEPCO Rate Schedule FERC No. 99.

APSC states that Amendment No. 9 provides for increases in the demand charges for Short Term Power from $0.85 to $1.05 per kilowatt-week and in the demand charges for Limited Term Power from $4.50 to $5.50 per kilowatt-month when the Allegheny Power System companies are providing the service.

APSC further states that since Short Term Power and Limited Term Power transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate it is impossible to estimate the increases in revenues which would result from Amendment No. 9.

APSC requests an effective date of September 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 NE., 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 17, 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. 82-30753 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-59-000]

Carolina Power & Light Co.; Filing

November 2, 1982.

Take notice that Carolina Power & Light Company on October 25, 1982, tendered for filing changes outlined below in its agreement with Lumbee River EMC, Wake EMC, Tideland EMC, Central EMC, and Carteret-Craven EMC.

1. *Lumbee River EMC*—The establishment of a new point of delivery to be known as Raeford 115 kV.

2. *Wake EMC*—The relocation of metering equipment, a change in metered voltage to 69 kV, provide metering pulse information under Company's additional facilities plan and a name change in the point of delivery from Creedmoor to a more descriptive name to be known as Youngsville 69 kV.

3. *Tideland EMC*—An upgrade of the metered voltage from 12 kV to 23 kV at the Edwards 115 kV point of delivery.

4. *Wake EMC*—The relocation of metering equipment for the Emit 69 kV point of delivery from the customer's 12 kV bus of the 66/12 kV substation to the customer's Emit 69 kV Breaker Station.

5. *Central EMC*—The termination and cancellation of the Cape Fear 23 kV point of delivery.

6. *Carteret-Craven EMC*—The termination and cancellation of the Maysville 12 kV point of delivery.

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 17, 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. 82-30754 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3210-001]

City of Gold Hill and Western Energy & Resources, Inc.; Application for License (5 MW or Less)

November 4, 1982.

Take notice that City of Gold Hill and Western States Energy & Resources, Inc. (Applicant) filed on September 17, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as Gold Hill Hydroelectric Project No. 3210. The project would be located on Rogue River, near Gold Hill, in Jackson County, Oregon. Correspondence with the Applicant should be directed to: Mr. George Eicher, 8787 S.W. Becker Drive, Portland, Oregon 97223.

Project Description—The project would consist of: (1) An existing 3-foot-high, 800-foot-long concrete diversion weir; (2) the existing fish passage facilities to be upgraded; (3) the existing 2,400-foot-long earthfill rock canal to be upgraded; (4) the existing powerhouse to be upgraded from a total installed capacity of 2.5 MW to 3.0 MW; and (5) a proposed 900-foot-long, 23-kV transmission line. The Applicant estimates that the average annual energy production would be 21.14 million kWh. The existing project facilities are owned by the City of Gold Hill.

Purpose of Project—The energy produced by the project would be sold to Pacific Power & Light Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before January 19, 1983, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 19, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30755 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-58-000]

Connecticut Light & Power Co.; Filing

November 2, 1982.

Take notice that on October 25, 1982, Connecticut Light & Power Company (CL&P) tendered for filing as an initial rate schedule an exchange agreement (the Agreement) between CL&P, the Hartford Electric Light Company (HELCO), Western Massachusetts Electric Company (WMECO) (together, the NU Companies); and Boston Edison Company (BECO). The Agreement, dated as of December 14, 1981, provides for the NU Companies to exchange capacity and related pondage from the Northfield Mountain Pumped Storage Hydro Electric Project (Project) for equal capacity from various generating units on the BECO system as shown in Appendix A to the Agreement (the Exchange Units).

CL&P states that the Agreement provides that the parties will determine weekly during the term of the Agreement whether or not it is economically advantageous that an exchange shall take place during any particular week.

CL&P further states that BECO will pay a capacity charge to the NU Companies in an amount equal to the kilowatts of capactiy exchanged during each week times $0.211008 reduced on a pro rata basis for exchanges of less than one week duration. BECO will also pay a station service energy charge to the NU Companies for BECO's share of the station service energy consumed by the Project during an exchange at a rate representing the average cost of providing such energy from the system of NU Companies during the prior calendar month. The NU Companies would purchase energy from the Exchange Units at the average cost or the NEPEX replacement cost of providing such energy.

CL&P Requests an effective date of December 14, 1981, 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, NE., 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 17, 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. 30756; Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5028-001]

Energenics Systems, Inc., Surrender of Preliminary Permit

November 4, 1982.

Take notice that Energenics Systems, Inc., Permittee for the proposed Mill Creek Dam Project No. 5028, has requested that its preliminary permit be terminated. The permit was issued on November 3, 1981, and would have expired on April 30, 1983. The project would have been located on Mill Creek in Walla Walla County, Washington. The Permittee states that studies have shown that the project would have been technically and environmentally infeasible.

The Permittee filed its request on October 19, 1982, and the surrender of the preliminary permit for Project No. 5028 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc.82-30757 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6607-000]

Energenics Systems Inc.; Application for Preliminary Permit

November 4, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on August 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6607 to be known as the Okatibbee Reservoir Dam Hydroelectric Project located on Okatibbee Creek in Lauderdale County, Mississippi. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, Energenics Systems Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6607 would consist of: (1) A proposed 100-foot-long penstock with bifurcation installation running from the existing intake structure conduit to the powerhouse; (2) a proposed powerhouse to be built adjacent to the intake structure conduit; (3) the installation of one tubular turbine unit with a total installed capacity of 500 kw; (4) a short open channel tailrace; (5) a proposed transmission line, less than one mile long, interconnecting with East Mississippi Electric Power Company. Applicant estimates the average annual energy generation to be 2.1 Gwh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $30,000,.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before February 22, 1983, the competing application itself (see 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before March 7, 1983, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate.)

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before February 22, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30758 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4345-001]

Mega Hydro, Inc.; Surrender of Preliminary Permit

November 3, 1982.

Take notice that Mega Hydro, Inc., Permittee for the proposed Dutch Creek Power Project No. 4345, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on May 7, 1981, and would have expired on April 30, 1983. The project would have been located on Dutch and Maple Creeks in Trinity County, California. The Permittee states that measures required to mitigate adverse

impacts on anadromous fisheries render the project infeasible.

The Permittee filed its request on September 29, 1982, and the surrender of its pemit for Project No. 4345 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30759 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5360-001]

Mega Hydro, Inc.; Surrender of Preliminary Permit

November 3, 1982.

Take notice that Mega Hydro, Inc., Permittee for the proposed Soldier Creek Power Project No. 5360, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on March 1, 1982, and would have expired on August 31, 1983. The project would have been located on Soldier Creek near Junction City, in Trinity County, California. The Permittee states that measures required to mitigate adverse impacts on anadromous fisheries render the project infeasible.

The Permittee filed its request on September 29, 1982, and the surrender of its permit for Project No. 5360 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30760 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6361-000]

Lawrence J. McMurtrey; Suspending 120-Day Period for Action on Small Hydro Exemption

November 1, 1982.

Lawrence J. McMurtrey has filed an application for exemption for the proposed Tenas Creek Project No. 6361 located on Tenas Creek in Skagit County, Washington. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and § 4.101 *et seq.* of the Commission's Regulations.

Having determined that additional time is necessary for action on the application in order to ensure full consideration of all information received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30761 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-13-000]

National Fuel Gas Supply Co.; Settlement Conference

November 3, 1982.

On November 12, 1982 at 1:00 p.m., a settlement conference will be convened in the above-referenced proceeding. The conference will be held in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30786 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5834-000]

Pennsylvania Hydro-Electric Development Corp.; Notice of Application for License (5 MW or Less)

November 4, 1982.

Take notice that Pennsylvania Hydro-Electric Development Corporation (Applicant) filed on December 31, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for construction and operation of a water power project to be known as Auburn Water Power Project No. 5834. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 2803. The project would be located on the Schuylkill River in Schuylkill County, Pennsylvania. Correspondence with the Applicant should be directed to: Larry Gleeson, President, Pennsylvania Hydro-Electric Development Corporation, Suite 213, Continental Offices, P.O. Box 814, King of Prussia, PA 19406.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) The existing Auburn Dam, approximately 500 feet long and 16 feet high, constructed of concrete with spillway crest elevation at 472 feet m.s.l.; (2) a reservoir having minimal pondage; (3) three self contained turbine-generator units (with either siphon penstocks or conventional penstocks depending on final economic and environmental considerations) having rated capacities of 136 kW each for a total rated capacity of 408 kW; (4) draft tube outlets discharging immediately downstream of the dam; (5) a new transmission line, 2000 feet long, connecting to an existing 12.47-kV transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,500,000 kWh. Project energy would be sold to the Pennsylvania Power and Light Company. Auburn Dam is owned by the Commonwealth of Pennsylvania.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide coments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before January 19, 1983, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submisison of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 19, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory

Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30762 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4678-001]

Power Authority of the State of New York; Application for License (Over 5 MW)

November 4, 1982.

Take notice that the Power Authority of the State of New York (Applicant) filed on September 30, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r) for construction and operation of a water power project to be known as the Crescent Project No. 4678. The project would be located on the Mohawk River in Saratoga, Albany and Schenectady Counties, New York. Correspondence with the Applicant should be directed to: Mr. Scott Lilly, Acting General Counsel, 10 Columbus Circle, New York, New York 10019.

Project Description—The proposed project would include: (1) The existing Crescent Dam, consisting of two independent concrete gravity overflow sections, the eastern section being 900 feet long and 52 feet high and the western section being 536 feet long and 32 feet high; (2) the reservoir with an area of 2,000 acres and storage of 50,000 acre-feet at an elevation of 183 feet msl; (3) an existing regulating structure consisting of a sluiceway 8 feet wide and a Taintor gate 30 feet wide; (4) an existing intake structure with ten arches 8 feet wide and 14 feet high; (5) an existing brick and concrete powerhouse, 104 feet long and 73 feet wide, to be enlarged by an addition measuring 73 by 78 feet and to contain two presently operating turbine/generator units rated at 2.8 MW each and two new units rated at 3.0 MW each, all operating under a head of 27.5 feet; (6) an existing switchyard to be expanded; (7) two existing 34.5-kV transmission lines; and (8) appurtenant facilities.

This license application was filed during the term of the Applicant's preliminary permit for Project No. 4678.

The dam is owned by the State of New York and is under the jurisdiction of the State Department of Transportation.

Purpose of Project—The average annual generation of 60.8 million kWh would be used by the Applicant or sold to Niagara Mohawk Power Corporation.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1983, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 21, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30763 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-1-000]

Sacramento Municipal Utility District v. Pacific Gas and Electric Co.; Filing

November 3, 1982.

The Complainant submits the following:

Take notice that on October 21, 1982, Sacramento Municipal Utility District ("Sacramento") filed a complaint against Pacific Gas and Electric Company ("Pacific"). Sacramento alleges that Pacific refuses to provide wholesale electric service on the terms prescribed in the Power Sale, Exchange and Integration Contract between Pacific and Sacramento. Sacramento states that the contract is on file with the Commission as FPC Rate Schedule No. 45.

Sacramento requests the following relief:

1. That the Commission issue an order requiring just and reasonable allocation between Sacramento and Pacific of the cost of out of area purchases under Article 6 of FPC Rate Schedule No. 45;

2. That the Commission declare unlawful Pacific's present attempt to allocate most of the cost of its out of area purchases to Sacramento;

3. That the Commission prohibit Pacific, until this matter is finally resolved, from collecting the cost of its out of area purchases from Sacramento by withholding further payments due Sacramento under FPC Rate Schedule No. 45 (or by any other means);

4. That the Commission grant Sacramento such other or further relief as may be appropriate.

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 December 3, 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. 82-30767 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3079-001]

State of Idaho Water Resources Board; Surrender of Preliminary Permit

November 3, 1982.

Take notice that State of Idaho Water Resources Board, Permittee for the proposed Clear Springs Power Project No. 3079, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 27, 1980, and would have expired on July 31, 1983. The project would have been located on the Snake River in the Counties of Gooding and Twin Falls, Idaho. The Permittee stated that if found unsuitable foundation conditions at the site of its proposed 25 to 50-foot-high dam.

The Permittee filed its request on October 12, 1982, and the surrender of preliminary permit for Project No. 3079 is deemed effective as of the date of this notice

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30768 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6205-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

November 4, 1982.

Take notice that on April 12, 1982, Western Hydro Electric, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6205 would be located on White Chuck River, near Darrington, within Mount Baker National Forest, in Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Western Hydro Electric, Inc., Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 50-foot-long concrete diversion structure; (2) a 12,000-foot-long, 84-inch-diameter pipeline; (3) a 1,100-foot-long, 84-inch-diameter penstock; (4) a powerhouse containing two generating units with a total installed capacity of 4.8 MW; and (5) a 900-foot-long, 34.5-kV transmission line to a proposed substation. The Applicant estimates that the average annual energy production would be 23.0 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing appliction must file with the Commission, on or before December 29, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-30764 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6215-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

November 4, 1982.

Take notice that on April 15, 1982, Western Hydro Electric, Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6215 would be located on White Chuck River, near Darrington, within Mount Baker National Forest, in Snohomish County, Washington. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Western Hydro Electric, Inc., Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 6-foot-

high, 50-foot-long concrete diversion structure; (2) an 11,000-foot-long, 96-inch-diameter pipeline; (3) a 1,000-foot-long, 96-inch-diameter penstock; (4) a powerhouse containing three generating units with a total installed capacity of 4.71 MW; and (5) an 8-mile-long, 46-kV transmission line interconnecting to an existing transmission line. The Applicant estimates that the average annual energy production would be 23.6 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Department of Fisheries and Department of Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before December 29, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30765 Filed 11-8-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearing and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals announces the procedures for disbursement of the funds obtained as the result of the consent orders which the DOE entered into with Ada Resources, Inc, and Arcone Oil Company, Inc. The funds will be available to customers which purchased covered petroleum products from the firms during the consent order periods.

DATE AND ADDRESS: Applications for refund of a portion of the Ada or Arcone consent order funds must be postmarked within 90 days of publication of this notice in the Federal Register and should be addressed to: Ada and Arcone Consent Order Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461. All applications should conspicuously display a reference to the appropriate case number BEF–0086 (Ada) or BEF–0089 (Arcone).

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director Office of Hearings and Appeals, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 633–8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c) notice is hereby given of the issuance of the decision and order set out below. The decision and order concerns two separate consent orders which the DOE's Office of Enforcement entered into with Ada Resources, Inc. and Arcone Oil Company, Inc. *See* 44 FR. 63135 (1979), 44 FR. 66653 (1979), and 45 FR. 61657 (1980). The two consent orders settled disputes between the DOE and the firms regarding their compliance with the DOE price and allocation regulations. Under the terms of the consent orders, Ada has deposited $100,000 in an escrow account, and Arcone has deposited $200,000 in an escrow account. It was stipulated in each consent order that the refund amount was in settlement of possible enforcement actions based on allegations that the firms had violated DOE regulations.

The Office of Hearings and Appeals previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of both consent order funds. The proposed decision and order discussing the distribution of funds obtained through the Ada and Arcone consent orders was issued on April 9, 1982. 47FR. 16396.

The decision and order published with this Notice Reflects an analysis of the comments received from interested

parties. As the decision indicates, applications for refund from the escrow funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this decision and order in the Federal Register. Applications will be accepted from all persons who claim that they were injured by Ada's or Arcone's alleged regulatory violations during the period covered by the consent orders. In order to establish entitlement to a portion of the consent order funds, a purchaser must generally establish, in addition to proof of purchase of the volume claimed, that the purchaser did not pass through price increases to its own customers. The specific information required in an application for refund is set forth in the decision and order.

The decision does not establish mechanical standards for the proper allocation of funds among successful claimants, such as a *pro rata* volumetric distribution. Instead, the decision discusses a number of equitable factors which will be considered in the process of allocating funds among successful claimants. The decision and order also reserves the question of the proper disposition of any remaining consent order funds until the first stage claims procedure is completed.

Dated: November 1, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 1, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Ada Resources, Inc. and Arcone Oil Company, Inc.

Dates of Filing: September 4, 1981, September 11, 1981.

Case Numbers: BEF–0086, BEF–0089.

This proceeding concerns two Petitions for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) with the Office of Hearings and Appeals pursuant to the provisions of 10 CFR, Part 205, Subpart V. Under those procedural regulations the OE may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of DOE regulations. The OE filed the petitions in this case in connection with consent orders which the DOE entered into with Ada Resources, Inc. (Ada) and Arcone Oil Company, Inc. (Arcone). Ada, headquartered in Houston, Texas, and Arcone, located in Newark, New Jersey, are both engaged in the marketing of petroleum products to resellers and end-users, and were subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart F.

A DOE audit of Ada's records revealed possible violations of the DOE price regulations with respect to sales of motor gasoline, kerosene, No. 2 diesel fuel and aviation fuel during the period November 1, 1973, through August 31,1974, and with respect to sales of natural gasoline, butane and residual fuel oil from November 1, 1973 through June 30, 1974. In order to settle the dispute between Ada and the DOE regarding those sales, Ada and the DOE entered into a consent order on October 16, 1979. Under the terms of the consent order, Ada agreed to remit $100,000 to the DOE, which is being held in an interest-bearing account established with the United States Treasury pending determination of its proper distribution.

On November 2 and 20, 1979, the OE published notices in the Federal Register requesting that interested persons who believe that they have claims to all or a portion of the Ada refund amount provide written notification of their claims within 30 days of publication. 44 FR 63135 (1979); 44 FR 66653 (1979). The DOE also gave notice through a press release. The OE received notices of claim from Rapid Transit Lines, Inc. and the Metropolitan Transit Authority of Harris County, Texas. Subsequently, the OE filed its petition pursuant to Subpart V.

A DOE audit of Arcone's records revealed possible violations of the DOE price regulations with respect to sales of No. 2 fuel oil made to four resellers during November 1973. In order to settle the dispute between Arcone and the DOE regarding Arcone's sales of No. 2 fuel oil during the audit period, Arcone and the DOE entered into a consent order on March 27, 1979. Under terms of that order, Arcone agreed to remit $200,000 to the DOE, which is also being held in an interest-bearing account established with the United States Treasury pending determination of its proper distribution.

On September 27, 1980, the OE published a notice in the Federal Register requesting that persons who believe that they had claims to all or a portion of the Arcone refund amount submit written notification of their claims within 30 days of publication. 45 FR 61657 (1980). The DOE also issued a press release the same day. The OE did not receive any notices of claim in response to the Federal Register notice or the press release. Subsequently, the OE filed its petition pursuant to Subpart V.

On April 9, 1982, the Office of Hearings and Appeals issued a Proposed Decision and Orders tentatively setting forth procedures to distribute refunds to parties who were injured by Ada's or Arcone's alleged violations. 47 FR 16396 (1982). In the proposed decision we described a two-stage process for distribution of the funds made available by the Ada and Arcone consent orders. Specifically, we proposed to disburse funds in the first stage to claimants who could demonstrate that they were adversely affected by Ada's or Arcone's alleged overcharges in sales of covered products during the applicable period. We also proposed several procedures for disbursing any funds remaining after the meritorious claimants had received appropriate refunds. We suggested that the amount of money available for the second-stage refund process would influence the ultimate disposition of those funds. We proposed that such funds be distributed to state governments in areas affected by the alleged overcharges for the purpose of reducing energy-related expenses subject to the direct control of those governments. In the alternative, remaining funds might be deposited in the United States Treasury.

The purpose of this decision is the establishment of procedures to be used for filing claims in the first stage of the Ada and Arcone refund process. This decision sets forth the information that a customer of Ada or Arcone should submit in order to establish entitlement to a portion of the respective consent order funds. In establishing these requirements, we will address comments filed in response to the first-stage proposal in the April 9 decision. We will not, however, determine procedures for the second stage of the refund process in this decision. Our determination concerning the final disposition of any remaining funds will necessarily depend on the size of the fund. *Office of Enforcement (Coline)*, 9 DOE ¶ 82,508 (1981). It is therefore premature for us to address the issues raised by commenters concerning the proposed disposition of funds remaining after all the meritorious claims have been paid.

Jurisdiction

In our April 9 proposed determination and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See* 47 FR 16396 (April 16, 1982); *Office of Enforcement (Olin)*, 9 DOE ¶ 82,539 (1982). We have received no comments challenging our authority to fashion special refund procedures in these two cases. We will therefore exercise jurisdiction over the Ada and Arcone consent order funds.

Any party that believes that it is eligible for a refund may file an application. To establish eligibility for a portion of the Ada and Arcone consent order funds, we proposed in our April 9 determination that claimants that are resellers or that are involved in the production or distribution of goods or services be required to demonstrate that, during the period covered by the consent order, they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. In other words, we stated that we wanted an indication that the reseller was not simply passing on to its customers any Ada or Arcone price increases. We stated that a claimant should demonstrate that at the time it purchased covered products from its supplier, market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. In addition, we suggested that a reseller of petroleum products must have maintained a "bank" of unrecovered product costs until January 28, 1981, the date on which the President decontrolled all remaining covered products. Finally, we stated that a purchaser who is an ultimate consumer and not engaged

in the sale of goods or services would not have to make these showings.

We received comments on this issue from the Association of American Railroads. It asks us to follow our previous decisions and add regulated transportation companies to the class of claimants that would not be required to demonstrate that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel (Tenneco),* 9 DOE § 82,538 (1982). The Association contends that any overcharges which regulated transportation companies had incurred would have been channeled to their customers by the regulatory bodies. It notes that any refunds which regulated transportation companies receive would also be passed through to their customers. The Association thus argues that regulated transportation companies should be treated in the same manner as ultimate-purchaser claimants, which need only demonstrate that they purchased a specific quantity of product sold by Ada or Arcone during the relevant time period in order to qualify for refunds.

We will adopt the Association's proposal. This position is consistent with our determination in prior cases, *see, e.g., Office of Special Counsel (Pennzoil),* 9 DOE ¶ 82,545 at 85,244 (1982), and as we have noted, the DOE's Office of Special Counsel has reviewed the operation of the agencies that regulate transportation companies and public utilities and has determined that refunds to these firms are indeed factored into their rate making systems. *Id.* Similarly, we believe that refunds to claimants that are agricultural cooperatives will likewise directly influence the prices charged to their member customers. These cooperatives are owned by their customers, and the ultimate consumers of the petroleum products purchased by the cooperative will therefore receive the benefit of the refund either as a price reduction or an a distribution at the close of the cooperative's fiscal year. *See Tenneco,* 9 DOE at 85,203. Consequently, we have concluded that refund applications from firms whose prices for goods or services are regulated by a government agency or by the terms of a cooperative agreement will not be required to show that they absorbed alleged Ada or Arcone overcharges. Instead, those firms should supply us with a full explanation of the manner in which refunds will be passed through to their customers. In addition, these applicants' receipt of refund money will be conditioned on notice to the appropriate regulatory body or membership group.

We suggested in our proposed decision that another group of purchasers be excused from having to document more than the fact that they purchased products from Ada or Arcone during the relevant period of time. We stated that we would consider establishing a threshold level of purchases under which applicants, primarily small firms and individuals, would not be required to make a detailed showing of actual injury. We proposed a purchase threshold of 50,000 gallons per month on each product. Firms with purchases below that level would be permitted to claim a refund based upon their level of purchases without having to submit evidence concerning their banks of unrecouped product cost increases or prevailing market conditions which had prevented them from passing through the alleged overcharges. In addition, firms that purchased more than an average of 50,000 gallons per month of a product would be excused from the requirement of showing that the effects of the alleged violations were not passed through, provided that they limit their claims to the 50,000 gallons per month level.

The State of New York in its comments urges us not to adopt any threshold purchase level. Instead, the State requests us to adopt a presumption that any reseller that was overcharged would have passed through the alleged violation to its customers. After careful consideration we have concluded that it is in the best interests of efficient resolution of these proceedings to establish a threshold level of purchases below which a claimant need not demonstrate injury. The State of New York has offered no evidence in support of its position that most small resellers should be presumed to have passed on all of the alleged overcharges to their customers. The adoption of a small claims threshold purchasee level below which firms do not have to submit evidence of injury is based upon several considerations. First, it has been our experience in dealing with tens of thousands of firms in the petroleum industry that businesses with a relatively low level of sales will not have maintained sophisticated recordkeeping systems. A requirement that these firms produce records of transactions that occurred eight years ago, if those records even exist, would prove to be an onerous one. Secondly, the cost of compiling this information from a recordkeeping system of this type would in many cases exceed the refund to be gained. Consequently, in the interest of fostering the restitutionary objectives of the Subpart V process, we will establish a threshold figure of 50,000 gallons per month, or 600,000 gallons per year. Claims based upon a sales figure below this level will not have to supply documentation of injury.

In summary, with respect to applicants that claim a refund based upon purchases of less than an average of 50,000 gallons per month of a relevant Ada or Arcone product during the period for which a refund is claimed, we will require only proof of purchase from either Ada or Arcone. With respect to applicants claiming a refund based upon purchase volumes greater than that amount, we will require a showing that the purchaser did not pass through the price increases to its own customers. Retailers and resellers who claim refunds on the basis of purchases exceeding an average of 50,000 gallons per month should submit two types of data in order to make the required showing. They should submit data summarizing the applicant's unrecouped increased product costs (bank) for each calendar quarter for which the firm claims a refund. If the applicant used its banked costs to increase its selling price at a later date, such data should be included in the application and the firm's refund may be appropriately reduced. We note that even if a firm's bank was reduced to zero during the period covered by the consent order, it may nevertheless be possible for the firm to establish eligibility for a refund by showing that during the period, market forces reduced its sales and compelled the applicant to purchase and consequently to sell a smaller volume of product with correspondingly lessened profits. In addition, applicants should submit any other type of available data showing that they were not able to increase their prices to pass through the alleged overcharges due to market conditions. Although we shall not engage in a time-consuming legal and factual analysis leading to a precise measure of damages, we wish to emphasize that the burden of establishing eligibility for a refund rests on the claimant.

Allocation of Refund Money

In *Office of Enforcement (Vickers),* 8 DOE ¶ 82,597 (1981), we used a "pure" volumetric method of allocating refunds to claimants. Refunds in that case were based on the proportion of the product bought by the applicant to the total amount of product sold by the supplier during the relevant time period. Based on our experience in Subpart V cases since that time, we stated in our proposed decision that the adoption of the "pure" volumetric plan of distribution would not be the best mechanism for allocating the Ada and Arcone consent order funds. Because of the nature of consent orders, the amount of money available for distribution is likely to be less than the amount needed to make full restitution to injured claimants. Where a "pure" volumetric refund distribution scheme is adopted, there is in effect an additional limitation on the amount of refund which can be distributed to a successful claimant because of the per gallon refund ceiling. In the event that a significant number of applicants fail to demonstrate the merits of their claims, the total amount of refunds made to successful claimants may be far less than the amount of the settlement funds available for distribution. We therefore believe that it is fully consistent with the restitutionary objectives of the present proceeding to distribute available funds by a method other than the *Vickers* "pure" volumetric distribution scheme. Accordingly, we proposed an alternative means of distribution based on a modified version of the "pure" volumetric refund formula that would permit additional refunds to successful claimants.

In its comments, the State of New York expresses a concern that our proposal to use a modified volumetric mechanism for distribution of first-stage funds may deprive some injured consumers of a share of the refunds. The State's concern is based on the possiblitiy that meritorious claims filed during the first stage of the Ada and Arcone refund proceeding might exhaust the settlement fund and thereby obviate the need for a second stage.(1) We believe this concern is unfounded. First, consumers of Ada or Arcone products will not be precluded from sharing in the refund pool. Individual consumers and groups of consumers that can document the volumes of Ada or Arcone products they purchased during the relevant time period will have the opportunity to file applications for refund.

Secondly, even if the consent order funds will be depleted in the first stage of the proceeding because of the large number of eligible claimants that can successfully document their injuries attributable to the alleged charges, the purpose of this proceeding would not be frustrated, as New York State contends.(2) Distribution of settlement funds to those who may have been injured by the alleged overcharges is the goal of a Subpart V proceeding. That goal is not compromised if the settlement funds can be distributed in a first-stage proceeding, rather than in two stages.

Consequently, we will utilize a modified volumetric scheme of the type discussed in our April 9 proposed decision because we believe that the restitutionary objectives of the present proceeding can be best achieved by utilizing such a scheme. We will first establish a "floor" or minimum amount a successful claimant could receive. Knowledge of this amount will assist a potential applicant in deciding whether to apply for a refund. In this proceeding the minimum amount that a successful claimant will recover can be determined by multiplying its total product purchases (in gallons) by the total amount of money available for distribution (the relevant consent order amount) divided by the total sales (in gallons) by the relevant firm of all products covered by the individual consent order. The refund floor in the Ada case is $.00083418426 per gallon and in the Arcone case it is $.06148792792 per gallon. (3) The OHA will also consider the following factors in determining individual refunds: (i) The number of qualified claimants, and the aggregate volume of their purchases from the firms as compared to the amount of products sold by these firms during the consent order period; (ii) the impact of the alleged violations on the claimant's business; (iii) the market conditions prevalent during the consent order period; (iv) the claimant's position in the distribution chain, that is, whether it is a refiner, reseller, or ultimate consumer; and (v) the manner in which the claimant's business is governed by federal, state or local regulatory agencies or other relevant private contractual agreements, such as those affecting agricultural cooperatives. A balancing of these factors will enable us to further the restitutionary goals of Subpart V and the underlying statutory objectives.

We will also establish a minimum amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the modest benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982); *see also* 10 CFR 205.286(b).

Application for Refund Procedures

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our April 9 proposed decision, we have concluded that applications for refund should now be accepted from parties who purchased petroleum products from Ada or Arcone. Applications for refund of a portion of the Ada or Arcone consent order funds must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Ada Consent Order Fund, Case Number BEF–0086 or Arcone Consent Order Fund, Case Number BEF–0089. If the applicant is not a direct purchaser from Ada or Arcone, it should indicate from whom the product was purchased and indicate what basis the applicant has for its belief that the product which it purchased originated from Ada or Arcone.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 1200 Pennsylvania Avenue, NW., Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application must indicate whether the applicant or any person acting on its instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application must also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application. All applications should be sent to: Ada and Arcone Consent Order Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following subjects should be covered by each purchaser of Ada or Arcone products:

A. Each applicant should report its volume of purchases by calendar quarter for the period of time for which it is claiming it wa injured by the alleged overcharges, if any.

B. Each applicant should specify how it used the Ada or Arcone product, such as whether it was a reseller or ultimate user.

C. If the applicant is a reseller, it should state whether it maintained banks or unrecouped product cost increases from the date of the alleged violation through January 27, 1981. (4) It should furnish the OHA with quarterly bank calculations.

D. The applicant must state whether it or any or its affiliate have filed any other applications for refunds which might affect its level of banks.

E. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges where infeasible.

F. The applicant should report whether it is or has been involved as a party in DOE or private section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

It is therefore ordered that: The Petitions for Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case Numbers BEF–0086 and BEF–0089 are hereby granted. The refund amounts provided by Ada Resources, Inc. and Arcone Oil Company, Inc. will be distributed in the manner set forth in the foregoing decision.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dated: November 1, 1982.

Footnotes

(1) In our April 9 decision we proposed that if a second stage should prove necessary in either case, state governments in the affected areas may be designated as refund recipients for the purpose of reducing energy-related expenses subject to their control.

(2) Based on our experience in previous Subpart V cases, it is unlikely that the settlement funds will be exhausted in the first stage.

(3) If valid claims exceed the total amount of money available for refund, there will be a pro rata reduction.

(4) Those resellers who did not elect to maintain bank calculations for the period May 1, 1980 through January 27, 1981, do not, of course, have to supply bank calculations for that period. *See* 45 F.R. 29546(1980).

[FR Doc. 82-30858 Filed 11-8-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of October 4 Through October 8, 1982

During the week of October 4 through October 8, 1982 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Elk Trading Co., Inc., 10/8/82, HFA–0082

Elk Trading Co., Inc. filed and Appeal from a partial denial by the Director of the Economic Regulatory Administration's Office of Fuels Programs (Director) of a Request for

Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Director conducted a thorough and conscientious search for responsive documents and correctly applied Exemption 5 to most of the withheld material, but incorrectly withheld certain segregable factual material. Accordingly the Appeal was granted in part.

Taxpayers Coalition Against Clinch River, 10/5/82, HFA-0083

Taxpayers Coalition Against Clinch River filed an Appeal from a denial by the Assistant Manager for Administration at DOE's Oak Ridge Operations Office of a Request for Information which the Coalition had submitted under the Freedom of Information Act. The Assistant Manager held that there were no documents in existence responsive to this request. In considering the Appeal, the DOE found that because of the specific nature of the initial request the Assistant Manager's determination was correct. The Appeal was therefore denied.

Requests for Modification and or Rescission

Duncan Allen and Mitchell, 10/7/82, HEP-0040

The law firm of Duncan, Allen and Mitchell (Duncan) filed a motion requesting reconsideration of a decision issued to it on August 9, 1982 by the Office of Hearings and Appeals (OHA). *Duncan, Allen and Mitchell*, 10 DOE ¶80,103 (1982). In that decision , OHA denied Duncan's Appeal from a determination issued by the Executive Secretary of the Department of Energy which denied Duncan's request for information under the Freedom of Information Act on the grounds that there were no responsive documents. In considering Duncan's motion for reconsideration, OHA found that there had been a substantial change in the facts upon which the August 9 decision was based, and that the new facts indicated that the search conducted by the Office of the Executive Secretariat was inadequate. Consequently, OHA granted Duncan's motion and remanded the matter to the Director of Freedom of Information Act Activities for an additional search for documents responsive to Duncan's request.

Laketon Asphalt Refining, Inc., 10/4/82, HYR-0023

On March 5, 1982, Laketon Asphalt Refining, Inc. (Laketon) filed a Motion for Reconsideration of a Year End Entitlements Exception Review Decision issued by the Office of Hearings and Appeals of the Department of Energy on February 5, 1982. That Order determined that the firm had received $3,484,245 in excessive entitlements exception relief for its fiscal year 1980. In the Motion for Reconsideration, Laketon contended that compliance with the February 5 Order would result in the imposition of a gross inequity upon the firm. In considering the firm's Motion, the DOE determined that Laketon had failed to substantiate its claim of gross inequity. The DOE also found Laketon's procedural contentions of denial of due process and mootness to be without merit. Accordingly, Laketon's Motion for Reconsideration was denied.

Requests for Exception

Dixon R-1 Schools, 10/7/82, BEE-1686

Dixon R-1 Schools (Dixon) filed an Application for Exception from the provisions of 10 CFR Part 455 in which the school district sought credit for the costs which it incurred in installing energy conservation measures at its elementary school building. In considering the request, the DOE found that Dixon had already received the full amount of federal funds to which it was entitled. Furthermore, the DOE found that Dixon had not shown that it was unable to complete its energy conservation project with funds from other sources. Accordingly, exception relief was denied.

Gulf Oil Corporation, 10/7/82, BFE-0008

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2) (iii). In its Application, the firm requested that it be permitted not to adjust the cost allocation factor contained in the refiner price rule to account for repayment of motor gasoline that it had received in exchanges entered into before December 31, 1978. In considering the request, the DOE found that Gulf had failed to make a showing of gross inequity or serious hardship, as required by the regulations governing exception relief. The DOE also rejected, as a ground for exception relief, Gulf's argument that the December 1978 Amendments to the refiner price rules, which addressed the allocation of costs in exchange transactions, were invalid insofar as they preclude the full pass-through of increased costs on products exchanged with other firms. Accordingly, the Application for Exception was denied.

State of Connecticut, 10/4/82, HEE-0032

The State of Connecticut (Connecticut) filed an Application for Exception in which it requested that it be allowed to use a larger proportion of the funds allocated to it under the DOE Institutional Building Grant Program for technical assistance (TA) programs. In considering the request, the DOE found that Connecticut had not shown that the 15 percent limitation on TA program funding was causing it to experience any more difficulty than any other state. Accordingly, exception relief was denied. The important issues discussed in the Decision and Order are (i) the type of showing necessary to obtain exception relief from the requirements of the DOE Institutional Building Grant Program; (ii) the relative energy savings of energy conservation measures (ECM's) and TA programs; and (iii) the Congressional policy of favoring ECM's over TA programs.

Motion for Discovery

Atlantic Richfield Company, 10/4/82, HRD-0051

The Atlantic Richfield Company (Arco) filed a motion to compel the Office of Special Counsel (OSC) to respond to discovery requests the firm had filed on October 1, 1979, whose consideration had been deferred pursuant to stipulations between the parties. The motion related to Arco's objections to a Proposed Remedial Order OSC issued to the firm on May 1, 1979. In considering the motion, the DOE determined that the three deferred Arco interrogatories which were audit-related should be denied because the firm had not demonstrated how these interrogatories were relevant to specific issues put into dispute by Arco's Statement of Factual Objections. The remaining deferred interrogatories all sought discovery concerning the legal issues in the proceeding. Because the OSC had already made available to Arco all relevant documents concerning these legal issues, the DOE concluded that OSC would not be required to furnish interrogatory-specific responses to these discovery requests. OSC was required, however, to provide Arco with any existing compilations or indices categorizing its document production.

Interlocutory Orders

Atlantic Richfield Company, Gulf Oil Corporation, Standard Oil Company (Ohio), Marathon Oil Company, Texaco Inc., Louisiana Land, and Exploration Company, 10/4/82, HRZ-0056, HRZ-0057, HRZ-0058, HRZ-0059, HRZ-0060, HRZ-0061.

On April 27, 1982, the Atlantic Richfield Company, the Gulf Oil Corporation, the Marathon Oil Company, the Standard Oil Company (Ohio), Texaco Inc., and the Louisiana Land and Exploration Company (collectively "the producers") filed a motion to compel additional discovery with the Office of Hearings and Appeals (OHA). In that motion, the producers requested the OHA order the Office of Special Counsel for Compliance (OSC) to produce certain documents which the OSC had identified pursuant to the OHA's discovery order in *Atlantic Richfield Co.*, 5 DOE ¶ 82,521 (1980), and for which the OSC had asserted claims of privilege. In considering the producers' motion, the OHA sustained the OSC's privilege claims with respect to approximately 90 of the documents at issue. In approximately 45 instances, however, the OHA rejected the OSC's privilege claims and ordered material released to the producers. Finally, in approximately 140 instances, the OHA ordered the OSC to produce the material in question for *in camera* review. Issues that were considered in the decision were: (1) Whether a verification submitted by an OSC litigation attorney is adequate as a means of invoking the deliberative process privilege; (2) whether the OSC was required to identify non-responsive portions of documents; (3) whether the OSC's privilege claims had been waived; and (4) the requirement for an adequate index of privileged documents.

Robert Gregory d/b/a Robert J. Heald Shell, 10/4/82, HRZ-0088

On May 20, 1982 Robert Gregory d/b/a Robert J. Heald Shell (Gregory) filed a Motion to Dismiss a Proposed Remedial Order which the ERA had issued to him. In considering the request, the DOE found that Gregory was the proper recipient of the PRO, and therefore the Motion to Dismiss was denied.

Supplemental Orders

Robert Gregory d/b/a Robert J. Heald Shell, 10/8/82, HRX-0049

On October 4, 1982, the Office of Hearings and Appeals (OHA) issued a Decision and Order to Rober Gregory d/b/a Robert J. Heald Shell, which found that Robert Gregory, the current operator of Robert J. Heald Shell, was the proper recipient of the Proposed Remedial Order that the Economic Regulatory Administration had issued to him. After issuing the Decision, it was brought to the attention of the OHA that a previous Decision, which was relied upon in the October 4 Decision, had been reversed by the Federal Energy Regulatory Commission. Accordingly, the OHA determined that the findings made in the Interlocutory Order should be reconsidered. The October 4 Decision and Order was therefore rescinded.

Office of Enforcement, Era: in the Matter of G. K. Smith & Co., Inc., 10/4/82, HEX-0044

The Office of Enforcement of the Economic Regulatory Administration filed a Petition for the Implementation of Special Refund Proceedings pursuant to 10 CFR Part 205, Subpart V, requesting that the Office of Hearings and Appeals formulate and implement procedures to distribute refunds received as a result of a Consent Order entered into by the DOE and G. K. Smith & Company, Inc. The DOE ordered that the DOE Office of the Controller distributed refunds on a volumetric basis to Smith customers that were allegedly overcharged during the consent order period. However, the DOE directed that refund shares of 7 firms for which no current address was available remain in the Smith escrow account for a period of 60 days. During that time, the DOE indicated that it would again publicize the G. K. Smith refund plan in the Federal Register, giving those 7 firms the opportunity to notify the DOE of their current addresses. The DOE stated that the refund share of any firm for which it was unable to determine the correct address would be deposited into the United States Treasury.

Dismissals

The following submissions were dismissed without prejudice: Name and Case No.
Burek Oil Co., Inc., DRO-0109
William P. Johnson, BPO-0434, HRD-0066, HRZ-0070
Moran Oil Co., Inc., DRO-0202
Robert Kane Associates Inc., HFA-0086
Safe Energy Communication Concil, HFA-0085

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
November 1, 1982.
[FR Doc. 82-30657 Filed 11-8-82; 8:45 am]
BILLING CODE 6450-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-724, File No. BP-810121AD; BC Docket No. 82-725; File No. BP-810526AB]

Norman E. Bauer d.b.a. Bauer Broadcasting Co. and Bee Broadcasting Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 30, 1982.
Released: October 20, 1982.

In re applications of Norman E. Bauer DBA, Bauer Broadcasting Co., KSPT, Sandpoint, Idaho, Has: 1400 kHz, 250 W, 1 kW-LS,U, Req: 880 kHz, 1kW, 10kW-LS,U, BC Docket No. 82-724, File No. BP-810121AD; and Bee Broadcasting Inc., KJJR, Whitefish, Montana, Has: 1400 kHz, 250 W, 1kW-LS,U, Req: 880 kHz, 500 W, 50 kW-LS,U, BC Docket No. 82-725, File No. BP-810526AB; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications for modified AM broadcast stations. In addition, it has before it motions to dismiss both applications filed by Firebird Communications, Inc., licensee of station KWIP, Dallas, Oregon,[1] and opposition thereto, and petitions to specify issue against both filed by Loyola University (WWL), New Orleans, Louisiana. Both licensees seek modified operations on 880 kHz, a clear channel frequency opened up for additional stations by our Report and Order, *Clear Channel Broadcasting in the AM Broadcast Band*, 78 FCC 2d 1345, reconsid. granted in part and denied in part, 83 FCC 2d 216 (1980), *aff'd sub nom Loyola University* v. *FCC*, 670 F.2d 1222 (D.C. Cir., 1982).

2. Applicants seeking to move to a Class I-A clear channel frequency must meet the criteria of § 73.37(e) of our Rules. Firebird maintains that both applicants' reliance on § 73.37(e)(2)(ii) of our Rules[2] in this regard is misplaced, as both Sandpoint and Whitefish already possess two authorized nighttime aural transmission services, one of them in the case of Sandpoint, Bauer Broadcasting's KSPT facility, and one in the case of Whitefish, Bee Broadcasting's KJJR facility. The applicants in contrast argue that the proposals represent effective second nighttime services, in that the new facilities would replace existing ones, leaving the communities with only two authorized nighttime stations.

3. Our decision to apply § 73.37(e)(2) to proposed modifications involving the 25 Class I-A frequencies (the provision does not apply to other proposed modifications) reflected a desire that these channels increase opportunities for additional stations, 83 FCC 2d at 224. Whether modified existing second services are "additional" stations in this context is a question that was not addressed at that time, either directly or by implication. While there is merit in both of the positions set forth here, and while neither position is mandated or prohibited by our prior decision and its underlying rationale, we are persuaded that acceptance is the better course.[3]

4. Each applicant can operate only one AM station in its community, which facility will function as a second authorized nighttime transmission service. As such, we believe, it may appropriately operate on a Class I-A clear channel. No sound basis exists, we find, for distinguishing between second services in communities with one existing station and those in communities with two existing stations where use of these frequencies is concerned.

5. In its petitions to specify issue, Loyola University contends that the primary objective of our clear channel proceeding was the fostering of minority ownership of broadcast facilities. Hence, it requests that we evaluate whether grant of these non-minority owned applications would preclude potential minority-owned stations in the future. However, while fostering minority ownership was one of our goals in opening up the U.S. Class I-A clear channels for new facilities it was not our only objective. Service to unserved and underserved areas, first and second local service and non-commercial

[1] While the pleading directed to the Bauer Broadcasting application is styled a petition to deny, Firebird Communications has not established itself a party in interest, given the lack of prohibited overlap or interference between the two proposals. Hence, we are considering both pleadings as informal objections.

[2] Section 73.37(e)(2)(ii) requires in pertinent part that applicants for new unlimited time stations provide a first or second authorized nighttime aural transmission service to the proposed community of license.

[3] We will accordingly dismiss as moot Bauer Broadcasting's request for waiver of § 73.37(e)(2).

service were also to be encouraged. See 78 FCC 2d at 1368–70. Loyola's contentions to the contrary notwithstanding, our clear channel decision does not place a higher priority on one of these objectives than on others. Hence, the possibility of a minority-owned station in the future is not a proper basis for withholding now grants to applicants otherwise qualified to be Commission licensees.[4]

6. Bauer Broadcasting has requested waiver of § 73.24(g) of our Rules which provides that the population within the proposed 1V/m contour may not exceed 1.0 percent of the population within the proposed 25 mV/m contour except where the number of persons within the 1 V/m contour is 300 or less. While the Bauer Broadcasting proposal does not comply with this provision, the excess population within the 1V/m contour is so small (25) as to warrant waiver.

7. *Other matters.* We have no evidence that Bauer Broadcasting or Bee Broadcasting published and broadcast the required local notice of the filing of their applications. To remedy this deficiency, they will be required to publish and broadcast local notice of their applications, if they have not already done so, and to file appropriate certifications with the presiding Administrative Law Judge.

8. Both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Since the proposals are for different communities, an issue must be specified to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would better provide a fair, efficient, and equitable distribution of radio service. Further, since the proposals would serve substantial common areas, a contingent comparative issue will be specified.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provided a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That in the event the application of Bauer Broadcasting Company is granted, § 73.24(g) of the Rules will be waived on its behalf.

11. It is further ordered, That the motions to dismiss filed by Firebird Communications, Inc., are denied.

12. It is further ordered, That the petitions to specify issue filed by Loyola University (WWL), are denied.

13. It is further ordered, That Bauer Broadcasting Company and Bee Broadcasting Incorporated shall publish and broadcast local notice of the filing of their applications (if they have not already done so), and shall file appropriate certifications with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

14. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

15. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

Appendix

The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, it is further ordered, That the following issue is specified: To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Bee Broadcasting Incorporated.

It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 82-30694 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

[4] The Commission's denial of Loyola's request for conditions concerning possible higher power for station WWL has been affirmed on appeal, *Loyola University* v. *FCC, supra,* rendering unnecessary the protection it seeks.

[BC Docket No. 82-731; File No. BPH-810427 AJ et al.]

South Florida Broadcasting Co., Inc. et al.; Construction Permit for New FM Station; Hearing Designation Order

In re application of South Florida Broadcasting Company Inc., North Miami, Florida, Req: 96.5 MHz Channel 243, 100 kW (H&V), 923 feet, BC Docket No. 82–731, File No. BPH–810427AJ; Unity Broadcasting Network-Florida Inc., Miami, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 360 feet, BC Docket No. 82–732, File No. BPH–810427AL; Radiocentro Broadcasting Co., Miami, Florida, Req: 96.5 MHz, Channel 243, 98 kW (H&V), 799 feet, BC Docket No. 82–733 File No. BPH–810630AJ; First Black Broadcasters of Miami, Inc., Miami, Florida Req: 96.5 MHz, Channel 243, 100 kW (H&V), 950 feet, BC Docket No. 82–734, File No. BPH–810630AK; Everglades Broadcasting Corp., Miami, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 920 feet, BC Docket No. 82–735, File No. BPH–810630AM; Constance J. Wodlinger, Miramar, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 923 feet, BC Docket No. 82–736, File No. BPH–810630AT; Onyx Broadcasting of Miami, Inc., Miami, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 923 feet, BC Docket No. 82–737, File No. BPH–810701AC; Rana Broadcasting Co., Inc., Liberty City, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 910 feet, BC Docket No. 82–738, File No. BPH–810701AE; Hispanic Community Broadcasters, Inc., Miami, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 1,200 feet, BC Docket No. 82–739, File No. BPH–810701AH; Elayne N. Boros and Marian L. Feniger d/b/a/ Flamingo Broadcasters, Miami, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 800 feet, BC Docket No. 82–740, File No. BPH–810701AJ; William H. Hernstadt, North Miami Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 923 feet, BC Docket No. 82–741, File No. BPH–810701AK; Southwest Radio Enterprises, Inc., North Miami Beach, Florida, Req: 96.5 MHz, Channel 243, 100 kW (H&V), 404 feet, BC Docket No. 82–742, File No. BPH–810701AN; for a

construction permit for a new FM station.

Hearing Designation Order

Adopted: October 21, 1982.

Released: November 3, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration (i) the above-captioned mutually exclusive applications; (ii) motions to dismiss filed by Unity Broadcasting Network-Florida against Radiocentro and Rana Broadcasting Company, Inc.; (iii) a petition for leave to amend filed by Southwest Radio Enterprises, Inc.; (iv) an objection and request for imposition of conditions on grant of application filed by Post-Newsweek Stations of Florida, Inc.; and (v) related pleadings.[1]

2. *Rana.* Rana's application states that the city of license of the proposed FM station is Liberty City, Florida. Section 73.1120 requires that each FM broadcast station will be licensed to the principal community or other political subdivision which it primarily serves. From the information before us, including the 1980 Census reports, we find no evidence that allows us to consider Liberty City as a principal community or political subdivision for purposes of our Rule. Liberty City appears to be no more than a neighborhood in Miami. Accordingly, an issue will be specified to determine whether Liberty City is a separate and distinct principal community or political subdivision in compliance with § 73.1120 of the Rules.

3. The financial data submitted by Rana reveals that $268,300 will be required to construct the proposed station and operate for three months. Rana plans to finance construction and operation with a $500,000 loan from its principal, Michael A. Benages, whose balance sheet shows only $61,000 in liquid assets ($58,000 in cash and $3,000 cash value life insurance). This does not meet the Commission's financial standards, but by an amendment dated June 15, 1982, Rana updated the balance sheet. Mr. Benages shows non-liquid assets of $5,036,169; over ten times the value of the cash which such assets are relied upon to yield. The Commission has held "where a party shows ownership of non-liquid assets several times the value of the cash which such assets are relied upon to yield, [it] cannot seriously question the ability of that party to secure the required funds." *International Broadcasting Co.*, 3 FCC 2d 449, 451 (1966). Accordingly, we find Rana financially qualified to construct the proposed station.

4. *Hispanic.* From the evidence before us, Hispanic has filed with the Commission the local notice statement described in former § 73.3580(h) of the Rules, but it lacked a list of the applicant's principals. To remedy this deficiency, Hispanic will be required to publish adequate local notice of its application and to so inform the presiding Administrative Law Judge.

5. *Hernstadt.* From the evidence before us, Hernstadt has failed to file with the Commission the local notice statement described in former § 73.3580(h) of the Rules. To remedy this deficiency, Hernstadt will be required to publish local notice of its application and to so inform the presiding Administrative Law Judge.

6. *Southwest.* Southwest seeks to amend its application by reporting the Commission's grant of the assignment of stations KSAS and KLDY, Liberty, Missouri, to a new licensee and the consummation of that transaction by the parties. William H. Hernstadt opposes the acceptance of the amendment citing Southwest's failure to make any showing of good cause as to why its amendment that was filed after the June 15, 1982 "B" cut-off date should be accepted for filing. Both parties recognize that acceptance of the proffered amendment will improve the comparative position of Southwest because of its impact on the diversification criteria. As a general rule, a late-filed amendment will not be accepted if it improves the comparative position of the petitioner. *Flower City Television Corp.*, 4 FCC 2d 384 (1966). However, post cut-off amendments which report the culmination of events previously begun and previously reported have been accepted notwithstanding the general policy against such amendments which improve the comparative standing of an applicant. *Bie Broadcasting Co.*, 44 RR 2d 1346 (ALJ 1978) citing *Dover Broadcasting Co., Inc.*, 4 RR 2d 248 (Rev. Bd. 1965). An applicant's amendment was accepted where the applicant had reported in prior amendments (1) that a contract for sale of the station in question had been signed, and (2) that an application for transfer of control had been filed, and the amendment reported a culmination of the events which began and which were reported prior to designation. *Bie Broadcasting Co., supra.* We now have before us a similar set of facts. In December of 1981, Southwest amended its application and notified the Commission that a contract had been executed to sell the Liberty stations. Another amendment was filed by Southwest in January of 1982 reporting that an application for assignment of the Liberty licenses had been filed with the Commission. Therefore, we find that the instant amendment, that is required by 1.65 of the Commission's rules for purposes of keeping the information in the application current, merely reported the culmination of affirmative steps taken prior to the "B" cut-off date to dispose of commonly owned broadcast interests. Accordingly, Southwest's petition for leave to amend will be granted and the amendment accepted even for comparative purposes.

7. *Other Matters.* We are in possession of a letter dated November 17, 1981, from the counsel for WAIA(FM), Miami, Florida informing us of that station's discontinuance of a diplex which had permitted a shared antenna operation with WMJX, Miami, Florida and which was being relied upon by some of the applicants as an antenna site. Therefore, WAIA(FM) has advised everyone that the former WMJX site will not be available. Accordingly, an issue will be specified.

8. The material submitted in the Wodlinger, Unity, and Hispanic applications does not demonstrate that the applicants are financially qualified.[2] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, these applicants will be given 30 days from the mailing of this Order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If any of the applicants cannot make the required certification, they shall so advise the Administrative Law Judge who shall then specify an

[1] Unity's petitions to deny are essentially petitions to specify issues. Since the Commission's *Report and Order in re Revised Procedures for the Processing of Contested Broadcasting Applications; Amendments of Part 1 of the Commission's Rules*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), directed the deletion of all issues pleadings in pending cases, the matters sought to be raised in these petitions have not been considered. Accordingly, an opportunity to raise any allegations contained therein will be afforded the parties post-designation pursuant to § 1.229.

[2] Wodlinger's balance sheet failed to identify the stocks & bonds, upon which he relies to finance construction. Unity failed to document its parent corporations's availability of funds to finance its proposal. Hispanic failed to supply the necessary documentation required to demonstrate the availability of sufficient private donations.

appropriate issue. *Minority Broadcasters of East St. Louis, Inc., BC Docket No. 82–378.*

9. The Post-Newsweek Stations of Florida, Inc., licensee of WPLG–TV, Miami, Florida, filed an objection and request for imposition of conditions on grant of application requesting that any grant for a new FM station be conditioned to require that the successful applicant take all necessary steps to alleviate FM interference to television reception. The engineering statement submitted with the request for imposition of conditions relies on § 73.317(a)(14) which states in pertinent part:

> Any emission appearing on a frequency removed from the carrier by more than 600 kHz shall be attenuated at least 43 + 10 log (power, in watts) decibels below the level of the unmodulated carrier, or 80 decibels, whichever is the lesser attenuation.

The engineering statement further adds that, "the normal 80 decibel requirement may not be sufficient to avoid interference to some nearby receivers. Where the strong FM fundamental at the receiver is the source of the interference, the cure is to provide a trap attenuating the 96.5 mHz signal at the receiver imput terminals." The Commission's technical rules cover the situations mentioned by Post-Newsweek, specifically § 73.315(e) regarding blanketing interference, and § 73.317(f)(2) regarding interference in general. Under equipment and program tests, §§ 73.1610 and 73.1620(b) respectively, permittees are required to resolve instances of objectionable interference. Therefore, we find Post-Newsweek's request for imposition of condition unjustified. Accordingly, the objection and request for imposition of conditions on grant of application will be denied.

10. William H. Hernstadt proposes to divest himself of his 80% interest in Hernstadt Broadcasting Company, licensee of WKAT(AM), Miami Beach, Florida. Michael A. Benages of Rana Broadcasting proposes to divest his 85% interest in Marr Broadcasting Company, Inc., licensee of KXKX(FM), Galveston, Texas and his 60% interest in Joselyn Broadcasting Company, Inc., licensee of WDGS(AM), New Albany, Indiana. Similarly, Allen Wheeler of Rana Broadcasting proposes to divest himself of his 7.5% interest in Joselyn Broadcasting. Since the ownership of these stations and the proposed stations would not violate our multiple ownership rules, we will not require a divestiture at this time. However, should either William H. Hernstadt or Rana Broadcasting be the preferred applicant, we assume that the presiding Administrative Law Judge will impose a suitable condition.

11. The respective proposals although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

13. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1 mV/m or greater) from the proposed operation of the new applicants and the availability of other primary service to such areas and populations.

2. To determine, with respect to Rana Broadcasting Company, Inc., whether Liberty City is a principal community or political subdivision in accordance with § 73.1120 of the Rules.

3. To determine whether the transmitter site proposed by Radiocentro Broadcasting Company; Elaine N. Boros and Marian L. Feniger d/b/a Flamingo Broadcasters; and Southwest Radio Enterprises, Inc. is available.

4. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, That Hispanic Communications Broadcasting, Inc. and William H. Hernstadt shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580(f) of the Commission's Rules.

15. It is further ordered, That Constance J. Wodlinger, Unity Broadcasting Network-Florida, and Hispanic Community Broadcasting, Inc. shall submit financial certifications in the form required by Section II, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

16. It is further ordered, That the petition for leave to amend filed by Southwest Radio Enterprises, Inc. is granted and its amendment of June 23, 1982 is accepted for filing.

17. It is further ordered, That the objection and request for imposition of conditions on grant of application filed by Post-Newsweek Stations of Florida, Inc. is denied.

18. It is further ordered, That, due to the proximity of the proposed transmitter sites of these applicants to the Commission's monitoring station in Ft Lauderdale, Florida, a grant to any of the applicants shall contain the following condition:

> The authority granted herein is subject to the condition that, in the event of interference to monitoring, direction finding, or related operations at the Federal Communications Commission's Fort Lauderdale, Florida, Monitoring Station, caused by either spurious or harmonic radiation, the licensee shall take such immediate corrective action as is necessary to eliminate the interference. This shall include responsibility for furnishing, installing, and adjusting filter circuits, shielding or other corrective devices which may be necessary to minimize harmonic or spurious radiation. If these measures fail to eliminate the interference, the licensee shall either immediately reduce the power to the point of no interference, or cease operation.

19. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

20. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, § 73.3594 of Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-30692 Filed 11-8-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

TITLE OF INFORMATION COLLECTION: Country Exposure Report.

BACKGROUND: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact Dr. Panos Konstas, Information Clearance Officer, FDIC, telephone (202) 389-4351.

SUMMARY: OMB is being asked to approve an extension of a semiannual reporting requirement which has previously been approved. This report is designed to collect data on international lending activities of U.S. bank holding companies or their bank subsidiaries. Only institutions with significant activities in international lending or investment are surveyed in this collection. FDIC will collect this report from about 40 state banks that are not members of the Federal Reserve System. We estimate that on the average each of the respondents will expend 35 hours per filing in preparing the report for submission to FDIC.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-30728 Filed 11-8-82; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Names of Members of the Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is herby given of the names of the members of the Performance Review Board.

DATE: November 9, 1962.

FOR FURTHER INFORMATION CONTACT: Clyde B. Blandford, Jr., Director of Personnel, Federal Labor Relations Authority, 500 C Street S.W., Washington, DC 20424 (202-382-0751)

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations, to the appointing authority relative to the performance of the senior executive.

Federal Labor Relations Authority.

James J. Shepard,

Executive Director.

THE MEMBERS OF THE PERFORMANCE REVIEW BOARD ARE

1. James J. Shepard, Executive Director, FLRA (Co-chairman).
2. S. Jesse Reuben, Deputy General Counsel (Co-chairman).
3. Howard W. Solomon, Executive Director, FSIP.
4. Harold D. Kessler, Deputy Executive Director, FLRA.
5. Paul Klein, Chief Counsel, FLRA.
6. Richard Schwarz, Assistant General Counsel, FLRA (Appeals).
7. Alexander Graham, Regional Director, FLRA.
8. Jerome Hardiman, Assistant Chief Counsel, FLRA(O&TA).
9. Alan Greenwald, Merit Systems Protection Board.
10. Ernest Russell, National Labor Relations Board.

[FR Doc. 82-30700 Filed 11-8-82; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 993]

Beacon Shipping Co. Inc.; Order of Revocation

On October 25, 1982, Beacon Shipping Co., Inc., 7 Dey Street, New York, NY 10007 surrendered its Independent Ocean Freight Forwarder License No. 993 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder Licence No. 993 issued to Beacon Shipping Co., Inc. be revoked effective October 25, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Beacon Shipping Co., Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-30690 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

Filing of Petition for Exemption From Self-Policing Requirements

Notice is hereby given that the members of the Household Goods Forwarders Association of America, Inc. (Agreement No. 9510) and the Movers' and Warehousemen's Association of America, Inc. (Agreements Nos. 8530 and 8540) have filed a petition, pursuant to Commission General Order 7 (46 CFR Part 528 *et seq.*) from exemption from the independent policing requirements of that order.

Petitioners are all non-vessel operating common carriers of used household goods and personal effects. Petitioners allege that it is virtually impossible for violations of the Shipping Act, 1916, to occur because of the nature and method of the commodities moved; that the Commission has recently voted in Docket No. 82-8 to exempt similarly situated agreements; and that the expense of retaining an independent policing authority is prohibitive.

In order for the Commission to make a thorough evaluation of the petition, interested persons are requested to submit views, arguments or data on the petition no later than December 10, 1982. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington D.C. 20753, in

an original and 15 copies. Responses shall also be served on counsel for petitioners: Alan F. Wohlstetter, Esq., Denning and Wohlstetter, 1700 K Street NW., Washington, D.C. 20006.

Copies of the petition are available for examination at the Washington, D.C., office of the Commission, 1100 L Street, NW., Room 11101, and at the Commission's District Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Ca.; Chicago, Ill.; and San Juan, Puerto Rico.

Francis C. Hurney,

Secretary.

[FR Doc. 82-30689 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

Petition Filed

The Federal Maritime Commission hereby gives notice that the following petition(s) have been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect and obtain a copy of the petition(s) and the justification(s) offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10327; or may inspect the petition(s) 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 the petition(s), 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 petition(s). Comments shall discuss with particularity allegations that the petition 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 petition(s) and the statement should indicate that this has been done.

D.B. TURKISH CARGO LINES. Filing party: Captain Kemal Gurdal, DBT Regional Representative, D.B. Turkish Cargo Lines, One World Trade Center, Suite 2257, New York, N.Y. 10048.

Summary: D.B. Turkish Cargo Lines (DBT) has applied pursuant to section 14(b) of the Shipping Act, 1916 and 46 CFR 538.2, for Commission approval of a modification of its present dual-rate contract system to include therein the Turkish ports of Iskenderun, Mersin, Izmir and Istanbul. By way of background, effective April 4, 1964, the Commission approved the DBT dual-rate contract system for cargo moving from all U.S. Gulf and East Coast ports to all Turkish ports. RCD Shipping Services (RCD) was established July 15, 1965, by the Governments of Turkey, Pakistan and Iran. At that time, DBT was directed by the Turkish Government to participate in the RCD Agreement, No. 9490. Under the authority granted, RCD moved cargo under a dual-rate contract system from all U.S. Gulf and East Coast ports to the Turkish ports of Iskenderun, Mersin, Izmir and Istanbul. Consequently, the DBT dual-rate contract system was modified to exclude these same Turkish ports.

DBT has continued to serve all Turkish ports, as provided under the dual-rate contract systems granted both DBT and RCD. On August 18, 1982, RCD notified the Commission of the decision of the Governments of Turkey, Pakistan and Iran to terminate Agreement No. 9490 effective September 30, 1982.

In order to return to DBT specific dual-rate authority covering the Turkish ports of Iskenderun, Mersin, Izmir and Istanbul, modification of the present DBT contract system is necessary. The current spread and system of contract and non-contract rates between the DBT Contract and the RCD Contract are identical and will remain unchanged upon transfer back to DBT.

By Order of the Federal Maritime Commission.

Dated: November 4, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 30691 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

Shipping Conditions in the Miami/Venezuela Trade; Enlargement of Time

By publication in the **Federal Register** of October 13, 1982 (47 FR 46375), the Commission gave notice that views, data, and arguments on a petition filed by Coordinated Caribbean Transport, Inc. could be filed on or before November 19, 1982. By subsequent notice, this time was shortened to November 8, 1982 (47 FR 47464).

At the request of an interested party, and good cause appearing, the time for filing is re-established at November 19, 1982. This is the date that documents must be in the hands of the Commission.

By the Commission. [1]

Francis C. Hurney,

Secretary.

[FR Doc. 82-30687 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

Shipping Conditions in the Foreign Trade of the United States With Venezuela; Filing of Petition

Delta Steamship Lines, Inc., has petitioned the Commission to determine, pursuant to section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 876), that conditions unfavorable to shipping exist in the foreign trade of the United States with the Republic of Venezuela and to issue countervailing regulations. It is alleged that the Government of Venezuela has enacted laws and regulations which restrict the right of Petitioner to participate in the carriage of cargoes designated as "reserved" or "exonerated" for Venezuelan-flag lines. Petitioner requests that the Commission issue a regulation suspending the tariffs of certain stated Venezuelan-flag carriers.

In order for the Commission to make a thorough evaluation of Petitioner's allegations, interested persons are requested to submit views, arguments or data on the petition no later than November 19, 1982; this is the date it must be received in the Secretary's Office. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies. Responses shall also be served on counsel for petitioners: Roy G. Bowman, Esq., Hopewell H. Darneille, III, Esq., John B. Yellott, Jr., Esq., Bowman Conner Touhey & Thornton, 2828 Pennsylvania Ave. NW., Washingtn, D.C. 20007.

Copies of the petition are available for examination at the Washington, D.C. office of the Commission, 1100 L Street, NW., Room 11101, and at the Commission's District Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Ca.; Chicago, Ill.; and San Juan, Puerto Rico.

By the Commission [1]

Francis C. Hurney,

Secretary.

[FR Doc. 82-30688 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

[1] Vice Chairman Moakley would not grant the request for extension.

[1] Inasmuch as a majority of the Commission has granted an extension of time for filing comment on a similar petition of Coordinated Caribbean Transport, INc., Vice Chairman Moakley agrees that the date for filing comments on both petitions should coincide.

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 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. T-2756-2.

Filing Party: Ms. Beverly J. Strike, Administrative Assistant, Board of Harbor Commissioners, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

Summary: Agreement No. T-2756-2, between the City of Milwaukee (City) and The Jacobus Company (Jacobus), modifies the basic agreement between the parties which provides for the lease by city to Jacobus of certain premises located on the South Harbor Tract in the Port of Milwaukee for use in the business of sypplying heating oil fuel to industry customers and the export of inedible oil and greases.

The purpose of the modification is to: (1) Extend the term of the agreement for its second five-year option period; (2) increase the annual rental and establish a "throughput charge" based on volume of liquid cargo; and (3) provide for an additional five-year renewal option.

Agreement Nos. T-2880-19, T-3553-4, and T-3879-2.

Filing Party: John C. Barnett, Deputy Chief, Leases and Operating Agreements Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: The above agreements between The Port Authority of New York and New Jersey and respective lessees, viz: John W. McGrath Corporation (T-2880-19), International Terminal Operating Co., Inc. (T-3553-4), and Venezuelan Line/Peruvian State Line (T-3879-2) amend the basic lease agreements by providing for an increase in the rate per revenue ton payable by the lessees under the minimum/maximum formula without otherwise changing the manner in which the rental is computed.

Agreement No. T-2869-1.

Filing Party: Mr. Roger L. Peters, Traffic Manager, Port of San Francisco, Ferry Building, San Francisco, California 94111.

Summary: Agreement No. T-2869-1 between the San Francisco Port Commission (Port) and Fred F. Noonan Company (Noonan), modifies the basic agreement which provides for the use by Noonan of a maritime terminal at Seawall Lot No. 349 at the Port. The amendment provides for 5-one year options to the present term which expires March 31, 1984, the area of the premises increased from 551,782 sq. ft. to 572,273 sq. ft., and Building No. 11 will be added to the operating area. Noonan may sublease unneeded office space in Building No. 11, and either party may recapture areas for maritime uses as required upon 90 days' notice. Noonan shall guarantee to Port wharfage and dockage charges as indicated in the agreement.

Agreement No. T-3844-5.

Filing party: Mr. H. H. Wittren, Associate Director of Real Estate, Leasing, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3844-5 between the Port of Seattle (Port) and Harbor Island Marine Associates, restates the entire lease as previously amended and assigned under the basis agreement. The basic agreement provided for the leased premises to be used for storage of empty containers and West Seattle Bridge construction material. Agreement No. T-3844-5 modifies the use to include moorage, marine facilities, and proposed facilities for vessel fueling and maintenance. The basic lease as amended will run until July 31, 2022. Rental shall be paid to the Port as per yearly scale indicated in the agreement. The amendment will become effective upon approval by the Commission.

Agreement Nos. 14-48, 5700-31, 10107-15 and 10108-10.

Filing party: George A. Quadrino, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, N.W, Washington, D.C. 20036.

Summary: Agreements Nos. 14-48, 5700-31, 10107-15 and 10108-10, would amend the basic agreements of the Trans Pacific Freight Conference (Hong Kong), New York Freight Bureau and Agreements Nos. 10107 and 10108, respectively, to authorize the members thereof to agree upon uniform compensation or allowances they may pay or grant to CFS and CY operators who function at ports of origin in Hong Kong and Taiwan.

Agreement No. 134-43.

Filing party: C. J. Smith, Chairman, Gulf/Mediterranean Ports Conference, Whitney Building-Suite 927, New Orleans, Louisiana 70130.

Summary: Agreement No. 134-43 would amend the gulf/Mediterranean Ports Conference Agreement for the express purpose of removing, from conference jurisdiction, all bulk cargoes carried without mark or count and adding foreign inland authority.

Agreement No. 9474-8.

Filing party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 9474-8 would amend the scope of the Thailand Pacific Freight Conference Agreement for the express purpose of adding U.S. interior point (microbridge) intermodal authority. The conference is presently authorized to offer a minilandbridge service via Pacific Coast ports.

Agreement No. 10044-8.

Filing party: Mr. R. J. Finnan, Chief Tariff Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10044-8, between Compania Peruana de Vapores and Lykes Bros. Steamship Co., Inc., amends the basic U.S. Gulf/Peru Pooling Agreement. The purpose of the amendment is to add new language to the basic agreement which will allow the parties, by unanimous agreement, to alter their basic pool share through adjustment of the Pool Earnings. Notice of such action will be filed with the Federal Maritime Commission within 15 days.

Agreement No. 10391-1.

Filing party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Summary: Agreement No. 10391–1 modifies the organic agreement of the United States Florida/Ecuador Steamship Conference for the purpose of providing member lines with a limited right of independent action, to meet the rates or total charges of a non-conference competitor, and for the purpose of speeding up the telephone pool voting procedure.

By Order of the Federal Maritime Commission.

Dated: November 4, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–30724 Filed 11–8–82; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 82–51]

Companhia Siderurgica Nacional (Brazilian National Steel Co.) v. Moore McCormack Lines, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Companhia Siderurgica Nacional against Moore McCormack Lines, Inc. was served Novemer 2, 1982. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limtations prescribed in 46 CFR 502.61 The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82–30727 Filed 11–8–82; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 82–52]

Dynamic International Freight Forwarders, Inc.: Order of Investigation and Hearing

Information has come to the attention of the Commission that Dynamic International Freight Forwarders, Inc. (Dynamic) may have engaged in the business of ocean freight forwarding despite not holding a license to do so. Upon further investigation, it was discovered that Dynamic may have violated section 44(a) of the Act by forwarding 37 [1] or more ocean shipments during the period December 16, 1981 through May 20, 1982. (At least 13 of the 37 or more instances of unlawful forwarding, including the apparent unlawful issuance of invoices to carriers for ocean freight compensation, occurred after the receipt of specific verbal advice from Commission staff to Dynamic relative to the jeopardy which attaches to unlicensed forwarding).

Further, the President of Dynamic admitted to Commission staff that Dynamic had been forwarding for the past three years. That admission was made more than a year after the Commission's finding in Docket No. 80–5 (Dynamic International Freight Forwarder, Inc.—Independent Ocean Freight Forwarder License Application and Possible Violation of Section 44, Shipping Act, 1916, January 16, 1981) that Dynamic was unfit to be licensed as an independent ocean freight forwarder. The Commission in that proceeding also assessed a civil penalty of $2,500 against Dynamic for unlicensed freight forwarding.

It is therefore ordered That, pursuant to sections 22, 32 and 44, Shipping Act, 1916 (46 U.S.C. 821, 831 and 841b) a proceeding is hereby instituted to determine:

1. Whether Dynamic International Freight Forwarders, Inc. violated section 44(a) of the Shipping Act, 1916 (46 U.S.C. 841b(a)) by carrying on the business of forwarding, as defined in section one of the Act (46 U.S.C. 801) since January 17, 1981;

2. Whether civil penalties should be assessed against Dynamic International Freight Forwarders, Inc., pursuant to 46 U.S.C. 831(e) if found to be in violation of section 44(a) of the Shipping Act, 1916 and, if so, the amount of any such penalty which should be imposed, taking into consideration factors in possible mitigation of such a penalty;

3. Whether Dynamic International Freight Forwarders, Inc. should be ordered to cease and desist from carrying on the business of forwarding.

It is further ordered That Dynamic International Freight Forwarders, Inc. be named Respondent in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Director of the Bureau of Hearings and Field Operations (Hearing Counsel) shall be a party to this proceeding;

It is further ordered, That this proceeding shall be limited to the submission to the Commission of affidavits of facts and memoranda of law and replies thereto. Oral argument may also be scheduled if deemed necessary by the Commission. Should any party believe that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavits. Affidavits of fact and memorandum of law shall be filed by Hearing Counsel and served upon all parties of record no later than close of business December 9, 1983. Reply affidavits and memorandum shall be filed no later than close of business January 10, 1983. Hearing Counsel's reply shall be filed no later than close of business February 10, 1983. Intervenors shall file as their interest shall appear;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72); and

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

Francis C. Hurney,

Secretary.

[1] The 37 shipments are identified in the accompanying appendix.

APPENDIX

Carrier name	Vessel	Loaded at	B/L date	B/L No.	Dynamic Invoice(s)/ (ref. No.)
					2475, 2505
Italian Line	Americana	Philadelphia	12/16/81	1000	(1208)
Italian Line	Americana	Philadelphia	12/16/81	1001	2506
Italian Line	Americana	Philadelphia	12/16/81	1002	2474, 2501
Neptune Orient Line	Neptune Coral	Savannah	12/16/81	1761136	2609, 2610
Costa Line	Family Anthony	Houston	12/24/81	C-5	2482, 2542
Neptune Orient Line	Neptune Diamond	Seattle	1/5/82	1442114	2606
Italian Line	Hermes	Philadelphia	1/6/82	1000	2484, 2543
Italian Line	Acadia	Baltimore	1/22/82	1002	2603, 2604
Costa Line	Unterturkheim	Houston	2/6/82	C-9	(01009)
Spanish Line	Covadonga	Baltimore	2/11/82	802	2676, 2717
Showa Line	Hotaka Maru	Portland	2/12/82	920-04657	2635
Showa Line	Hotaka Maru	Portland	2/12/82	920-04658	
Zim Container Service	Northland	Boston	2/16/82	536	(02010)
Showa Line	Alaska Maru	Portland	2/19/82	920-04673	
Showa Line	Hikawa Maru	Portland	2/8/82	920-04637	
Dart Containerline	D. Americana	Philadelphia	1/27/82	BBLI 500	(1257)
Spanish Line	Covadonga		1/27/82	805	2716
Spanish Line	Covadonga	Baltimore	3/1/82	805	2715
Spanish Line	Covadonga	Baltimore	3/1/82	807	2714
Spanish Line	Guadalupe	Baltimore	3/14/82	800	2757
Spanish Line	Guadalupe	Baltimore	3/14/82	804	2770
Spanish Line	Covadonga	Baltimore	3/30/82	805	(03035)
Spanish Line	Covadonga	Baltimore	3/30/82	806	02110)
Spanish Line	Guadalupe	Baltimore	4/16/82	800	(03037)
Spanish Line	Guadalupe	Baltimore	4/16/82	805	(03131)
Spanish Line	Guadalupe	Baltimore	4/16/82	806	
Spanish Line	Covadonga	Baltimore	5/2/82	803	(04136)
Spanish Line	Guadalupe	Baltimore	5/20/82	802	(03125)
Spanish Line	Guadalupe	Baltimore	8/2/82	603	(07160)
Spanish Line	Guadalupe	Baltimore	8/2/82	800	(06153)
Spanish Line	Guadalupe	Baltimore	8/2/82	801	(06145)
Spanish Line	Guadalupe	Baltimore	8/2/82	802	(06156)
Spanish Line	Guadalupe	Baltimore	8/2/82	803	(06068)
Spanish Line	Guadalupe	Baltimore	8/2/82	804	(06071)
Spanish Line	Covadonga	Baltimore	8/20/82	800	
Spanish Line	Covadonga	Baltimore	8/20/82	801	

[FR Doc. 82-30725 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Y.S. International, Inc., 6819 S.W. 81st Street, Suite E, Miami, FL 33143. Officer: John Southby, President/Sole Stockholder.

CFI Group, Inc., 15 East 26th Street, New York, NY 10010. Officers: Jacques D. Campion, President/Director; Peter A. Holzer, Executive Vice President/Director; Arthur L. Rookwood, Vice President; Dolores M. Vila, Secretary/Assistant Treasurer; Alain Campion, Treasurer/Assistant Secretary/Director; Daniel Curtis, Director; Michael Pschorr, Director.

Melvin K. Kerr, 1001 Lafayette Bldg., 437 Chestnut Street, Philadelphia, PA 19106.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-30726 Filed 11-8-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Northshore Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of First National Bank of Crosby, Crosby, Texas. Comments on this application must be received not later than December 3, 1982.

Board of Governors of the Federal Reserve System, November 3, 1982.

James McAfee

Associate Secretary of the Board.

[FR Doc. 82-30686 Filed 11-8-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y

(12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *The Bank of New York Company, Inc.*, New York, New York (finance activities, loan servicing; nationwide and Texas, respectively): To engage, through a wholly-owned subsidiary to be known as BNY Financial Corporation in the following activities: servicing loans and other extensions of credit for any person and making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts), such as would be made by a mortgage, finance, credit card, or factoring company. Such activities would be conducted at its main office located in New York, New York on a nationwide basis and the loan servicing activity only would be conducted at its office located in Houston, Texas, with Texas being the primary service area. Comments on this application must be received not later than December 3, 1982.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation*, Roanoke, Virginia (mortgage banking, loan servicing, and insurance activities; Virginia): To engage, through its subsidiary, Dominion Bankshares Mortgage Corporation, in mortgage banking activities of originating residential, commercial, industrial, and construction loans for its own account and for sale to others, and servicing such loans for others, and the sale of credit life, credit accident and health, credit disability, mortgage redemption and mortgage accident and health insurance in connection with such mortgage loans. These activities will be conducted at an office in Roanoke, Virginia, serving the counties of Roanoke, Alleghany, Rockbridge, Botetourt, Bedford, Giles, Montgomery, Wythe, Carroll, Grayson, Smyth, Tazewell, Buchanan, Russell, Wise, Dickenson, and Washington, and the cities of Roanoke, Salem, Covington, Clifton Forge, Lexington, Buena Vista, Bedford, Bristol, Galax, and Norton, Virginia. Comments on this application must be received not later than December 3, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Merchants National Corporation*, Indianapolis, Indiana (leasing of capital goods and equipment; Ohio, Indiana and Kentucky): To engage through its subsidiary Circle Leasing Corp. in leasing activities of capital goods and equipment to industry, banks, and others or act as agent, broker or advisor in leasing such personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Cincinnati, Ohio servicing an area within a 50-mile radius of proposed office including areas within Indiana and Kentucky as well as Ohio. Comments on this application must be received not later than November 30, 1982.

Board of Governors of the Federal Reserve System, November 3, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30683 Filed 11-8-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mid-South Bancshares, Inc.*, Sanford, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Mid-South Bank and Trust Company, Sanford, North Carolina. Comments on this application must be received not later than December 3, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Bank of Gonzales Holding Company, Inc.*, Gonzales, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Gonzales, Gonzales, Louisiana. Comments on this application must be received not later than November 24, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Monroe Bancshares, Ltd.*, Monroe, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Monroe State Bank, Monroe, Iowa. Comments on this application must be received not later than December 3, 1982.

Board of Governors of the Federal Reserve System, November 3, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30684 Filed 11-8-82; 8:45 am]

BILLING CODE 6210-01-M

NBD Bancorp, Inc.; Proposed Acquisition of Corporate Funding, Inc.

NBD Bancorp, Inc., Detroit, Michigan, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12

U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire 100 percent of the voting shares of Corporate Funding, Inc., Grand Rapids, Michigan.

Applicant states that the proposed subsidiary would engage in the activities of making leases of personal property or acting as agent, broker, or advisor in leasing such property, in accordance with the Board's Regulation Y. These activities would be performed from offices of Applicant's subsidiary in Grand Rapids and Birmingham, both in Michigan, and the geographic areas to be served are the United States including Puerto Rico, and Canada. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than November 29, 1982.

Board of Governors of the Federal Reserve System, November 3, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30685 Filed 11-8-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Application for Shipping Instructions and Notice of Availability (GSA Form 1611)

AGENCY: General Services Administration.

ACTION: Notice of Information collection Reinstatement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Service Administration (GSA) plans to request the Office of Management and Budget to review and approve the reinstatement of an information collection request for the collection of data.

DATE: Comments on the information collection request must be submitted on or before November 26, 1982.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Louise Jernigan, GSA (703-557-0977).

SUPPLEMENTARY INFORMATION: .

a. *Purpose.* The data collected by the information collection request will enable GSA to evaluate and obtain the maximum cubic utilizaiton of shipping vans and containers for export direct delivery shipments, so that the most economical transportation will be arranged.

b. *Description of information collection.* The information will be provided as part of a contractual agreement between the Federal Government and person or persons furnishing the information. The GSA Form 1611 will be used to collect the data. Data will be collected as required by GSA traffic managers throughout the various regions. The respondent burden has been estimated to be one-half hour per respondent.

c. *Obtaining copy of the proposal.* A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566-1164.

Dated: November 1, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82-30711 Filed 11-8-82; 8:45 am]

BILLING CODE 6820-34-M

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Information Capture, Storage, Retrieval and Perpetuation Subcommittee of the National Archives and Records Service Advisory Committee on Preservation will meet on January 17, 1983 from 10:00 a.m. to 4:00 p.m., and January 18, from 9:00 a.m. to 12 noon in Room 105, National Archives Building, Washington, D.C. This meeting will be devoted to information capture and distribution as related to the mission of the National Archives.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: October 28, 1982.

G. N. Scaboo,

Acting Archivist of the United States.

[FR Doc. 82-30710 Filed 11-8-82; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Maine State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 21, 1982 in Boston, Massachusetts to reconsider our decision to disapprove Maine State Plan Amendment 82-03-A.

CLOSING DATE: Request to participate in the hearing as a party must be received by November 24, 1982.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Program Policy, G-20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove a Maine State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice

to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the imposition of a $.50 copayment on prescription drugs and exemption from the copayment requirement of categorically needy and medically needy individuals who are institutionalized. The Health Care Financing Administration disapproved the amendment on the basis that it did not comply with section 1902(a)(10) of the Social Security Act and comparability rules set forth in 42 CFR 440.240.

The notice to Maine announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

Mr. Michael R. Petit,
Commissioner, Department of Human Services, State House, Augusta, Maine 04330.

Dear Mr. Petit: This is to advise you that your request for reconsideration of the decision to disapprove Maine State Plan Amendment 82–03–A was received on October 7, 1982. You have requested a reconsideration of whether this amendment, which would exempt institutionalized categorically needy and medically needy individuals from a $.50 copayment requirement for prescribed drugs, conforms to the requirements for approval under the Social Security Act and pertinent Federal requirements.

In accordance with the regulations at 45 CFR 201 and 213, I am scheduling a hearing on your request to be held on December 21, 1982, at 10:00 a.m. in Room 1211, John F. Kennedy Building, Boston, Massachusetts. You indicated, however, that you would be willing to enter into negotiations. Please advise me, therefore, if you wish to postpone the hearing in order to enter into negotiations or if you wish to retain the hearing date but negotiate prior to the hearing.

I have designated Mr. Lawrence Ageloff as the presiding official. In order to facilitate any communications which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached on (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: November 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-30804 Filed 11-8-82; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

Application Announcement for Grants for Programs for Physician Assistants

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1983 Grants for Programs for Physician Assistants are now being accepted under the authority of Section 783 of the Public Health Service Act, as amended by Pub. L. 97–35.

Section 783 authorizes the Secretary to make grants to schools of medicine or osteopathy and any other public or nonprofit private entities to assist in meeting the cost of planning, developing and operating or maintaining programs for the training of physician assistants as defined under Sections 701(8) and 783 of the Public Health Service Act.

Funding preference will be accorded approved applications with projects in which:

1. A program is conducted for training physician assistants to provide primary care patient services under the supervision of a doctor of medicine or osteopathy; and/or

2. Substantial training or experience is provided in a health manpower shortage area(s), as defined in Section 332 of the Public Health Service Act, or in an area health education center funded, at least in part, under section 781(a)(1) of the Act; and/or

3. A program is established in a State which does not have a program; and/or

4. A program is conducted in conjunction with primary care physician education in a manner which shares educational resources and encourages the use of physician assistants by physicians.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–21), Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6098.

Should additional programmatic information be required, please contact. Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6436.

Based upon the President's budget, approximately $4.4 million is expected to be available in Fiscal Year 1983 for competitive grants. However, this amount may be changed by final action on the Fiscal Year 1983 appropriation. The deadline date for receipt of applications is December 6, 1982.

This program is listed at 13.886 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A–95.

Dated: October 27, 1982.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 82-30717 Filed 11-8-82; 8:45 am]

BILLING CODE 4160-16-M

Qualified Health Maintenance Organizations; August and September

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice, August/September; qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, this notice reports service area revisions and name changes of previously qualified HMOs.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Associate Director for, Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resources Development, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION:

Regulations (42 CFR 110.605(e)) issued under Title XIII of the Public Health Service Act require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register**. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. Ventura County Health Maintenance Organization/dba/VIP Health Plan, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 200 South "A" Street, Suite 202, Oxnard, California 93030. Service area: Ventura County, California excluding the Los Padres National Forest area. Date of qualification: August 2, 1982.

(Transitionally Qualified Health Maintenance Organizations: 42 CFR 110.603(b))

2. Samaritan Health Plan Cooperative, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 2224 West Kilbourn Avenue, Milwaukee, Wisconsin 53233. Service area: Milwaukee County, Wisconsin and other counties with zip codes as follows:

Ozaukee

53012	53074
53024	53092

Waukesha

53005	53122
53007	53151
53051	53186
53072	

Washington

53022

Date of qualification: August 2, 1982.

3. CliniCare, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 435 North Mulford Road, Rockford, Illinois 61107. Service area: Winnebago and Boone Counties, Illinois and other counties with zip codes as follows:

DeKalb

60111	60145–6
60115	60150
60129	60552
60135	60178

Stephenson

61013	61044
61018–9	61062
61027	61067
61032	61070
61039	

Ogle

61007	61049
61010	61052
61015	61054
61020	61061
61026	61068
61043	61084
61047	61091
60113	

Date of qualification: September 7, 1982.

4. Abraham Lincoln Health Assurance Plan, Lincoln, Illinois (a regional component of HMO Illinois, Inc., Chicago, Illinois 60601). Service area: Logan County, Illinois. Effective date: August 4, 1982.

5. Shawnee Health Assurance Plan, Carbondale, Illinois, (a regional component of HMO Illinois, Inc., Chicago, Illinois 60601). Service area: Jackson, Perry, and Franklin Counties, Illinois. Effective date: August 4, 1982.

6. HealthCare of Louisville, Inc., Lexington, Kentucky (a regional component of HealthCare of Louisville, Inc., Louisville, Kentucky 40218). Service area: Fayette, Woodford, Scott, Bourbon, Clark, Madison, Jessamine and Franklin Counties, Kentucky. Effective date: August 23, 1982.

Service Area Revisions

1. Health Maintenance Network of Southern California/dba/Health Net, P.O. Box 9103, Van Nuys, California 91409. Add the following to the service area published in the **Federal Register** on May 3, 1982, 47 FR 18971: Santa Barbara and San Diego Counties, California. Effective date: August 23, 1982.

2. HMO Illinois, Inc., 233 North Michigan Avenue, Suite 1625, Chicago, Illinois 60601. Add the following to the service area published in the **Federal Register** on July 1, 1981, 46 FR 34517: Jo Daviess, Stephenson, Winnebago, Boone, Carroll, Whiteside, Lee, DeKalb, and Ogle Counties, Illinois. Effective date: August 6, 1982.

3. Foundation Health Plan, 3030 El Camino Avenue, Carmichael, California 95608. Add the following townships by county to the service area published in the **Federal Register** on July 1, 1981, 46 FR 34516–7:

Alameda County

Dublin	Pleasanton
Hayward	Sunol
Livermore	

Contra Costa County

Alamo	Diablo
Antioch	Knightsen
Brentwood	Oakley
Byron	San Ramon
Canyon	Walnut Creek
Danville	

Effective date: July 1, 1982.

4. Kaiser Foundation Health Plan of Texas, 12720 Hillcrest, Suite 600, Dallas, Texas 75230. Add the following zip codes by county to the service area published in the **Federal Register** on July 1, 1981, 46 FR 34521:

Collin

75071

Denton

76226 [1]	76247
76201	76262

Ellis

75119	75154
75125	75165
75152	76065

Hunt

75005

Kaufman

75142	75157

Tarrant

76051

[1] Published as 75226 in 46 FR 34521 on July 1, 1981.

Effective date: August 17, 1982.

NAME CHANGES

Change from	Change to	Effective date
1. Family Health Program, Inc.	FHP, Inc., 9930 Talbert Avenue, Fountain Valley, Calif. 92708.	Aug. 3, 1982.
2. Community Health Care Association.	Health Care Plus, Inc., P.O. Box 1966, Wichita, Kans. 67201.	Sept. 17, 1982.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resources Development, Department of Health and Human Services, Park Building 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for

information about qualified HMOs should be sent to the same office.

Dated: October 27, 1982.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 82-30719 Filed 11-8-82; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Postponement of Public Land Sale; Wyoming

October 29, 1982.

Two Notices of Realty Action were published September 13, 1982, at 43 FR 40233 and September 30, 1982, at 47 FR 43201 in the **Federal Register** and concerned the competitive sale of public land in Wyoming. Notice is hereby given, that these sales in Sweetwater and Johnson Counties scheduled for November 17 and December 3, 1982, respectively, are hereby postponed until further notice pending completion of action consistent with the Bureau's continuing resolution on appropriations is effected.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-30721 Filed 11-8-82; 8:45 am]

BILLING CODE 4310-84-M

[M 56116]

Montana; Realty Action; Exchange

November 2, 1982.

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M 56116, Exchange of public and private lands in Chouteau, Fergus, Petroleum, Blaine and Treasure Counties, Montana.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 27 N., R. 4 E.,
Sec. 32, SW¼SE¼.
T. 23 N., R. 6 E.,
Sec. 1, SE¼NW¼.
T. 26 N., R. 7 E.,
Sec. 11, NE¼NE¼.
T. 26 N., R. 8 E.,
Sec. 28, N½NW¼.
T. 21 N., R. 9. E.,
Sec. 5, Lot 2;
Sec. 20, SW¼NE¼, E½NW¼, N½S½;
Sec. 22, SE¼SW¼, SE¼SE¼;
Sec. 25, NE¼SW¼.
T. 22 N., R. 9 E.,
Sec. 33, SW¼NW¼.
T. 26 N., R. 9 E.,
Sec. 19, NW¼NE¼.
T. 21 N., R. 10 E.,
Sec. 18, NW¼SE¼;
Sec. 32, SE¼SW¼.
T. 24 N., R. 10 E.,
Sec. 20, NE¼SE¼.
T. 25 N., R. 10 E.,
Sec. 5, SW¼NW¼.
T. 26 N., R. 11 E.,
Sec. 1, SE¼NE¼, SE¼NW¼;
Sec. 4, SW¼NW¼, NW¼SW¼;
Sec. 5, SE¼NE¼.
T. 20 N., R. 13 E.,
Sec. 2, W½SW¼.
T. 26 N., R. 13 E.,
Sec. 5, SW¼SE¼;
Sec. 8, NE¼SW¼;
Sec. 17, NE¼NW¼.
T. 28 N., R. 13 E.,
Sec. 34, SE¼SW¼.
T. 17 N., R. 14 E.,
Sec. 13, S½SE¼;
Sec. 24, NE¼SW¼.
T. 21 N., R. 14 E.,
Sec. 14, SW¼NW¼.
T. 26 N., R. 15 E.,
Sec. 34, SE¼SE¼.
T. 19 N., R. 16 E.,
Sec. 5, Lot 4.
T. 20 N., R. 16 E.,
Sec. 21, SE¼NW¼;
Sec. 22, NW¼SE¼.
T. 27 N., R. 16 E.,
Sec. 5, SW¼SE¼;
Sec. 7, Lot 3, NE¼SW¼.
T. 17 N., R. 17 E.,
Sec. 12, NW¼NW¼.
T. 18 N., R. 17 E.,
Sec. 20, SW¼SW¼.
T. 19 N., R. 17 E.,
Sec. 21, SE¼SE¼;
Sec. 22, SE¼NW¼;
Sec. 25, NW¼NW¼;
Sec. 26, NE¼NE¼;
Sec. 27, SW¼NW¼.
T. 20 N., R. 17 E.,
Sec. 13, SW¼NE¼.
T. 16 N., R. 18 E.,
Sec. 4, Lot 1.
T. 19 N., R. 19 E.,
Sec. 3, NE¼SW¼;
Sec. 13, SE¼NE¼, NE¼SE¼;
Sec. 14, W½W½;
Sec. 18, S½NE¼, N½SE¼.
T. 16 N., R. 20 E.,
Sec. 35, NW¼SE¼.
T. 20 N., R. 20 E.,
Sec. 30, NW¼SE¼, SE¼SE¼;
Sec. 31, Lot 7.
T. 21 N., R. 20 E.,
Sec. 25, S½SW¼, NE¼SE¼.
T. 22 N., R. 20 E.,
Sec. 20, W½NE¼, SE¼NE¼.
T. 16 N., R. 21 E.,
Sec. 25, SE¼.
T. 17 N., R. 21 E.,
Sec. 34, SE¼NW¼.
T. 18 N., R. 21, E.,
Sec. 34, SE¼NE¼, N½SE¼.
T. 21 N., R. 21 E.,
Sec. 17, NW¼NE¼;
Sec. 31, Lot 2, SE¼NW¼.
T. 17 N., R. 22 E.,
Sec. 32, SE¼SE¼;
Sec. 33, SW¼SW¼.
T. 18 N., R. 22 E.,
Sec. 3, SE¼NW¼.
T. 19 N., R. 22 E.,
Sec. 19, NE¼NW¼, SE¼SE¼;
Sec. 22, SW¼SE¼;
Sec. 29, NW¼SE¼.
T. 17 N., R. 23 E.,
Sec. 9, SE¼NE¼;
Sec. 14, NW¼SW¼, NE¼SE¼, SW¼SE¼;
Sec. 15, NE¼NW¼, SE¼SW¼;
Sec. 22, NW¼SW¼;
Sec. 23, NW¼NE¼;
Sec. 25, NE¼SE¼.
T. 19 N., R. 23 E.,
Sec. 30, Lots 1 and 2.
T. 13 N., R. 24 E.,
Sec. 2, NW¼SE¼.
T. 14 N., R. 24 E.,
Sec. 23, NE¼NW¼;
Sec. 33, NE¼SW¼;
Sec. 35, NW¼NW¼, NE¼SW¼.
T. 15 N., R. 24 E.,
Sec. 8, SE¼NW¼, W½SW¼, NE¼SW¼.
T. 19 N., R. 24 E.,
Sec. 20, NW¼.
T. 18 N., R. 25 E.,
Sec. 24, N½SW¼.
T. 14 N., R. 26 E.,
Sec. 8, NW¼NW¼.
T. 18 N., R. 26 E.,
Sec. 19, E½SW¼, NW¼SE¼.
T. 19 N., R. 28 E.,
Sec. 32, NW¼SE¼.
T. 15 N., R. 29 E.,
Sec. 21, W½NW¼.

Aggregating 4,987.77 acres of public land.

In exchange for the above public land, the United States will acquire certain lands or interests in lands from the following private land parcels:

Principal Meridian

Fee Estate

Pavlovick—
T. 23 N., R. 16 E.,
Sec. 24, portions of lot 1 and SE¼SW¼;
Sec. 25, lot 7 (excluding trailer court), and a portion of Council Island.
T. 23 N., R. 17 E.,
Sec. 30, portion of Council Island.

Charles Schwenke—
T. 23 N., R. 22 E.,
Sec. 5, lots 12,13, and 20;
Sec. 6, lots 11,12,13,14,20, and 21.

Howrey Island and Accretions Thereto—
T. 6 N., R. 35 E.,
Sec. 15, lots 5,6,7,8,9, SW¼SE¼;
Sec. 21, lot 5;
Sec. 22, lots 1,2,6,7,8, and 9.

Aggregating 864.2 acres of fee land, more or less.

Scenic-Access Easement

Pavlovick—
T. 23 N., R. 16 E.,
Sec. 23, lot 1;
Sec. 24, lot 2 (Norris Island);
Sec. 25, lots 5,6, and 8;
Sec. 26, lots 5 and 6.
T. 23 N., R. 17 E.,

Sec. 30, lots 6 and 7.

Aggregating 216.75 acres of scenic-access easement.

Scenic and Access Easement Only

Darlington Property—

T. 24 N., R. 13 E.,
Sec. 3, lots 1,2,3,6,7, SE¼NW¼,NE¼SW¼, S½SW¼, NW¼SE¼, S½SE¼;
Sec. 4, lot 8;
Sec. 9, lot 1;
Sec. 10, lots 1,2, NE¼, NW¼NW¼, E½NW¼, NE¼SW¼.
T. 25 N., R. 13 E.,
Sec. 4, S½S½;
Sec. 5, lots 5,6,9, NE¼SE¼;
Sec. 9, lots 1,3,4,7, NE¼, NE¼NW¼, E½SE¼, NW¼SE¼;
Sec. 10, SW¼SW¼;
Sec. 15, W½NW¼, NW¼SW¼, S½SW¼;
Sec. 16, lots 3 and 4;
Sec. 21, lots 1,2,3,4, E½SE¼;
Sec. 22, W½, N½NE¼;
Sec. 27, W½;
Sec. 28, lots 5,8, E½E½;
Sec. 33, lot 1, SE¼NE¼;
Sec. 34, W½NW¼, SE¼NW¼, NE¼SW¼.

Aggregating 3,296.31 acres of scenic easement.

Not all of the lands described above will be involved in the exchange. Selections will be made from both lists to achieve comparable values.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department.

FOR FURTHER INFORMATION CONTACT: Information concerning this exchange is available at the Lewistown District Office.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands describved above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The purpose of the exchange is to dispose of hard-to-manage BLM-administered lands, usually scattered, isolated tracts, while concurrently acquiring and consolidating lands or interest in lands of public value. The private land includes land within the Upper Missouri Wild and Scenic Area, a Lewis and Clark campsite, the Kipp Homestead, excellent camping areas and wildlife habitat and various river islands with recreational and wildlife values.

Only the surface estates will be exchanged and the subsurface estate shall remain with the present owners. The exchange will be based on equal appraised values of both the public and the deeded land. The action is consistent with the Bureau's planning for the lands involved and has been discussed with State and local officials. The public interest will be well served by making the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945. This reservation applies to the lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g., rights-of-way, easements, and leases of record).

4. The exchange must meet the requirements in 43 CFR 4110.4–2(b).

Michael J. Penfold,

State Director.

[FR Doc. 82-30790 Filed 11-8-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 29, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 24, 1982.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Pima County

Tucson, *Coronado Hotel*, 410 E. 9th St.

CONNECTICUT

Fairfield County

Danbury, *Robinson, P., Fur Cutting Company*, Oil Mill Rd.

Hartford County

Hartford, *Buckingham Square Historic District—(Boundary Increase)*, 248–250 Hudson St.

New London County

New London, *Winthrop Mill*, Mill St.
Norwich, *Bean Hill Historic District*, Huntington and Vergason Aves., Sylvis Lane and W. Town St.

INDIANA

Marion County

Indianapolis, *Massachusetts Avenue Commercial District*, Roughly bounded by one block to either side of Massachusetts Ave. from Delaware St. to US 65

Marshall County

Culver vicinity, *Woodbank*, 2738 East Shore Lane, Lake Maxinkuckee

MARYLAND

Anne Arundel County

Tracy's Landing vicinity, *Tracy's Landing Tobacco House No. 2, (Coe Barn)*, Off MD 2
Baltimore (Independent city), *Franklin Square Historic District*, Bounded by Mulberry, N. Carey, W. Baltimore, and N. Monroe Sts.

Caroline County

Williston, *Potter Hall*, Martin Lane

Harford County

Aberdeen, *Baker, James B., House*, 452 W. Bel Air Ave.

Howard County

Ellicott City vicinity, *Burleigh*, Centennial Lane

Kent County

Chestertown, *Chestertown Railroad Station*, Cross St.

Montgomery County

Laytonsville vicinity, *Oaks II*, 5815 Riggs Rd.

Prince Georges County

Upper Marlboro vicinity, *Bowling Heights*, 3610 Old Crain Hwy.

MASSACHUSETTS

Middlesex County

Framingham, *Irving Square Historic District*, Irving Square, Waverly, South, Columbia, Irving, Gordon and Hollis Sts.

Suffolk County

Revere, *Ronan, Mary, T., School*, 154 Bradstreet Ave.

MISSISSIPPI

Leake County

Carthage, *Jordan House*, E. Franklin St.

Neshoba County

Philadelphia, *Philadelphia Historic District*, Holland and Poplar Aves., Jefferson, Watkins and Welsh Sts.

NEW MEXICO

Bernalillo County

Albuquerque, *Albuquerque Indian Hospital*, 801 Vassar, NE

Los Alamos County

White Rock, *Pajarito Springs Site*,

Los Alamos, *Cuaje Site,*

Rio Arriba County

Abiquiu, *Abiquiu Messa Grid Gardens,*

Santa Fe County

White Rock, *Navawi)*

NEW YORK

Dutchess County

Poughkeepsie, *First Presbyterian Church Rectory (Poughkeepsie MRA,*, 98 Cannon St.

Poughkeepsie, *Vassar-Warner Row (Poughkeepsie MRA)* S. Hamilton from Montgomery to 40 Hamilton St.

NORTH DAKOTA

Grand Forks County

Grand Forks, *Grand Forks Herald (Downtown Grand Forks MRA),* 120–124 N. Fourth St.

OHIO

Lorain County

Lorain, *US Post Office,* Ninth St. and Broadway Ave.

OREGON

Jackson County

Ashland, *Chappel-Swedenburg House,* 990 Siskiyou Blvd.

RHODE ISLAND

Providence County

Woonsocket, *Darling, Henry, House (WoonsocketMRA),* 786 Harris Ave.

TEXAS

Grimes County

Navasota, *Navasota Commercial Historic District,* Roughly bounded by La Salle, Holland, 9th, and Brule Sts.

UTAH

Utah County

Provo, *Brown, George M., House,* 284 E. 100 North

WISCONSIN

Dane County

Madison, *Steensland, Halle, House,* 315 N. Carroll St.

Jefferson County

Fort Atkinson, *Hoard, Arthur R., House,* 323 Merchants Ave.

Sheboygan County

Elkhart Lake, *Villa von Baumbach,* 754 Elkhart Lake Dr.

Walworth County

Lake Geneva, *Smith, T. C., House,* 865 Main St.

[FR Doc. 82-30610 Filed 11-8-82; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Contracts Available for Holders of Miscellaneous Present Perfected Water Rights; Intent To Enter Into Contracts With Holders of Miscellaneous Present Perfected Water Rights in the Lower Colorado River Basin of the Colorado River

The Department of the Interior, through the Bureau of Reclamation (Bureau), intends to enter into contracts for delivery of water from the Colorado River below Hoover Dam with owners of land with "Miscellaneous Present Perfected Rights" which were determined by Supreme Court Decree, *Arizona* v. *California* (376 U.S. 340), of 1964, as supplemented on January 9, 1979 (439 U.S. 419). "Miscellaneous Present Perfected Rights" are those adjudicated Colorado River water rights existing as of June 25, 1929, in Arizona and California.

The decree and the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), require that water released or delivered from storage to the mainstream of the Colorado River below Hoover Dam for irrigation or domestic uses must be secured by a contract with the Secretary of the Interior. The Bureau has developed a contract form to be used for that purpose. Notice of availability of the draft contract form for public review and comment was published in the **Federal Register,** Volume 45, page 66879, October 8, 1980. As drafted, the contract form provides for permanent delivery of water from Lake Mead by the United States to contracting users with "Miscellaneous Present Perfected Rights" without charge. In return, the contractors are to keep records and report the magnitude of their diversions to the Bureau. Execution of the contracts will further recognize the validity of the rights and comply with the congressional mandate for the Secretary to administer water deliveries from the mainstream of the Colorado River.

Those landowners and municipalities with "Miscellaneous Present Perfected Rights" should apply to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, for a contract as soon as possible. In the near future, water may not be available from the Colorado River to those not having contracts.

The qualifications of applicants, the validity of rights, and/or the validity of past or proposed transfers of type or place of use will be determined by the Regional Director after consultation with the appropriate agency of each State. To assist in these determinations, applicants will be required to provide appropriate records and documentation that can be submitted to the appropriate agency of each State, as necessary. After verifying that the applicants are owners of lands with "Miscellaneous Present Perfected Rights," and after evaluating the environmental impacts of the water deliveries, the Regional Director will execute the contracts on behalf of the United States for the Secretary.

Dated: November 3, 1982.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 82-30662 Filed 11-8-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 16]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)—Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Kansas Docket No. T-10080, filed September 30, 1982, previously noticed in the **Federal Register** of October 28, 1982, republished as corrected this issue.

New York Docket No. T-10080, filed September 30, 1982. Applicant: George Eugene Lewis DBA Geo-Mar, Delivery Service, 3 Norton Rd., Binghamton, NY 13905. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General Commodities in messenger service:* Between the Towns of Delhi, Sidney and Walton

(Delaware County), the Cities of Binghamton, Endicott, Syracuse and Oneonta, and the County of Tioga. Intrastate, interstate and foreign commerce authority sought. Hearing: no hearing scheduled. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30678 Filed 11-8-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-80100. By decision of October 27, 1982, issued under 49 U.S.C. 10926 and the transfer rules at CFR 1132, Review Board Number 3 approved the transfer to STONY'S TRUCKING CO., of Youngstown, OH of Certificate No. MC-107726 and 107726 (Sub-No. 1) issued to MISSISSIPPI-EAST, INC., of Youngstown, OH authorizing the transportation as a common carrier of "mercer" commodities, coal stripping machinery, construction machinery, glass making machinery, such commodities as contractors' equipment, heavy and bulky articles, machinery and machine parts, and articles requiring special handling or rigging because of size or weight, between specified points and territories in the states of OH, PA, and WV. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215.

Note.—TA lease is not sought. Transferee is a carrier.

MC-FC-80111. By decision of October 27, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to Mid Pacific Freight Company, of Bend, OR, of Certificate No. MC-157794 issued February 4, 1982 to Zephyr Factors, Inc., of Bend, OR, authorizing the transportation of *construction material,* between points in OR, on the one hand, and, on the other, points in CA, CO, ID, MT, NV, UT, WA, and WY. Representative: Ron Bryant, 888 W. Evergreen Ave., Redmond, OR 97756.

MC-FC-80123. By decision of October 27, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to Truck Control Service, Inc., of Glendale, AZ, of Permits No. MC-144747 (Sub-Nos. 1, 3, 6, and 8)F issued, respectively, January 6, 1980, August 10, 1979, November 26, 1980, and August 12, 1980, to Interstate Equipment Co., Inc., of Glendale, AZ, authorizing the transportation of glass fiber, glass yarn, fiberglass fabric and waste fiber (except in bulk) from the facilities of Owen-Corning, at 2 SC, 1 TN, 1 TX, and 1 PA points to 1 CO, 1 UT, 1 ID, 3 WA, and 2 OR points, and plastic granules and resin (except in bulk) from the facilities of (1) Arco Polymers at 3 TX and 1 PA points, (A) (2) WITCO, at 1 CA, 1 DE, and 1 IL points, (3) Synress, at 1 CA point (4) Abtec, at 1 KY and 1 TX points, (5) Shell Chemical Co., at 1 TX, (6) Cosden, at 1 CA point, (7) Continental Polymers at 1 CA point, and (8) Ashland Chemical Co., at 1 NJ, 1 IL, and 1 CA points to the facilities of Fiberchem, Inc., at 1 CO, 1 OR, 1 UT, and 1 WA points from origin points in (A) above to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and all under a continuing contract(s) with Fiberchem, Inc., of Seattle, WA, materials, equipment, and supplies used in the manufacture of wood wooden flush doors (except in bulk) from points in the 48 continuous States to the facilities of Walled Lake Door Company at 1 MS, 1 TX, 1 AL, and 1 CA point, and between the facilities of Walled Lake Door Company at 1 MS, 1 TX, 1 AL, and 1 CA points, and wooden flush doors and parts for them from the named shipper's facilities at 1 MS point to points in 12 Southern and Mid-western States, from the same shipper's facilities at 1 CA point to points in 7 Western States, from the same shipper's facilities at 1 TX point to points in 11 Western and Mis-western States, and from the shipper's facilities at 1 AL point to points in 17 States, all under continuing contract(s) with Walled Lake Door Co., of Phoenix, AZ; meats, meat products, and meat byproducts from 1 NE point to points in four Northeastern States, under continuing contract(s) with Minden Beef Company, of Minden, NE, and mineral spring water (except in bulk) from the facilities of Poland Spring Corp. at 1 ME point to 1 ME point to 1 IL, 1 MI, 2 FL, 2TX, 1 NV, 2 CA, 1 OR, 1 WA, 1 CO, 1 WI, 1 MO, and 1 GA points under a continuing contract(s) with Poland Spring Corp. Representative: Phil B. Hammond, Suite 2201, 3003 N. Central, Phoenix, AZ 85012, (602) 266-2224.

MC-FC-80154. By decision of October 27, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to FRANCISCO M. GINESTA, PAUL P. FRINGS, GABRIELE FRINGS AND JUAN E. URETA, A PARTNERSHIP, d.b.a. ACONGAGUA, of Washington, DC, of Certificate No. MC-152135, issued to THE TRIDENT CORPORATION, d.b.a. TRIDENT TOURS, of Arlington, VA, which authorizes the transportation of passengers and their baggage, in special and charter operations, limited to transportation of not more than 14 passengers (excluding the driver), in one vehicle at one time, between points in VA, MD, WV, PA, DE, and DE.

Representative: Robert J. Brooks, 1828 L Street, NW, Suite 1111, Washington, DC 20036.

Note.—TA has been filed. Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30677 Filed 11-8-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100. 252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplyfying 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 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 othewise. 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. OP1–192

Decided: November 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 164351, filed October 19, 1982. Applicant: LEADING FORWARDERS, INC., One World Trade Center, Suite 1923, New York, NY 10048. Representative: Leonard M. Shayne (same address as applicant), (212) 432–0200. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status inquiries to Team 2 at 202–265–7030.

Volume No. OP2–273

Decided: October 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164132, filed October 7, 1982. Applicant: MALCOLM J. NEWBOURNE, d.b.a. INTERMODAL ASSOCIATES, P.O. Box 5112, Dearborn, MI 48128. Representative: Colin Barrett, 11764 Indian Ridge Rd., Reston, VA 22091, 703–860–8521. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 164173, filed October 8, 1982. Applicant: ROLAND E. DEANE, JR., d.b.a. R. E. Deane, P.O. Box 3855, Bozeman, MT 59715. Representative: Roland E. Deane, Jr. (same address as applicant), 406–586–0749. 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 164232, filed October 14, 1982. Applicant: MORGAN TOUR AND TRAVEL, INC., d.b.a M T & T TRUCKING, 109 Lake Powell Rd., Williamsburg, VA 23185. Representative: Frank L. Willard, Suite 1001—First & Merchants National, Bank Bldg., Norfolk, VA 23510, 804–627–0070. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164242, filed October 18, 1982. Applicant: ANRO COLOR SERVICE, INC., d.b.a. ANRO DELIVERY SERVICE, 409 Green St., Rockford, IL 61102. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting (a) *shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds*, between points in the U.S. (except AK and HI), and (b) *for or on behalf of the United States Government, general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munition), between points in the U.S. (except AK and HI).

MC 164253, filed October 14, 1982. Applicant: B. JOHNSON ENTERPRISES, 512–B East 8th St., Richmond, VA 23224. Representative: Boyd Clegg Johnson, Jr., (same as applicant), (804) 233–3310. As a *broker of general commodities* (except household goods), between points in the U.S. (including AK and HI).

Volume No. OP2–275

Decided: October 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 43262 (Sub-3), filed October 1, 1982. Applicant: SCHOLASTIC TRANSIT CO., 2800 Old Willow Road, Northbrook, IL 60062. Representative: Patrick H. Smyth, 105 West Madison, Suite 1008, Chicago, IL 60602 (312) 263–2397. (1) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) As a *broker of general commodities* (except household goods),

between points in the U.S. (except AK and HI).

MC 164293, filed October 19, 1982. Applicant: LINDA A. DONCHEZ, d.b.a. AMERICAN TRANSPORT SYSTEMS, 840 Halloran Rd., Bow, WA 98232. Representative: Linda A. Donchez (same address as applicant), 609–692–3724. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 164362, filed October 22, 1982. Applicant: RABBIT TRANSIT, INCORPORATED, 180 Racine, Suite 108, Memphis, TN 38111. Representative: R. Connor Wiggins, Jr., 100 N. Bain Bldg., Suite 909, Memphis, TN 38103, 901–526–4114. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP2–277

Decided: November 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164353, filed October 22, 1982. Applicant: WEICKER-GRUENHUT INTERNATIONAL, INC., 2900 Brighton Blvd., Denver, CO 80216. Representative: Howard G. Feldman, 1211 Connecticut Ave. NW—Suite 300, Washington, D.C. 20036, 202–331–0770. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 164443, filed October 28, 1982. Applicant: NATIONAL BROKERAGE SERVICE, INC., 365 Cross Hwy., Fairfield, CT 06430. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, 203–728–0700. As a *broker of general commodities* (except household goods), 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. OP–018

Decided: November 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 164296, filed October 19, 1982. Applicant: ACCREDITED BROKERS OF AMERICA, INC., 4045 Guasti, Suite 205, Ontario, CA 91716. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, (213) 483–4700. As a (1) *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI), (2) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164297, filed October 20, 1982. Applicant: EARL P. KNOP, d.b.a. E & H. SERVICE, Box 406, Murdock, NE 68407. Representative: Earl P. Knop (same address as applicant), (402) 867–2561. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone, 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 164306, filed October 20, 1982. Applicant: LARRY PATTERSON, d.b.a. PATTERSON ENTERPRISES, 165 Wheeler Village, Missoula, Mt 59801. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. 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 164316, filed October 19, 1982. Applicant: OVERFLO PUBLIC WAREHOUSE, INC., 7646 Canton Center Dr., Baltimore, MD 21224. Representative: Herman F. Timme (same address as applicant), (301) 285-2100. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–020

Decided: November 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams.

MC 164216, filed October 13, 1982. Applicant: ELDON ASSOCIATES, 7517 Pivot St., Downey, CA 90241. Representative: A. Dayton Schell, 6 Cileen Way, Edison, NJ 08837, (201) 494-8765. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164246, filed October 15, 1982. Applicant: TRAILERLOAD DISTRIBUTION SPECIALISTS, INC., P.O. Box 3265, 19 Dixon Place, Wayne, NJ 07470. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (202) 791–2270. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 164307, filed October 19, 1982. Applicant: H.D.L. MANAGEMENT CO., INC., 3879 Somers Dr., Huntingdon, PA 19006. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St. NW., Washington, DC 20005, (202) 783–7900. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

Volume No. OP4–022

Decided: November 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams.

MC 164337, filed October 21, 1982. Applicant: FORT WASHINGTON TRUCKING COMPANY, 5410 Indian Head Hwy., Suite 300, Oxon Hill, MD 20745. Representative: Delma L. Reese II (same address as applicant), (301) 567–1322. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions); (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds; and (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 164346, filed October 22, 1982. Applicant: J.J. CARTER & SON MOVING & STORAGE COMPANY OF INDIANA, INC., 2218 Koetter Dr., Clarksville, IN 47130. Representative: George M. Catlett, 700—702 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–240

Decided: October 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 154789 (Sub-1) filed September 24, 1982. Applicant: WHETSTONE CORPORATION, 615–E Research Rd., Richmond, VA 2326. Representative: James R. Whetstone (same address as applicant), 804–644–3460. Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 164289 (Sub-1), filed October 19, 1982. Applicant: MARK S. SCHIMELPFENIG, d.b.a. H & S TRUCKING, 2509 County Hwy N, Stoughton, WI 53589. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI

53705–0086, (608) 238–3119. 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 164308, filed October 19, 1982. Applicant: GEORGE DAPSEVICIUS, d.b.a. G. D. TRUCKING, 110 Beattle Rd., Novato, CA 94941. Representative: Anthony L. Keenan, 1385 Iris Dr., Conyers, GA 30208, 1–800–241–3666. 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 164319, filed October 18, 1982. Applicant: F.B.N., INC., 4850 W. 132nd Street, Hawthorne, CA 90250. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786, (714) 981–9981. 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).

Volume No. OP5–243

Decided: November 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 164138, filed October 6, 1982. Applicant: DALE G. WARD, Rt No. 2 Box 35, Glenwood, WA 98619. Representative: Dale G. Ward, (same address as applicant), 509–364–3419. 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).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–30678 Filed 11–8–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team Four at (202) 275–7669.

Volume No. OP4–024

Decided: November 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 134916 (Sub-1), filed October 14, 1982, previously noticed in the **Federal Register** issue of October 29, 1982, and republished this issue. Applicant: A–1 VAN LINES, 5916 Carmelita Ave., Huntington Park, CA 90255. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods, furniture and fixtures,* (1) between points in OR, WA, CA, AZ, NM, TX, CO, UT, NV, MT, and WY, and (2) between points in OR, WA, CA, AZ, NM, TX, CO, UT, NV, MT, and WY, on the one hand, and, on the other, points in AR, KS, NE, SD, ND, MN, WI, MI, OH, PA, NY, DE, MD, VA, NC, SC, FL, GA, AL, MS, LA, ID, IL, IN, KY, TN, AK, and DC.

Note.—The purpose of this republication is to show that the above authority is not a fitness-only application.

For the following, please direct status inquries to Team 1 at 202–275–7992.

Volume No. OP1–193

Decided: November 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 106400 (Sub-130), filed October 26, 1982. Applicant: KAW TRANSPORT COMPANY, a corporation, P.O. Box 8525, Sugar Creek, MO 64054. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *chemicals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Reichhold Chemicals, Inc., of Kansas City, KS.

MC 106920 (Sub-137), filed October 25, 1982. Applicant: RIGGS FOOD EXPRESS, INC., Box 26, W. Monroe St., New Bremen, OH 45869. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603, (419)–255–8220. Transporting *food and related products* and *such commodities* as are dealt in or used by grocery or food business houses, between points in the east of MT, WY, CO and NM.

MC 108380 (Sub-13), filed October 25, 1982. Applicant: JOHNSTON'S FUEL

LINERS, INC., 808 Birch St., Newcastle, WY 82701. Representative: Manuel Andrade, Jr., 770 Grant St., Suite 228, Denver, CO 80203, (303) 861–4273. Transporting *machinery, metal products, forest products and building materials,* between those points in the U.S. in and west of MN, IA, MO, OK and TX (except AK and HI).

MC 133591 (Sub-150), filed October 22, 1982. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, (605) 335–1777. 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 144201 (Sub-10), filed October 25, 1982. Applicant: V.M.P. ENTERPRISES, INC., 933 North Mayfair Rd., Milwaukee, WI 53226. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414)–273–7410. Transporting *buses,* between points in the U.S.

MC 148600 (Sub-20), filed October 25, 1982. Applicant: TRANSHIELD TRUCKING, INC., 1000 North Harvester Rd., West Chicago, IL 60185. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washingtron, DC 20006, (202)–828–5015. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with RAYOVAC Corporation, of Madison, WI.

MC 149141 (Sub-2, filed October 19, 1982. Applicant: MELVIN R. STEEN, Route No. 3, Princeton, IL 61356. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *compressors, compressor pumps and parts, and machined castings,* between points in the U.S. (except AK and HI), under continuing contract(s) with Champion Pneumatic Machinery Company, of Princeton, IL.

MC 150951 (Sub-19), filed October 28, 1982. Applicant: CRANSTON TRUCKING COMPANY, 1381 Cranston St., Cranston, RI 02920. Representative: Paul M. Overton, (same address as applicant), (401)–943–4800. Transporting (1) *textile machinery and attachments* and *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Real Real Corporation, of East Providence, RI, and (2) *fabricated metal products,* between points in the U.S., under continuing contract(s) with Webster Spring, Inc., and General Spring & Wire Co., Inc., both of Oxford, MA.

MC 153510 (Sub-1), filed October 26, 1982. Applicant: FRY TRUCKING CO., INC., Rout No. 7, Box 319, Joplin, MO 64801. Representative: Dale Fry (same address as applicant), (417)–782–5768. Transporting (1) *malt and non-alcoholic beverages,* between points in MO, on the one hand, and, on the other, points in GA, IL, TX and WI, and (2) *food and related products,* between points in the U.S. (except AK and HI).

MC 158930 (Sub-8), filed October 22, 1982. Applicant: U.S. TRANSPORTATION, INC., 585 W. Valley Blvd., Bloomington, CA 92316. Representative: Frederick J. Coffman, 1834 N. Kelley Ave., P.O. Box 1455, Upland, CA 91786, (714)–981–9981. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 159871, filed October 27, 1982. Applicant: JOHN W. TRIPLETT, 1311 Birch, Lewiston, ID 83501. Representative: John W. Triplett, (same address as applicant), (208) 743–3364. Transporting *such commodities* as are dealt in or used by agricultural feed business houses, between points in Spokane County, WA, on the one hand, and, on the other, points in ID.

MC 163091, filed October 20, 1982. Applicant: GARY D. SCHLEETER, d.b.a. COUNTRY TRUCK LINES, 24624 West Frazier Rd., Plainfield, IL 60544. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602, (312) 782–6937. Transporting *food and related products,* between points in IL, on the one hand, and, on the other, points in MA, NJ, PA, OH, TN, AL, MO, KS, NE, CO, MN, MI, IN, TX and FL.

MC 163211, filed October 22, 1982. Applicant: ROBERT D. WAGNER, Rt. 3, Box 195, Brighton, CO 80601. Representative: Robert D. Wagner, (same address as applicant), (303)–659–1098. Transporting *clay, concrete, glass or stone products,* between points in Franklin and McPherson Counties, KS, on the one hand, and, on the other, points in Adams and Arapahoe Counties, CO, under continuing contract(s) with Rocky Mountain Prestress, of Englewood, CO.

MC 164280, filed October 19, 1982. Applicant: H & I TRUCKING LIMITED PARTNERSHIP, d.b.a. H & I TRUCKING, Suite 1344 World Trade Center/Baltimore, 401 East Pratt St., Baltimore, MD 21202. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893–4924. Transporting *transportation equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with American Isuzu Motors, Inc., of Whittier, CA.

MC 164361, filed October 22, 1982. Applicant: SAN JOAQUIN VALLEY EXPRESS, 5245 N. Van Clief, Livingston, CA 95334. Representative: Michael S. Rubin, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, NM, NV, UT, CO, WA, CA, OR, MT, ID and WY.

MC 164380, filed October 25, 1982. Applicant: H. H. HUDSON & SONS, INC., 3450 NW 60th St., Ocala, FL 32675. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave,, Orlando, FL 32801, (305) 425–2213. Transporting *horses,* other than ordinary, between points in the U.S. (except AK and HI).

MC 164390, filed October 26, 1982. Applicant: HARRY KAY, d.b.a. KAY FARMS, 3171 S.E. Fifth St., Minneapolis, MN 55414. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *pulp, paper and related products,* and (2) *such commodities* as are dealt in or used by wholesale and retail grocery and drug stores, between points in the U.S. (except AK and HI), under continuing contract(s) in (1) above with Champion International Corp., of Stamford, CT, and (2) above with Red Owl Stores, Inc., of Hopkins, MN.

CONDITION: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

MC 164391, filed October 27, 1982. Applicant: WAYNE TRANSPORTATION, INC., 32 West 140 Glos, P.O. Box 154, Wayne, IL 60184. Representative: Donald B. Levine, 180 North LaSalle Street, Chicago, IL 60601. (312) 368–0100. 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 Field Container Corporation, of Elk Grove Village, IL, Eastfield Corporation, of Baltimore, MD, Southfield Corporation, of Tuscaloosa, AL, and J.G. Clark Corporation, of Edison, OH.

MC 164410, filed October 26, 1982. Applicant: DOUGLAS & SONS, INC.,

Route 5, Box 238, Statesville, NC 28677. Representative: Charles Ephrain, 918 16th Street NW., Suite 406, Washington, D.C. 20006, (202) 833–1170. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 164421, filed October 27, 1982. Applicant: RICE STREET TOWING, INC., 34 E. Sycamore St., St. Paul, MN 55117. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *wrecked or disabled vehicles,* between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164420, filed October 27, 1982. Applicant: GLENN C. ROSENBERRY, Fannettsburg, PA 17221. Representative: Glenn C. Rosenberry (same address as applicant), (717)–319–2220. Transporting *forest, lumber and wood products,* between points in MD and PA.

MC 164430, filed October 22, 1982. Applicant: DELINE TRUCKING, INC., P.O. Box 237, Preble, NY 13141. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Increda-Meal Corporation, of Cato, NY.

MC 164441, filed October 25, 1982. Applicant: TRANS SAIL CORP., 2319 Richmond Terrace, Staten Island, NY 10302. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, MA, MD, NJ, NY, OH, PA, RI and VA.

MC 164450, filed October 28, 1982. Applicant: SILCO PETROLEUM CARRIER, INCORPORATED, 8467 No Road, Jacksonville, FL 32210. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting *general commodities* (except classes A and B explosives and household goods), between points in FL, on the one hand, and, on the other, points in AL, FL, GA, NC, SC and VA.

MC 164460, filed October 28, 1982. Applicant: H & G TRUCKING CO., 4915 Park St., Newton Falls, OH 44444. Representative: James E. Davis, 611 West Market St., Akron, OH 44303, (216)–376–8111. Transporting *metal products* and *machinery,* between points in FL, IL, IN, KY, MI, MO, NY, OH, PA, TN, TX, VA and WV.

For the following, please direct status inquiries to Team 2 at 202–275–7030.

Volume No. OP2–276

Decided: November 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 38403 (Sub-6), filed October 25, 1982. Applicant: WELLING TRUCK SERVICE, INC., 3610 Tree Court Industrial Dr., Kirkwood, MO 63122. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MO, WI, IA, KS, OH, PA, WV, VA, AR, TN, GA, MS, NY, NJ, LA, and NE.

MC 143562 (Sub-5), filed October 25, 1982. Applicant: DONALD R. FORD, d.b.a. SERVICE TRANSPORT, P.O. Box 37, Burbank, WA 99323. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98099, (206) 453–0312. Transporting *such commodities* as are dealt in by wholesale and retail food business houses, and *commodities in bulk,* between points in WA, OR, and CA.

MC 146343 (Sub-21), filed October 26, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano Beach, FL 33062. Representative: Joseph J. Badway, 2 Sawyer Dr., Coventry, RI 02816, (401) 822–0876. 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 Victor Electric Wire and Cable Corporation, of West Warwick, RI.

MC 150423 (Sub-1), filed October 22, 1982. Applicant: SOUTHERN CONTAINER TRANSPORT, INC., 3306 Palm Island Drive, Jacksonville Beach, FL 32250. Representative: Sol H. Proctor, 1101 Blackstone Blvd., Jacksonville, FL 32202, 904–632–2300. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S., in and east of MT, WY, CO, and NM.

MC 150433 (Sub-1), filed October 25, 1982. Applicant: CRUSE H. THOMASON, Second and Houston, Yuma, CO 80759. Representative: Pam Phifer (same address as applicant), (303) 848–3811. Transporting *fertilizer,* between points in the U.S., under continuing contract(s) with Northeast Fertilizer and Chemical Co., of Eckley, CO, and American Fertilizer and Chemical Co., of Yuma, CO.

MC 154323 (Sub-1), filed October 20, 1982. Applicant: EAGLE CARTAGE CORPORATION, Route 1, Callahan Rd., Knoxville, TN 37912. Representative: Fred Bachschmidt (same address as applicant), (615) 689–7810. Transporting *such commodities* as are dealt in or used in this sale, distribution, and manufacture of non-ferrous metals, non-ferrous metal products, plastic materials, glass, foam products, steel products, and materials used in the recycling of non-ferrous metals, between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. If order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 2, room 2379.

MC 163332 (Sub-1), filed October 21, 1982. Applicant: HOUSTON INTERMODAL TRUCKING, INC., P.O. Box 858, Deer Park, TX 77536. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW–Suite 1200, Washington, DC 20036, 202–785–0024. 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 National Carrier Service, Inc., of Anaheim, CA.

MC 164272, filed October 25, 1982. Applicant: ALAN K. ROBINSON, d.b.a. ROBINSON TRUCKING, 6137 NW 6th St., Lincoln, NE 68521. Representative: Lavern R. Holdeman, 1610 South 70th St., Suite 200, Lincoln, NE 68506, (402) 488–0985. Transporting *metal products,* between points in Lancaster County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC164393, filed October 25, 1982. Applicant: OLYMPIC FOODS, INC., N. 605 Fancher Rd., Spokane, WA 99206. Representative: James E. Wallingford, P.O. Box 2647, Spokane, WA 99220, (509) 534–5665. Transporting *food and related products,* between points in ID, MT, OR, UT, and WA, under continuing contract(s) with (1) Meadow Gold Dairy of Salt Lake City, UT, and (2) URM Stores, Inc., and (3) Perry Brothers, Inc., both of Spokane, WA.

MC 164442, filed October 25, 1982. Applicant: BEAIRD TRUCKING, INC., P.O. Box 1488, Rapid City, SD 57709. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, 605–339–3629. Transporting *malt beverages,* between points in Pennington County,

SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30703 Filed 11-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29923 (Sub-5)]

Rail Carriers; Oklahoma, Kansas & Texas Railroad Co.—Exemption—Trackage Rights Over St. Louis Southwestern Railway Co., in Herington, KS

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. 11343 the trackage rights agreement for Oklahoma, Kansas & Texas Railroad Company to operate over an 11,000 foot segment of the St. Louis Southwestern Railway Company in Herington, KS.

DATES: This exemption will be effective on November 5, 1982. Petitions to reopen must be filed by November 29, 1982.

ADDRESSES: Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423; (2) Petitioner's representative: Michael E. Roper, 701 Commerce Street, Dallas, TX 75202.

Pleadings should refer to Finance Docket No. 29923 (Sub-5).

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-0948.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infostsystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: November 3, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary

[FR Doc. 82-30680 Filed 11-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30053]

Rail Carriers, Seaboard Coast Line Railroad Co.—Merger Exemption—Louisville & Nashville Railroad Co.; Notice of Exemption

November 1, 1982.

Seaboard Coast Line Railroad Company (SCL) and Louisville and Nashville Railroad Company (L&N) have filed a Notice of Exemption in accordance with 49 CFR 1180.4 (g) (former § 1111.4[g]), *Railroad Consolidation Procedures*, 366 I.C.C. 75, 99 (1982), regarding the planned merger of L&N into SCL. The merger is scheduled to occur on December 31, 1982, and the surviving company will be renamed Seaboard System Railroad, Inc. (SSR).

At present, SCL owns 100 percent of L&N's capital stock. SCL and L&N have common officers and are operated as a single system, known generally as the Family Lines System. SSR will acquire all assets of L&N and will assume all of its liabilities. All outstanding shares of L&N stock will be canceled. No securities will be issued relating to the merger. No operating changes will be made by Family Lines. The merger will not have anitcompetitive effects on carriers outside the corporate family, and will not have adverse affects on shippers.

The planned merger will be a transaction within a corporate family that will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Thus, it is an exempt transaction pursuant to 49 CFR 1180.2(d)(3) [former § 1111.2(d)(3)], 366 I.C.C. at 94.

As a condition to the use of this exemption, and employees affected by this transaction shall be protected pursuant to *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30679 Filed 11-8-82; 8:45 am]

BILLING CODE 7035-01-M

Section 5b Applications 2, 3, and 6; Western Railroads, Eastern Railroads, and Southern Railroads; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Extension of Filing Deadline to Notice of Final Decision.

SUMMARY: On October 28, 1982, The National Industrial Traffic League (NITL) filed a letter request for a 25 day extension of the November 4, 1982 due date for filing comments concerning the railroads' amended agreements filed in accordance with the Commission's decision noticed at 47 FR 35880, August 17, 1982 filed October 15, 1982. NITL states than an extension is necessary to enable the League to obtain the views of its members at NITL's November 15, 1982 annual meeting. Rule 19 of the Commission's Rules of Practice, 49 CFR 1100.19, (redesignated as 49 CFR 1104.7 at 47 FR 49554, November 1, 1982) requires that extension requests be filed not less than 10 days before the due date, and be served on all parties of record. NITL failed to comply with either condition. NITL should have been aware of the need for an extension in time to comply with the Commission's Rules. The date of the League's annual meeting was known by NITL, and NITL has known for weeks of the comment due date, which was established in a notice published October 1, 1982, at 47 FR 43465. Nevertheless, NITL has shown it needs an extension to accurately represent its membership in this proceeding. Therefore, in the interests of fairness to NITL members, the sought extension is granted.

DATES: Comments on the amended agreements are due November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

Decided: November 2, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30682 Filed 11-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 349)]

Union Pacific Railroad Co.; Exemption for Contract Tariff; ICC-UP-C-0005 Supplement 8, (Assembled Motor Vehicles)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e); and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278

or

Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: November 3, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–30722 Filed 11–8–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C., this 4th day of November 1982.

Robert S. Kenyon,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING NOVEMBER 6, 1982

Name of applicant and location of enterprise	Principal product or activity
Warren Nursing Center, Inc., Warrenton, N.C.	Nursing Home.

[FR Doc. 82–30802 Filed 11–8–82; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 25, 1982–October 29, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,077; Port Gibson Electric Manufacturing Corp., Port Gibson, MS

TA–W–13,162; Franklin Brass Foundry, Columbus, OH

TA–W–13,161; Defiance Screw Machine Products, Defiance, OH

TA–W–13,106; Warren Tool Corp., Warren Tool Div., Warren, OH

TA–W–13,074; NRM Corp., Tire Machinery Div., Leetonia, OH

TA–W–13,075; NRM Corp., Tire Machinery Div., Columbiana, OH
TA–W–13,185; True Temper Corp., Charleston, WV

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,995; Cyprus Metallurgical Processes Corp., Tucson, AZ
TA–W–13,090; KMMCO, Inc., Pontotoc, MS

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–12,978; International Telephone & Telegraph Corp., United Plastics Div., Madison Heights, MI

Aggregate U.S. imports of plastic automotive parts did not increase as required for certification.

TA–W–13,097; Precision Film Capacitor, Great Neck, NY

Aggregate U.S. imports of paper and file capacitors did not increase as required for certification.

Afirmative Determinations

TA–W–12,806; Vetter Corp., San Luis Obispo, CA

A certification was issued in response to a petition received on June 29, 1981 covering all workers separated on or after March 1, 1981 and before February 28, 1982.

TA–W–13,181; Bethlehem Steel Corp., Burns Harbor Plant, Chesterton, IN

A certification was issued in response to a petition received on January 12, 1982 covering all workers producing carbon plate separated on or after July 1, 1981 and before December 31, 1982.

TA–W–13,164; Outboard Marine Corp., OMC Galesburg, Galesburg, IL

A certification was issued in response to a petition received on December 18, 1981 covering all workers engaged in employment related to the production of electrical and fuel system components for outboards and lawn mowers who became separated on or after October 1, 1981.

TA–W–13,092; Servus Rubber Co., Vinyl Div., Chicopee, MA

A certification was issued in response to a petition received on November 3, 1981 covering all workers separated on or after July 3, 1981.

I hereby certify that the aforementioned determinations were issued during the period October 25, 1982–October 29, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 2, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–30774 Filed 11–8–82; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 19, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 19, 1982.

The petition filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 29th day of October 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Friend Manufacturing Corp. (company)	Gasport, NY	10/21/82	10/15/82	TA–W–13,888	Sprayers, agricultural.
Ford Motor Company, PSC (workers)	Houston, TX	10/19/82	10/15/82	TA–W–13,889	Service foreign built cars.
Hordis Brothers, Inc. (workers)	St. Louis, MO	10/21/82	10/6/82	TA–W–13,890	Glass, rolled plain and wired—pattern.
Ingersoll Rand Co. (IUE)	Painted Post, NY	10/25/82	10/18/82	TA–W–13,891	Compressors—air, reciprocating—small and large, engine, gas.
Lebanon Steel Foundry (USWA)	Lebanon, PA	10/25/82	10/22/82	TA–W–13,892	Castings.
Pacific Steel Casting Company (company)	Berkeley, CA	10/25/82	10/19/82	TA–W–13,893	Castings—steel.
Sand Dunes Apparel, Inc. (workers)	Miami, FL	10/20/82	10/14/82	TA–W–13,894	Bathingsuits, dresses, sportswear, girl's.
Tuff Manufacturing Co. (company)	Warren, MI	10/21/82	10/18/82	TA–W–13,895	Machines—removal, metal design and manufacturer.
U.S. Steel Mining Co. (workers)	Chespeake, WV	10/21/82	10/18/82	TA–W–13,896	Coal mining.
Wadell Equipment Co., Inc. (company)	Edison, NJ	10/25/82	10/21/82	TA–W–13,897	Tools—machine.
Conaway-Winter, Inc. (shoe workers)	Mountain View, Mo	10/26/82	10/12/82	TA–W–13,898	Shoes—infants—soft sole.
Copperweld Steel Co. (USWA)	Warren, OH	10/27/82	10/20/82	TA–W–13,899	Steel—tool, alloy.
CTS of West Liberty (workers)	Liberty, OH	10/21/82	10/11/82	TA–W–13,900	Resistors.
Drummond McCall Metals Corp. (workers)	Waterbury, CT	10/25/82	10/25/82	TA–W–13,901	Steel—cut.
Lone Star Steel Co. (USWA)	Lone Star, TX	10/27/82	10/20/82	TA–W–13,902	Tubular, oil—goods.
Mississippi Lime Co., Mississippi Div. and Peerless Rotary Div. (workers).	St. Genivieve, MO	10/20/82	10/18/82	TA–W–13,903	Lime stone—mining and processing.
Putnam Manufacturing Co. (workers)	No. Grosvenordale, CT	10/28/82	10/20/82	TA–W–13,904	Suits, snow—children's.
Roane Limited (USWA)	Rockwood, TN	10/26/82	10/20/82	TA–W–13,905	Ferrosilicon, silicomanganese and medium carbon manganese, standard manganese.
Sargent-Welch Scientific Co. (workers)	Skokie, IL	10/22/82	10/20/82	TA–W–13,906	Pumps, vacuum, instrumentation scientific.
Standard Steel, Enterprise of Freedom Forge Corp. (USWA).	Latrobe, PA	10/26/82	10/26/82	TA–W–13,907	Steel, specialty and alloy, forgings melting operation.
U.S. Steel Corp. Great Duluth Lakes Fleet, Inc. (workers).	Duluth, MN	10/25/82	9/30/82	TA–W–13,908	Haul iron ore and taconite.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
D.N. Pariso Industrial Glove Co. (ILGWU)	Knox, IN	10/21/82	9/27/82	TA-W-13,909	Gloves—industrial and hot mill.
Indiana Fabrics (ILGWU)	Knox, IN	10/21/82	9/27/82	TA-W-13,910	Fabric—glove.
Sloan Glass, Inc. (company)	Culloden, WV	10/21/82	10/19/82	TA-W-13,911	Globes, balls, shades—blown hand.

[FR Doc. 82-30773 Filed 11-8-82; 8:45 am]
BILLING CODE 4510-30-M

Office of the Secretary

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1954

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending October 31, 1982, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

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

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-30794 Filed 11-8-82; 8:45 am]
BILLING CODE 4510-30-M

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1954

In accordance with the provisions of Paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to Paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending October 31, 1982.

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

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

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-30795 Filed 11-8-82; 8:45 am]
BILLING CODE 4510-30-M

List of Agency Forms Under Review by the Office of Management and Budget (OMB)

BACKGROUND: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

LIST OF FORMS UNDER REVIEW: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

COMMENTS AND QUESTIONS: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

• Bureau of Labor Statistics
Survey of Job Tenure, Occupational Mobility, and Education/Training—

Supplement to January 1983 Current Population Survey
CPS–1
On occasion
Individual or households
78,000 responses; 9,100 hours; 1 form

The data obtained on Job Tenure, Occupational Mobility, and education/training survey will be utilized by the Bureau of Labor Statistics to evaluate length of time on the job, the incidence of job changes, and methods by which workers are trained and the proportion of workers training by each method.

• Employment Standards Administration
Uniform Billing Claim Form
OWCP–82a and OWCP 82b
As required for reimbursement
Businesses or other institutions
Small business or organization
SIC: 806
110,000 responses; 27,500 hours; 1 form

The uniform billing claim form will enable institutional medical providers to submit claims for reimbursement on a form approved by the American Hospital Association and major third party insurance carriers which will ensure prompt payment of authorized claims.

• Employment and Training Administration
Review of Federal Supplemental Compensation Program (FSC)
ETA RC–51
Nonrecurring
State or local governments
SIC: 944
53 responses; 795 hours

Review and assess the State agencies Federal supplemental compensation payment program and performance in accordance with the provisions of the Federal Supplemental Compensation Act of 1982 (P.L. 97–248).

• Employment and Training Administration
Business Confidential Data Request
ETA 8572, 8573–A, B, C, D, E, F, G, H, AA, BB, DD
On occasion
Businesses or other institutions
Small business or organization
SIC: Multiple
1,000 responses; 2,000 hours; 12 forms

Statutory requirements under the Trade Act of 1974, as amended, require complete and accurate business confidential data in order to make a determination as to whether or not imports have contributed to worker separation. The Secretary of Labor's determination decides if petitioning workers are eligible to apply for worker adjustment assistance.

Revisions

• Bureau of Labor Statistics
International Price Program, U.S. Import Product Information
BLS 3007b, 3007c, 3008
Quarterly
Businesses or other institutions
Small business or organization
SIC: All
46,200 responses; 6,035 hours; 3 forms

To produce accurate measures of price changes for U.S. imports and exports.

• Bureau of Labor Statistics
International Price Program, U.S. Export Product Information
BLS 2894b, 2894c, 2894d, 3008
Quarterly
Businesses or other institutions
Small business or organization
33,600 responses; 4,355 hours; 4 forms

To produce accurate measures of price changes for U.S. imports and exports.

• Employment and Training Administration
ET Handbook No. 362
Monthly, quarterly, annually
State or local governments
SIC: 944
2,536 responses; 543,013 hours

The SEASA accounting system is used to account for funds provided to SESAs by ETA to operate employment, unemployment and training programs. Data are used in: appropriation accounting, budget formulation and execution, and financial management monitoring and evaluation.

• Employment and Training Administration
Overpayment and Willful Misrepresentation
ETA 227
Semi-annually
State or local governments
SIC: 944
106 responses, 6,148 hours

Federal law and standards require States to have adequate programs to prevent, detect and recover overpayments that result from willful misrepresentation and other reasons. This report provides data on the levels of fraud and nonfraud overpayment activity as well as recoveries of overpayments and prosecutions for fraud. Data are used to analyze program trends, for budget preparation and for administration of State benefit payment control programs.

Employment and Training Administration
ESARS Handbook—Chapter IV, Reports Preparation
ET Handbook No. 309
Quarterly
State or local governments
SIC: 944
208 responses; 59,488 hours

The ESARS tables used primarily by USES were designed to provided information on services provided by the affiliated State agencies to various applicant groups. The data are used at State and Federal levels for planning, budgeting, operations and evaluation of the public employment service and WIN programs.

Extension (Burden Change)

• Mine Safety and Health Administration
Inspection of Hoisting Equipment
MSHA 242R
Daily when used
Businesses or other institutions
Small business or organization
SIC: 111 and 121
144,600 responses; 96,900 hours

Requires operators to maintain a record of the daily examinations of hoisting equipment. The information is used to ensure all main hoists are inspected daily.

Extensions (No Change)

• Employment Standards Administration
Mail Haul Contract Wage Survey
WD–21
Annually
Businesses or other institutions
Small business or organization
SIC: 421
2,150 responses; 1,075 hours; 1 form

Form is used to survey the wage and fringe benefit levels of mail haul contract drivers. This sector of the overall hauling/trucking industry is judged to have a separate and distinct class of employees with unique wage and fringe benefits paid "in the locality."

• Employment Standards Administration
Economic Survey Schedule
WH–1
Biennially
Farms, businesses or other institutions
SIC: All
100 hours; 100 responses; 1 form

Form is used by industry committees within the Wage and Hour Division to provide data from which the committees base their judgment in setting wage levels in American Samoa.

• Employment and Training Administration
Placement Validation
ETA RC–30
Nonrecurring

Individual or household, state or local government, farms, business or other institutions
Small business or organization
SIC: All
5,000 responses; 500 hours; 2 forms

The special national validation effort is designed to augment existing State and regional validation efforts. The performance of these special surveys will underscore the Department's intention of maintaining the integrity of the ESARS reporting system.

• Employment and Training Administration
Surplus Employment Security Property
ETA–49
On occasion
State or local governments
SIC: 944
25 responses; 13 hours; 1 form

SESAs are required to report to ETA any surplus equipment they have so that it may be offered without cost to other SESAs. The form is completed by the SESA and is used for screening surplus nonexpendable property acquired with grants to states funds by other SESAs. It improves the screening process by reducing time which elapses from the SESAs determination that the equipment is surplus to its disposition, and by standardizing the information.

• Mine Safety and Health Administration
Mine Operator Dust Data Card
MSHA 218
Every other month
Businesses or other institutions
Small business or organization
SIC: 12110
300,000 responses; 4,800 hours

Coal mine operators are required to collect and submit respirable dust samples to the Secretary of Labor for analysis. Pertinent information associated with identifying and analyzing these samples is submitted with the samples. Authority established by Pub. L. 95–164.

• Mine Safety and Health Administration
Quarterly Mine Employment and Coal Production Report
MSHA 7000–2
Quarterly
Businesses or other institutions
Small business or organization
SIC: 101–109, 111, 121, 141–149, 324
79,000 responses; 19,750 hours; 1 form

Need to establish files of employment and injury data in order to measure the levels of injury experience and identify those areas most in need of improvement. The number of employees, employee hours, and coal mine production (along with injury data) are used for computation of injury rates, as well as for analyses of mine industry activity and distribution.

• Occupational Safety and Health Administration
Telecommunications Training Record
OSHA 220T
On occasion
Businesses or other institution
SIC: 481, 482, 483, 489
17,500 responses; 14,300 hours

In 29 CFR 1910.268 OSHA requires telecommunications employees to keep training records for their employees. The record must include: (1) a description of the training program with a list of subject courses; (2) the types of employees taking the course; and, (3) a record of employees who have received the training.

Extension (No Change)

• Occupational Safety and Health Administration
Generic Clearance
OSHA–155
Nonrecurring
Businesses or other institutions
Small business or organization
SIC: 221, 222, 224, 226, 333, 334, 369
1,000 responses; 13,000 hours

This generic report is used to obtain data required to perform mandated regulatory analyses of the economic and environmental effects of a variety of proposed occupational safety and health standards.

Reinstatements

• Bureau of Labor Statistics
BLS–202–A and 202–B
Quarterly
State or local governments
SIC: 944
296 responses; 2,368 hours; 2 forms

Agency financial and operating reports regarding ongoing contract work are primary source of information on the contractor's costs, performance and problems. They provide the Labor Department contracting officers with the information necessary to evaluate contract compliance.

• Mine Safety and Health Administration
Examinations and Tests of Electrical Equipment
MSHA 224R, 234R, 235R, 236R, 237R, 238R, 239R
On occasion, weekly, monthly
Businesses or other institutions
Small business or organization
SIC: 111 and 121
1,726,483 responses, 725,208 hours

Requires coal mine operators to frequently examine, test and properly maintain electric equipment. Needed to ensure that the required tests and examinations are conducted by the mine operator.

Signed at Washington, D.C. this 4th day of November, 1982.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 82–30776 Filed 11–8–82; 8:45 am]

BILLING CODE 4510–24–M
BILLING CODE 4510–26–M
BILLING CODE 4510–27–M
BILLING CODE 4510–30–M
BILLING CODE 4510–43–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Coast Guard Panel; Meeting

November 3, 1982

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the Coast Guard Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Wednesday, December 1, 1982. The panel will meet in Houston, Texas at the Rowan Company Board Room, Suite 1900, Post Oak Tower, the Galleria. The session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 5:00 p.m. The meeting will be a work session to draft the panel report.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Coast Guard Panel, Mr. Michael R. Naess. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or the Staff Member for the Coast Guard Panel, Ms. Linda K. Glover. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington DC 20235.

Dated: November 3, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82–30791 Filed 11–8–82; 8:45 am]

BILLING CODE 3510–12–M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Notice of Meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is given of the twenty-eighth meeting of the National Commission for Employment Policy, at the Veterans' Memorial Buiding, 151 W. Jefferson, Room 619, Detroit, Michigan.

DATE: November 30, 1982, 7:30 pm–9:30 pm.

STATUS: This meeting will be open to the public.

MATTERS TO BE DISCUSSED: In connection with site visits and hearings, Commissioners will discuss the staff project on displaced workers. They will also hear updates on staff work on the project considering the employment needs of business and on national employment policy and older Americans. Initial discussions will be held on the theme of the *Ninth Annual Report*. The format and topics for discussion of the hearings on displaced workers (to be held December 1) will be presented.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia W. Hogue, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, D.C. 20005, (202) 7824–1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95–524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director at least five days before the meeting and not more than seven days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Director at least five days before the meeting. This application should include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject, and a statement justifying the need for an oral rather than written presentation.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of the Commissioners or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street NW., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this 2d day of November 1982.

Patricia W. Hogue,

Director.

[FR Doc. 82–30775 Filed 11–8–82; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Application for Licenses to Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for a hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of the application for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists the new major application.

Dated this 2d day of November, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, date of application, date received, application number	Material type	Material in Kilograms		End-use	Country of destination
		Total element	Total isotope		
Edlow Int'l, Oct. 13, 1982–Oct. 14, 1982, XSNMO1989.	19.99 percent enriched uranium.	63.0	12.6	For use as LEU fuel development of replacement fuels for the NRX and NRU research reactors.	Canada.

[FR Doc. 82–30730 Filed 11–8–82; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 045–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 5.23, "In Situ Assay of Plutonium Residual

Holdup." This guide is being developed to describe procedures acceptable to the NRC staff for the in situ assay of plutonium residual holdup. Residual holdup is the inventory component remaining in and about process equipment and handling areas after those collection areas have been prepared for the inventory of special nuclear materials required by the Commission's regulations.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 5, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 1st day of November 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations.

[FR Doc. 82-30750 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

Reassertion of Certain Regulatory Authority in State of Idaho

In 1968, the State of Idaho entered into an agreement with the U.S. Atomic Energy Commission pursuant to which the State assumed the authority to regulate byproduct, source, and special nuclear material in quantities less than a critical mass.

By letter dated August 23, 1982 Governor John V. Evans, State of Idaho, requested that the NRC reassert authority to regulate activities that are related to uranium milling. He stated that the State of Idaho has received on application for a thorium milling operation and that the applicant has indicated that he wishes to withdraw the application until further notice. Presently, there are no State licensed uranium or thorium milling activities in Idaho.

In order to effect this transfer, Section 274j of the Atomic Energy Act requires a finding by the Commission that it is necessary for the Commission to terminate that part of Idaho's agreement relinquishing NRC authority over source material milling activities and to reassert NRC licensing and regulation authority over these activities in Idaho in order to protect the public health and safety.

Pursuant to the provisions of Section 274j of the Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission found on October 21, 1982, that it is necessary to terminate that part of Idaho's agreement relinquishing NRC authority over source materials involved in milling activities and to reassert NRC licensing and regulatory authority over such activities in order to protect the public health and safety.[1] This reassertion of authority is effective upon publication in the **Federal Register.**

Persons seeking licenses for recovery activities within Idaho involving source material and byproduct material as defined in Section 11e(2) of the Atomic Energy Act of 1954, as amended, should file such applications with the U.S. Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 1st day of November 1982.

For the United States Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 82-30751 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[1] The Commission presently has the authority to regulate byproduct material associated with source material recovery activities (i.e., mill tailings) in Idaho since the State of Idaho has not acted to exercise authority over this material. (Pub. L. 96-106, 93 Stat. 796 (1978)).

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR-35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operating of the Pilgrim Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to incorporate a detailed definition of the term Operable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepred in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 1, 1980, (2) Amendment No. 64 to License No. DPR-35, and (3) the Commission's letter to the licensee dated October 28, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the Plymouth Library, North Street, Plymouth, Massachusetts 02360. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc 82-30734 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-340]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR-39, and Amendment No. 67 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised Licenses and the Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments revise Paragraph 2.B. of License Nos. DPR-39 and DPR-48 to incorporate a more generalized format relative to the authority for the receipt, possession, and use of special nuclear, byproduct, and source materials. Moreover, the amendment revises Technical Specification to incorporate limiting conditions for operation and surveillance requirements for sealed samples. The amendments also correct license paragraphs by deleting Paragraphs 3 and 4 and renumbering Paragraphs 5 and 6 (hereafter to be renumbered as Paragraphs 3 and 4). The deleted paragraphs on fuel densification and Industrial Security Plans were overlooked by amendment Nos. 37 and 34, and 61 and 58 to Facility Operating License Nos. DPR-39 and DPR-48, respectively.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 13, 1982, as supplemented by letter dated July 29, 1982, (2) Amendment Nos. 77 and 67 to License Nos. DPR-39 and DPR-48, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-30731 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-254 and 50-265]

Commonwealth Edison Co.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 82 and 76 Facility Operating License Nos. DPR-29 and PDR-30, issued to Commonwealth Edison Company, and Iowa Illinois Gas and Electric Company which revised the Technical Specifications for operation of the Quad Cities Nuclear Power Station, Units 1 and 2 located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The changes to the Technical Specifications provide for primary containment integrated leak rate test requirements and schedules consistent with Appendix J to 10 CFR Part 50. The changes also provide for direct references and use of Appendix J methodology and terminology.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's and rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 13, 1981 and letter dated December 2, 1981, (2) Amendment No. 82 to License No. DPR-29 and Amendment No. 76 to License No. DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library 504-17th Street, Moline, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2d day of November 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-30732 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes operation of the Big Rock Point Plant. This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility is a boiling water reactor rated at 72 MW(e) at the licensee's site located in Charlevoix County, Michigan.

II

The regulation, 10 CFR 50.54(w), requires that each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain on-site property damage insurance available at reasonable cost and on reasonable terms from private sources or to demonstrate to the satisfaction of the Nuclear Regulatory Commission (the Commission) (NRC) that it possesses an equivalent amount of protection

covering the facility, provided, among other things, that "this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance."

On June 22, 1982, the licensee filed a Request for Exemption from provision "(ii)" of 10 CFR 50.54(w). In support of this request, the licensee submitted a study indicating that decontamination and cleanup costs following the "worst credible accident" would not exceed $500,000,000. The licensee indicated that it would obtain primary property insurance covering damages up to $450 million (subsequently increased by the carrier to $500 million) but that it did not believe that coverage in excess of $500 million was justified at this time. In reviewing Consumer's exemption request, the staff determined that additional information was required. This information was solicited by letter to the licensee dated July 12, 1982. The licensee has responded to this request by letter dated August 10, 1982.

Because of the additional information provided by the licensee in its August 10th letter, the Commission is able to consider the exemption request on its merits. Both in its study and its response to staff's questions, Consumers Power has postulated a maximum credible accident which results in releases of 100% of the noble gases, 100% of the iodines, 100% of the cesiums and about 10% of the other solids. The licensee states, "This release fraction is consistent with WASH-1400 (Appendix V, Table V2–1), where the worst case (PWR–1) resulted in a release of 90% of the noble gases, 70% of the halogens, 40% of the cesiums and 0–40% of the other solids." The licensee then calculates the quantity of radionuclides available for release as a function of core thermal power and contrasts this to the Three Mile Island accident. Detailed, item-by-item TMI decontamination cost estimates were then used as a basis for estimating decontamination costs after a "maximum credible accident" at Big Rock Point.

The assumptions and methodology used by the licensee in its study provide a reasonable attempt to estimate decommissioning costs and appear to be compatible with preliminary findings of a study developed for the Commission (Technology, Safety and Costs of Decommissioning at Reference Light Water Reactors Involved in Postulated Accidents, NUREG/CR–2601, Pacific Northwest Laboratory, to be published). This report considers three accidents scenarios with a TMI–2 type accident considered to be of intermediate severity. This information indicates that although there is some relationship between size of a reactor and accident cleanup costs, certain of the major costs involved with accident cleanup)—such as defueling a damaged reactor, activities to maintain a facility in cold shutdown, and construction of new treatment facilities—are not strictly power level dependent. The licensee has indicated lower expected costs overall for cleanup of Big Rock Point because of its small size. However, it has correctly indicated those steps in the cleanup process, as used in the examples above, where cost is not directly related to core size.

Additionally, the Big Rock Point plant at 72 MW(e) (240 MW(t)) is below the limit used to exclude small plants from certain NRC requirements. For example, 10 CFR 140.11 excludes reactors rated below 100 MW(e) from the full requirements of deferred premium assessments of the Price-Anderson liability insurance and indemnity program. Likewise, 10 CFR Part 50, Appendix E allows licensees with reactors rated at less than 250 MW(t) to seek to reduce the size of their Emergency Planning Zones if they so wish.

The licensee has also indicated that it has contacted various parties to obtain either insurance or some other method of protection such as a line or letter of credit to obtain the $67 million required excess protection. The cost of this would range from $201,000 to $422,000 per year depending on the method and carrier chosen. When such excess insurance or protection is not required to cover the costs of cleanup of a maximum credible accident, the NRC staff agrees with the licensee's assessment that the cost of such insurance or protection is too burdensome.

In sum, the Commission believes that the licensee has provided adequate justification for being exempted from the excess insurance requirements of 10 CFR 50.54(w)(1)(ii). Although the Commission's information based on the relation between reactor size and accident decontamination cost has not yet been completed, sufficient information exists to determine that decontamination and cleanup costs occurring as a result of an accident at a reactor of Big Rock Point's small size would, with a reasonable degree of assurance, be covered by $500 million insurance. Further, within the next year the issue of accident cost vis-a-vis reactor size will be addressed in the Commission's upcoming revised rulemaking on property insurance (see 47 FR 27371). By that time, the Commission will be better able to determine whether and at what point all small reactors should be exempted from certain property insurance requirements. Because of the relatively short time until such a decision, it is even less likely that a reactor of Big Rock Point's size would require insurance exceeding $500 million to protect public health and safety adequately.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12 an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt until further notice from the requirements of 10 CFR 50.54(w)(1)(ii), with respect to excess property insurance offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly, or Nuclear Mutual Limited (NML). The licensee continues to be required to maintain, at a minimum, total primary insurance coverage or equivalent protection offered by ANI and MAERP jointly or NML pursuant to 10 CFR 50.54(w)(1)(i).

The NRC staff has determined that granting this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 3d day of November, 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–30733 Filed 11–8–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–341–OL]

The Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the

Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding: Stephen F. Eilperin, Chairman, Thomas S. Moore, Dr. Reginald L. Gotchy.

Dated: November 2, 1982.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-30752 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 59-369]

Duke Power Co.; Issuance of Amendment Facility Operating License No. NPF-9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. The amendment is effective as of its date of issuance.

The amendment permits a one-month extension of the time interval between containment penetration type C leak rate tests in order that it coincide with a scheduled shutdown. In connection with this action, the Commission has granted an exemption to 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing For Water-Cooled Power Reactors."

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated October 21, 1982, (2) Amendment No. 18 to Facility Operating License No. NPF-9 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of October 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 82-30735 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., Ohio Edison Co. and Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the partial power multiplier from 0.2 to 0.3. In addition, this amendment also corrects an administrative error in Amendment No. 55.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 23, 1982, supplemented by letter dated August 3, 1982, (2) Amendment No. 58 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of November 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-30736 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Provisional Operating License No. DPR-16, issued to GPU Nuclear Corporation and Jersey Central Power & Light Company (the licensees), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment authorizes changes to the Appendix A Technical Specifications which would clarify the term "Operable" as it applies to support system outages or multiple outages of redundant components.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact

statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 22, 1980, (2) Amendment No. 64 to License No. DPR-16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-30737 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment clarifies the Technical Specifications for reportable occurrences under the category or reactivity anomalies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 16, 1977, (2) Amendment No. 78 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of October 27, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-30738 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment was effective on November 1, 1982.

The amendment:

(1) Revises the Appendix A Technical Specifications, Section 3 Limiting Conditions for Operation (LCO) and Definitions section in their entirety, incorporating appropriate remedial actions to be undertaken when an LCO cannot be met.

(2) Clarifies and/or restructures Technical Specifications LCOs without either alteration of intent or deletion of previous requirements.

(3) Imposes certain additional LCO requirements which are conservatively more restrictive, yet consistent with the objective of the changes.

(4) Removes LCO Section 3.17.B.7.b Exception, granted previously on a one-time basis during Cycle 5/6 refueling outage, pending further review.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to the action, see (1) the applications for amendment dated November 30, 1981 and April 12, 1982 as revised May 28, 1982, (2) Amendment No. 65 to License No. DPR-36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 28th day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief Operating Reactors Branch No.3, Division of Licensing.

[FR Doc. 82-30739 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

This amendment changes the maximum nominal enrichment of the fuel permitted in the reactor from 3.03 to 3.30 weight percent U–235.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 29, 1982, (2) Amendment No. 66 to License No. DPR–36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–30740 Filed 11–8–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

Metropolitan Edison Co., et al., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR–50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its dates of issuance.

The amendment revises TS Figure 6–2, TMI–1 Onsite Organization, to incorporate a new Plant Chemistry Manager who reports to the facility's Operations and Maintenance Director.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 7, 1982, as modified by letter dated September 17, 1982, (2) Amendment No. 79 to License No. DPR–50, and (3) the Commission's letter to GPU Nuclear Corporation dated October 28, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of October 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82–30741 Filed 11–08–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 59 and 53 to Facility Operating License Nos. DPR–42 and DPR–60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective on January 1, 1983.

The amendments revise the Technical Specifications to implement the requirements of Appendix I to 10 CFR Part 50. The amendments conclude that the radwaste systems presently installed and the provisions imposed by these amendments are adequate to reduce releases of radioactive material in liquid and gaseous effluents to as low as reasonably achievable levels.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated June 1, 1979 as revised August 13, 1982, (2) Amendment Nos. 59 and 53 to License Nos. DPR–42 and DPR–60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No.3, Division of Licensing.

[FR Doc. 82-30742 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas and Electric Co.; Granting of Exemption From the Requirements of 10 CFR 50.54(w)

The U.S. Nuclear Regulatory Commission (the Commission) has granted an exemption from the requirements of 10 CFR 50.54(w) to the Pacific Gas and Electric Company (the licensee).

This exemption related to a requirement for obtaining property damage insurance for the Humboldt Bay Power Plant, Unit No. 3. The basis for this action is set forth in the Commission's Exemption dated November 3, 1982.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request dated May 28, 1982; (2) the Commission's temporary exemption dated June 29, 1982; and (3) the Commission's Exemption dated November 3, 1982. Items (1), (2) and (3) are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Humboldt County Library, 636 F Street, Eureka, California 95501. A copy of item (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Assistant Director, State and Licensee Relations, Office of State Programs.

Dated at Bethesda, Maryland, this 3rd day of November 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-30743 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas and Electric Co. (Humboldt Bay Power Plant, Unit No. 3); Exemption

I.

The Pacific Gas and Electric Company (the licensee) is the holder of Facility Operating License No. DPR-7 which authorizes operation of the Humboldt Bay Power Plant, Unit No. 3 (Humboldt). This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

The Facility is a boiling water reactor rated at 63 Mw(e) at the licensee's site located near Eureka, California.

II.

The regulation, 10 CFR 50.54(w), requires that each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain on-site property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the facility, provided, among other things, that "this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance."

On May 28, 1982, the licensee filed a Request for Exemption from 10 CFR 50.54(w). In support of this request, the licensee indicated that Humboldt Unit 3 has been shut down since July 1976 and is presently in cold shutdown condition. The licensee indicated that studies conducted by it and the NRC staff conclude that the unit presents no danger to the health and safety of the public. Further, the licensee presently maintains all-risk property damage insurance at Humboldt Unit 3 in the amount of approximately $100,000,000 which, in the licensee's opinion, is more than enough to cover the very remote possibility of any damage to the unit. The licensee submitted that any additional insurance beyond that currently carried should not be required. In addition, the licensee stated that the annual premium for additional insurance would be a burden on its ratepayers.

The licensee did not provide sufficient information in its exemption request for the Commission to conclude that a permanent exemption to the requirements of 10 CFR 50.54(w) is justified. Consequently, the Commission requested additional information from the licensee in a letter dated June 24, 1982. The licensee has responded to this request by letter dated July 28, 1982.

Because of the additional information provided by the licensee in its July 28th letter and by staff studies performed for the Humboldt unit, the Commission is able to consider the exemption request on its merits. The Commission finds that the risk to public health and safety presented by the Humboldt unit in its present state of cold shutdown is very low compared to operating reactors. In a recent decision, the Director, Office of Nuclear Reactor Regulation declined to order decommissioning of the Humboldt unit as requested by an individual pursuant to 10 CFR 2.206. (DD-82-7; July 7, 1982) The Director found, in part: "The consequences and types of accidents are greatly diminished because of the present condition of the plant. Staff analysis has concluded that Humboldt Bay fuel has decayed sufficiently that air cooling is adequate to preserve fuel cladding integrity. Therefore, measures to assure core cooling or mitigate loss of coolant consequences are unnecessary. Due to the long period since the reactor last operated, mobile radioactivity has decayed very significantly." To illustrate, decay heat in the core of a reactor similar in configuration and cold shutdown status to the Humboldt unit is estimated by staff to be approximately $3.0 \times 10^{-5}\%$ of full power.

Additionally, preliminary information has been developed for the Commission's accident cost study of light water reactors (*Technology, Safety and Costs of Decommissioning at Reference Light Water Reactors Involved in Postulated Accidents;* Pacific Northwest Laboratory: NUREG/CR-2601; to be published). This report considers three accident scenarios all of which involve loss of coolant accidents of varying severity. Such accidents are considered to present the greatest potential for excessive contamination requiring significant cleanup expense. As indicated above, the staff does not consider loss of coolant accidents to be credible events for Humboldt in its current status. Consequently, it is reasonable to expect that whatever on-site decontamination costs that might arise from an accident at the Humboldt unit in its current state would be covered by the $100,000,000 all-risk

property damage insurance currently maintained by PG&E.

Finally, the additional property insurance required to comply with 10 CFR 50.54(w) would require an additional annual premium of from $610,000 to $691,000. The Commission finds that this financial burden, if placed on the licensee and its customers, would not be warranted by the marginal additional benefit that would be obtained.

Accordingly, based upon the additional information provided by the licensee in its July 28 letter, the Commission has determined that pursuant to 10 CFR 50.12 an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt until further notice from the requirements of 10 CFR 50.54(w), with respect to on-site property damage insurance, in excess of $100,000,000 unless and until such time as Humboldt Bay Power Plant, Unit No. 3 is removed from cold shutdown and resumes operation.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland this 3rd day of November 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-30744 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment revises the Technical Specifications pertaining to the emergency service water system to include an allowance for normal pump wear in the emergency service water pump surveillance test acceptance criteria.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 26, 1979, (2) Amendment No. 71 to License No. DPR-59, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of October 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-30745 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-395]

South Carolina Electric & Gas Co. and South Carolina Public Service Authority (Virgil C. Summer Nuclear Station); Exemption

I

South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) are the holders of Facility Operating License No. NPF-12 which authorizes the operation of Virgil C. Summer Nuclear Station (the facility) at reactor power levels not in excess of 139 megawatts thermal (5% of rated power). The facility consists of a Westinghouse Electric Corporation designed pressurized water reactor (PWR) located at the licensees' site in Fairfield County, South Carolina.

The license is subject to all rules and regulations of the Commission.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of § 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1.b of Apendix E requires each licensee to conduct a full-scale emergency preparedness exercise for each site at which a power reactor is located for which the first operating license for that site is issued after July 13, 1982, within one year before the issuance of the first operating license for full power, and prior to operation above 5% of rated power of the first reactor which will enable each State and local government within the plume exposure pathway emergency planning zone and each State within the ingestion pathway emergency planning zone to participate.

In letters dated September 23 and 29, 1982 South Carolina Electric & Gas Company provided justification for and requested an exemption, in accordance with the provisions of 10 CFR 50.12(a) and 50.47(c), from literal compliance with one requirement of Section IV.F.1.b of Appendix E to Part 50. That section provides that a full-scale exercise shall be conducted.

Justification for the request is based on the following:

(1) On May 1, 1981 the plant operator, South Carolina Electric & Gas Company, State, local and federal officials engaged in a full-scale emergency exercise for the Virgil C. Summer Nuclear Station. That exercise resulted in favorable findings by the Federal Emergency Management Agency (FEMA) and the NRC. As a result of that exercise, the State and four county government plans relative to the Virgil C. Summer Nuclear Station were approved by FEMA and the NRC on November 13, 1981.

(2) On January 10, 1982, a full, system-wide test of the Emergency Notification System (sirens) for Virgil C. Summer Nuclear Station was conducted. All four counties and the State emergency planning organization participated in the test.

(3) On March 10 and 11, 1982, a full-scale emergency exercise was conducted for Duke Power Company's Oconee Nuclear Station which is also located in South Carolina. The State

was a principal participant in the Oconee exercise. In addition, the emergency preparedness directors of three of the four counties involved in the Virgil C. Summer Nuclear Station emergency planning effort participated in the Oconee exercise as observers (critics) for the county emergency agencies with off-site responsibilities around Oconee.

(4) On April 21, 1982, a medical drill was conducted for the Virgil C. Summer Nuclear Station. This drill involved county emergency medical services and Richland Memorial Hospital, the primary medical support facility for radiation emergencies at the Virgil C. Summer Nuclear Station.

(5) On May 4, 1982, a fire drill for the Virgil C. Summer Nuclear Station was conducted involving the county volunteer fire departments as well as Virgil C. Summer Nuclear Station fire prevention and control personnel.

(6) On May 5, 1982, South Carolina Electric & Gas Company conducted an annual emergency exercise at the Virgil C. Summer Nuclear Station. Although this was not a full-scale exercise in that it did not involve full State and local government participation, it did exercise key portions of the emergency plans fully, including checks of communication links with the State and the four involved counties, and a full test of the emergency notification system, including both the siren system and the emergency broadcasting system.

(7) South Carolina Electric & Gas Company stated that it is prepared to conduct a limited emergency exercise, similar to that conducted on May 5, 1982, but with full local government participation and partial State participation as early as March 1983, if that were necessary to demonstrate adequate emergency preparedness.

In consideration of the exercise and drills conducted by South Carolina Electric & Gas Company and the full-scale exercises participated in by the State in 1981 and 1982, we find that granting an exemption to the exercise, identified above, will not adversely affect the overall state of emergency preparedness at Virgil C. Summer Nuclear Station. The staff therefore concludes that the licensees' request for an exemption should be granted provided that, as agreed upon by the licensees, not later than March 31, 1983 the licensees conduct a limited emergency exercise, similar to that conducted on May 5, 1982, but with full local government participation and partial state participation.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the South Carolina Electric & Gas Company letters of September 23 and 29, 1982, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The requested exemption is hereby granted, modified and conditioned as follows:

The licensees shall conduct a limited emergency exercise, similar to that conducted on May 5, 1982, but with full local government participation and partial State participation not later than March 31, 1983.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 2d day of November 1982.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-30746 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. NPF-4 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 1 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the NA-1 Technical Specifications by upgrading and adding twenty (20) containment isolation valves to Table 3.6-1 to meet the requirements of NUREG-0737, Action Item II.B.2, Post-Accident Shielding, and Action Item II.B.3, Post-Accident Sampling. In addition, eight (8) isolation valves have been added to Table 3.6-1 for upgrading modifications recently completed for the Interior Fire Protection System and the Steam Generator Wet Layup Circulation System.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 25, 1982; (2) Amendment No. 43 to Facility Operating License No. NPF-4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottsville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 20th day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-30747 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the time required for the licensee to complete the revised and approved stipulation of Licensing Conditions 2.C.(15)(h)(2) and 2.C.(15)(h)(4) regarding diesel generator reliability. The approved extension in time from the October 1982 Fall maintenance outage to the second refueling outage is due to the impact of manufacturer delivery and qualification of equipment required to meet the diesel generator reliability modifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended the (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated September 27, 1982 and October 13, 1982, (2) Amendment No. 27 to Facility Operating License No. NPF–7, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 29th day of October, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-30748 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co. and Yankee Nuclear Power Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to reflect changes in the organizational structure and changes in titles.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 24, 1982, (2) Amendment No. 74 to License No. DPR–3 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of November, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-30749 Filed 11-8-82; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Forecasting Subcommittee; Regular Meeting Notice

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 Forecasting Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Monday, November 22, 1982, 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 SW. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Terry Morlan, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 82-30654 Filed 11-8-82; 8:45 am]

BILLING CODE 0000-00-M

Resource Assessment Subcommittee; Regular Meeting Notice

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 Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, November 19, 1982, 9:00 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:
Tom Foley, (503) 222–5161.
Edward Sheets,
Executive Director.
[FR Doc. 82–30655 Filed 11–8–82; 8:45 am]
BILLING CODE 0000–00–M

POSTAL RATE COMMISSION

[Order No. 458; Docket No. MC82–2]

Mail Classification Schedule, 1982 · Elimination of the Aggregate Letter Rule; Order Fixing Date for a Prehearing Conference and Establishing Procedures

November 4, 1982.

On August 31, 1982, the United States Postal Service filed a request with the Postal Rate Commission for a recommended decision on the proposed elimination of the Aggregate Letter Rule.[1] At the time of filing its Request, the Postal Service filed a motion seeking a waiver of certain of the filing requirements contained in the Commission's rules of practice.[2] In the interest of expedition, we will proceed with this docket, by scheduling a prehearing conference and establishing procedures in this order.

I. Hearings and Date of Initial Prehearing Conference

In furtherance of expeditious consideration and pursuant to § 30(b) of the Commission's rules of practice (39 CFR 3001.30(b), the Commission will conduct all prehearing conferences and hearings en banc. An initial prehearing conference will be held on November 15, 1982, and, thereafter, on such further dates as may be designated by the Presiding Officer. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268, and shall be on the record and a transcript made except where the Presiding Officer determines otherwise. An agenda for the prehearing conference appears in Appendix A to this order.

II. Procedures and Expedition

To the degree consistency with procedural fairness permits, it is our intention to expedite the proceedings in Docket No. MC82–2.[3] Accordingly, we are issuing a proposed schedule of procedural stages which all participants should review and be prepared to comment upon at the initial prehearing conference. This tentative schedule is presented in Appendix B. This schedule was constructed in view of the holidays, thus, for example, the December 7, 1982, date for completion of all discovery directed to the Postal Service implies that written cross-examination to witness McCaffrey should be designated by December 29, 1982, in order to accommodate a January 4 hearing. Of course, this proposed schedule is tentative and subject to suggestions for expedition at the prehearing conference.

Participants should also be prepared to pose any questions they may have concerning the Postal Service's response to Commission Order No. 457, issued November 2, 1982. Specifically, that order grants the Postal Service's August 31, 1982 motion for waiver of certain filing requirements subject to the condition that the Postal Service determine whether any existing data could be used to develop useful volume/revenue estimates and inform the Commission and parties of any such resources. The parties should also be alerted that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy.

III. Prehearing Conference Statements

Participants should serve prehearing conference statements by November 10, 1982. Such statements should contain the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. Any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged to request informally and promptly from the Postal Service any desired preliminary clarification in the Service's presentation which the participant believes necessary in order to expedite this proceeding.

The Commission Orders

(A) A prehearing conference will be held on November 15, 1982, commencing at 9:30 a.m. in the Postal Rate Commission hearing room, Suite 500, 2000 L Street, NW., Washington, D.C. 20268. The Conference will be held for the purposes specified in section 24 of the Commission's rules of practice (39 CFR 3001.24) and in this Order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in Docket No. MC82–2. The Conference proceedings shall be recorded by an official reporter except where otherwise directed by a Presiding Officer.

(B) Parties are to serve prehearing conference statements by November 10, 1982.

By the Commission
David F. Harris
Secretary.

Appendix A—Agenda for Prehearing Conference in Docket No. MC82–2

November 15, 1982.Q02
I. Opening statement by the Presiding Officer.
II. Discussion of the appropriate issues to be considered in the proceeding.
III. Discussion of possible stipulations of fact:
  A. Discussion of resuts of any informal settlement attempts conducted between the parties prior to the date of the prehearing conference.
  B. Submission of any stipulations of fact agreed to at the time of the prehearing conference.
  C. Discussion of other areas for which stipulations of fact are possible.
  C. Discussion of who should be assigned responsibility for preparing any draft, stipulations of fact to be submitted.
IV. Discussion of Postal Service's response to Commission Order No. 457 which granted the Postal Service's motion for waiver of certain filing requirements subject to conditions.
V. Discussion of procedural dates. (Tentative preliminary procedural schedule outlining procedural steps, with dates inserted, appears as Attachment B to this notice.)
VI. Discussion of any other matters appropriate for examination at a

[1] Request of the United States Postal Service for a Recommended Decision Eliminating the Aggregate Letter Rule, August 31, 1982.

[2] Motion of the United States Postal Service for Waiver of Certain Provisions of the Rules of Practice and Procedure, August 31,1982.

[3] The Postal Reorganizaiton Act requires us to consider requests for changes in the classification schedule "promptly" and to conduct proceedings "with utmost expedition consistent with procedural fairness" (39 U.S.C. 3624). While the statute does not specify a particular time frame for classification cases, we are are inclined to adopt the 10-month schedule to which we must adhere in rate cases [*see* 39 U.S.C. 3624(c)] as a general guideline. Of course, some cases can, and will, be completed in considerably less time, and we recognize that others which involve particularly complex or novel issues may require somewhat lengthier proceedings.

prehearing conference under section 24 of the Commission's rules of practice.

Appendix B—Tentative Schedule of Proceedings; Aggregate Letter Case

[Docket No. MC82-2]
November 15, 1982: Prehearing Conference
December 7, 1982: Completion of all discovery directed to the Postal Service
January 4, 1983: Hearing on USPS case
January 25, 1983: Intervenors' cases due
February 15, 1983: Completion of discovery
March 14, 1983: Hearing on intervenors' cases

[FR Doc. 82-30796 Filed 11-8-82; 8:45 am]
BILLING CODE 7715-01-M

[Docket No. A83-3; Order No. 454]

Mountville, Georgia 30261 (A. D. Moore, et al., Petitioners); Errata Notice; Notice and Order of Filing of Appeal

Issued: October 21, 1982.
November 4, 1982.

In FR Doc. 82-29342 appearing at pages 47508-47509 in the **Federal Register** of Tuesday, October 26, 1982, the following changes should be made on page 47509, column 3: Appendix should read:

February 7, 1983	Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

in lieu of "January 7, 1983."

By the Commission.

David F. Harris,
Secretary.

[FR Doc. 82-30797 Filed 11-8-82; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22687; (70-6794)]

Proposal To Make Capital Contributions to Subsidiaries

November 1, 1982.

In the matter of Central and South West Corp., 2700 One Main Place, Dallas, Texas 75202; Central Power and Light Co., 102 North Chaparral Street, Corpus Christi, Texas 78401; Southwestern Electric Power Co., P.O. Box 21106, Shreveport, Louisiana 71156; West Texas Utilities Co., 301 Cypress, Abilene, Texas 79601.

Central and Southwest Corporation ("CSW"), a registered holding company, and three of its wholly-owned subsidiaries ("operating companies"), Central Power & Light Company ("CPL"), Southwestern Electric Power Company ("SWEPCO") and West Texas Utilities ("WTU") have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9, 10 and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 45 thereunder.

CSW proposes to make equity investments of up to $50 million in CPL, $50 million in SWEPCO and $25 million in WTU at any time from January 1, 1983 to January 1, 1984. The full amount of these equity investments will, in each case, be added to the operating companies' common equity and will be used to repay short-term debt to be incurred in connection with the 1983 construction expenditures which are anticipated to be $290 million for CPL, $240 million for SWEPCO and $110 million for WTU.

CSW expects to finance the capital contributions with the proceeds from the sales of new issue common stock under CSW's Dividend Reinvestment, Employee Thrift, and Tax Reduction Employee Stock Ownership Plans ("Plans"). Those funds not provided by sales of common stock under these Plans will be provided from permanent funding by CSW. CSW proposes to finance any of the capital contributions that are to be made prior to permanent funding from the sale of its commercial paper or other short-term borrowings previously authorized by this Commission by order dated June 29, 1982 (HCAR No. 22554).

The application-declaration and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 22, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective. For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-30703 Filed 11-8-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19203; (SR-CBOE-80-16)]

Chicago Board Options Exchange, Inc.; Filing of Amendment to Proposed Rule Change and Order Extending Partial Approval of Proposed Rule Change on a Summary and Temporary Basis

November 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 19, 1982, the Chicago Board Options Exchange, Incorporated ("CBOE"), filed with the Commission an amendment to a propose rule change as described herein. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), filed with the Commission, pursuant to the Act and Rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers.[1] The proposed rule change also required that a minimum number of contracts or percentage of trading activity be executed by market makers in person.[2]

On February 12, 1981, the Commission, pursuant to Section 19(b)(2) of the Act, approved the proposed rule change.[3] On April 13, 1981, Charles B. Clement, a member of the Chicago Board of Trade ("CBT") and a market maker on the CBOE, filed a petition for review of the Commission's approval order in the United States Court of Appeals for the Seventh Circuit.[4] On April 5, 1982 the Seventh

[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980).

[2] Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[3] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981).

[4] On April 14, 1981, Clement requested that the Commission stay its approval order pending a

Circuit vacated the Commission's order approving the proposed rule change and remanded the matter to the Commission.[5]

On May 11, 1982, the Commission reviewd the rule filing and approved, on a summary basis and for a 90-day period, those portions of the proposed rule change not in contention in the judicial proceeding.[6] That approval was extended for an additional 90 days on August 16, 1982 in anticipation of an amendment to the proposed rule change.[7] As noted above, CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. To permit the Commission to review this amendment, the Commission has determined to extend for 60 days from the date hereof its temporary approval of those portions of the proposed rule change that were not at issue in the *Clement* decision.

The amendment modifies the proposed rule change to require that for each month in a quarter and except in unusual circumstances, 75 percent of a market maker's total options contract volume must be in his appointed options classes and 25 percent of his total options transactions must be executed in person. Proposals regarding trade information required to be filed daily by clearing members are also amended to except transactions in a market maker's account from the requirement that opening and closing transactions be identified as such.

The purpose of the amendment is to revise the earlier rule change filing concerning market maker obligations. The proposed amendment would change the performance requirements previously proposed by requiring market makers to execute a certain percentage of transactions, rather than contracts, in person. The Exhange believes this will be a more realistic measure of market maker participation on the trading floor. At the same time, the in-person percentage requirement is reduced from 75 to 25 percent, and a previously proposed alternative method of compliance, namely, in-person execution of 20,000 or more options contracts, is eliminated.

As amended, the rule change would obligate market makers to effect the majority of their options volume in their assigned classes and effect a minimum percentage of such transactions in person. Both these obligations are designed to improve market liquidity. The amended rule change proposal is intended to promote the ends of Sections 6(b)(1), 6(b)(5) and 11(b) of the Act, and it is offered on the basis of those sections.

At the same time, as mentioned above, the Commission is extending its approval of those portions of the proposed rule change not at issue in *Clement* v. *Securities and Exchange Commission* that previously were approved on a temporary and summary basis, in order to permit adequate time for notice and review of the proposed amendments.

In order to assist the Commission in determining whether to approve the proposed rule change as amended or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning either the amendment or those portions of the proposed rule change being temporarily approved within 21 days from the date of publications of this notice and order in the Federal Register. Persons desiring to make written comments should file six copies thereof with ther Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–CBOE–80–16.

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed changes which are filed with the Commission and all written communications relating to the proposed changes between the Commisison and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved for a period of 60 days from the date hereof.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30704 Filed 11-8-82; 8:45 am]

BILLING CODE 8010-01-M

determination by the Court of Appeals on the issues presented in his petition. The Commission denied Clement's request in Securities Exchange Act Release No. 17815 (May 22, 1981).

[5] *Clement* v. *Securities and Exchange Commission*, 674 F.2d 841 (7th Cir. 1982).

[6] *See* Securities Exchange Act Release No. 18727 (May 11, 1982), 47 FR 21169 (1982).

[7] Securities Exchange Act Release No. 18963 (August 16, 1982), 47 FR 37020 (1982).

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 2, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rue 12f–1 thereunder, for unlisted trading privileges in the common stock of:

AMR Corporation

Common Stock, $1 Par Value (File No. 7–6358)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 24, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30709 Filed 11-8-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Revised

Regulation S–X

No. 270–3

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 [44 U.S.C. 3501 et seq.], the Securities and Exchange Commision has submitted for clearance Regulation S–X, 17 CFR 210. Regulation S–X specifies the form

and content of the requirements for the financial statements that are required in registration statements, reports, certain applications for Commission approval, certain proxy and information statements, issuer and other tender offer statements and issuer transaction statments filed under the securities laws. A copy of this submission is available for public inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549. Inquiring parties should refer to File No. 270–3.

Comments should be submitted to Mr. Robert Veeder, OMB Desk Officer, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

November 1, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–30701 Filed 11–8–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19199; File No. SR–PCC–82–08]

Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Clearing Corporation

November 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1982, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends PCC Rule 1, Section 13 to authorize PCC (1) to accept from marketplace regulators, as input into PCC's comparison operation, initial or supplemental trade data on behalf of PCC participants, and (2) to transmit to those market place regulators reports of clearing trade data on behalf of those participants. Similar trade input and reporting services are to be provided to service bureaus acting on behalf of PCC participants. The proposed rule change, among other things, allows PCC to receive trade data from, and transmit reports regarding that data to, the National Association of Securities Dealers, Inc. in connection with its Trade Acceptance and Reconciliation Service, when that service is implemented. PCC stated in its filing that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act in that it will promote the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–82–08.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference room, 450 5th Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–30705 Filed 11–8–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19198; File No. SR–PCC–82–07]

Self Regulatory Organizations; Filing of Proposed Rule Change by Pacific Clearing Corp.

November 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1982, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change consolidates and enhances PCC's rules with respect to minimum standards for admission to, and for continuing participation in, PCC. More specifically, the proposed rule change would consolidate into a single rule: (i) Minimum standards for admission to PCC and for continuing participation in PCC; (ii) PCC's authority to discipline participants; and (iii) the rights and obligations of PCC and its applicants and participants if PCC limits, denies or conditions their access to PCC. PCC believes that the proposed rule change is in accordance with Section 17A of the Act in that it facilitates participation in the clearing agency and establishes rules with respect to disciplinary actions.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PCC–82–07.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30706 Filed 11-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19197; File No. SR-PSDTC-82-3]

Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Securities Depository Trust Company

November 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on October 22, 1982, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change allows PSDTC to add Rule 4, Section (h) to its rules. The new rule would authorize PSDTC (1) to accept from marketplace regulators, as input into PSDTC's comparison operation, initial or supplemental trade data on behalf of PSDTC participants, and (2) to transmit to those market place regulators reports of clearing trade data on behalf of those participants. Similar trade input and reporting services are to be provided to service bureaus acting on behalf of PSDTC participants. PSDTC stated in its filing that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act in that it will promote the prompt and accurate clearance and settlement of securities transactions.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-82-03.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30707 Filed 11-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22688; (70-6051)

Middle South Utilities, Inc., Middle South Energy, Inc.; Proposal by Subsidiary To Issue and Sell Common Stock to Parent Holding Company

November 2, 1982.

Middle South Utilities, Inc. ("MSU"), a registered holding company, and Middle South Energy, Inc. ("MSE"), 225 Baronne Street, New Orleans, Louisiana 70112, a wholly owned subsidiary of MSU, have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to Sections 6(a), 7, 9(a), 10 and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and rule 43 promulgated thereunder.

MSE is authorized by its articles of incorporation to issue up to 1,000,000 shares of common stock, no par value. As of September 15, 1982, 578,300 shares had been issued and sold to MSU for an aggregate cash consideration of $578,300,000. By this Commission's order of June 29, 1982 (HCAR No. 22555), MSE was authorized to issue and sell to MSU up to 60,000 additional shares of common stock from time to time through December 31, 1983, at a price of $1,000 per share. As of September 15, 1982, 34,700 of such additional common stock had been sold to MSU. Applicants-declarants now represent that MSE may be required to issue and sell through December 31, 1983 up to 75,000 shares at the same price, in addition to the previously authorized 60,000 shares. The proceeds of such sales will be applied to costs incurred by MSE in the construction of its Grand Gulf nuclear-fired generating facility in Mississippi. Sales will be timed to coincide with MSE's cash needs with respect to the Grand Gulf project.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 26, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30702 Filed 11-8-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19200; File No. SR-CBOE-82-10]

Self-Regulatory Organizations; Proposed Rule Change; Chicago Board Options Exchange, Inc.; Relating to Position and Exercise Limits

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 October 19, 1982, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Exchange Rules 4.11 and 4.12 concerning position and exercise limits, raising those limits from 2000 to 3000 option contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed increase in position and exercise limits from 2,000 to 3,000 contracts is to add to market depth and liquidity.

In 1978 the Special Study of the Options Markets recommended that existing Exchange rules, which limited the size of options positions held by market participants, be reviewed and that their relaxation or elimination be considered. As a result of re-examination of position limits, as suggested in that Study, the Exchange proposed rule changes which were adopted in October of 1980 to raise position and exercise limits from 1,000 to 2,000 contracts. In view of the increased use of the options markets and the experience gained during the two years since the position limits were increased in 1980, the Exchange believes that it is appropriate at this time to increase the position and exercise limits from 2,000 to 3,000 contracts.

The Commission made the following statements in its release approving the position and exercise limit increase in 1980. (Release No. 34–17237) The Exchange believes that these statements also apply to this proposed increase to 3000 contracts.

"* * * there is substantial reason to believe that the current ceiling serves to constrict significantly the options activities of certain market professionals and institutions, possibly to the detriment of market depth and liquidity. In addition, the Commission believes that the surveillance capabilities of the options exchanges with respect to large options positions should minimize the possibility of manipulation. Finally, the Commission believes that the information and experience gained from approval of the proposed modification will enhance the ability of the options exchanges and the Commission to responsibly propose and effectively evaluate possible further modifications * * *"

A major concern in any raising of position and exercise limits is the greater potential for "short squeezes" that will result. A "short squeeze" can occur when there is an accumulation of large option positions, which are exercised day after day, so that uncovered option writers who are assigned to deliver stock on the exercises must buy that stock at increasingly higher prices because fewer shares are available. As the Exchange conveyed in its last position limit increase filing (SR–CBOE–80–22), the theoretical peril of a short squeeze is created by the size of the uncovered short interest in an option class. Each option exchange has the ability to impose limitations on uncovered writing or on the uncovering of existing short positions. (See, for example, Exchange Rules 4.15, 4.16 and 15.3) In addition, the Options Clearing Corporation under appropriate circumstances can require cash settlement. In sum, "short squeezes" can be handled directly, rather than indirectly, by means of position limits.

Finally, position limits cannot be justified as a protection against financial exposure. While unhedged larger positions do entail larger financial risks, position limits are cumbersome and ineffective mechanisms for limiting those risks. Rather, those rules which have been designed specifically to limit risk exposure should be used for this purpose, namely, suitability, margin, and net capital rules.

The basis for this proposed rule change is section 6(b)(5), in that the change would increase market depth and liquidity, which is in the public interest, while continuing to protect investors from manipulative activities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the above address. Copies of such filing will also be available for inspection and coping at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 1, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30718 Filed 11-5-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7976]

Xonics, Inc., Class A Common, $.10 Par Value; Application to Withdraw from Listing and Registration

November 2, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and

registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Xonics, Inc. ("Company") is listed and registered on the PSE. The Company wishes to list its security on NASDAQ because the Company desires to gain national exposure. In this regard, the Company has determined that the opportunity for national exposure would be enhanced if the Company were listed on NASDAQ and removed from listing and registration on the PSE.

Any interested person may, on or before November 24, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30708 Filed 11-8-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Advisory Committee on the International Monetary System; Continuation

Pursuant to the Federal advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II) the Department of the Treasury announces the continuation of the following advisory committee:

Title: The Advisory Committee on the International Monetary System.

Purpose: The Committee, composed of representatives from banking, industry, labor and the academic community, as well as former government officials, discusses major issues concerning the effective functioning of the international monetary system and potential areas for improvement, advising the Secretary of the Treasury on these questions in the International Monetary Fund and in other forums.

Statement of Public Interest: The world economy is in a period of significant change affecting, among other things, the operations of the international monetary system. It is important that the Secretary of the Treasury continue to receive the advice and recommendations of the Advisory Committee in this period. The depth and breadth of the members' experience in international monetary affairs cannot be duplicated from sources within the Treasury nor from another existing advisory committee.

Authority for this committee will expire August 21, 1984, unless formally extended by the Secretary of the Treasury.

Dated: August 18, 1982.

Beryl W. Sprinkel,

Under Secretary for Monetary Affairs.

[FR Doc. 82-30716 Filed 11-8-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 23, 1982, at 1:00 p.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 654, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in an Apprenticeship Training Program at Vero Beach Carpenters Joint Apprenticeship Committee, 2566 12th Avenue, Vero Beach Florida, 32960, should be discountinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: November 1, 1982.

Carlos L. Rainwater,

Director.

[FR Doc. 82-30806 Filed 11-8-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 217
Tuesday, November 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCMENT: 47 FR 49787.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10 a.m., November 3, 1982.

CHANGES IN THE MEETING: Meeting cancelled. Compliance Status Report rescheduled for November 10, 1982. For a recorded message on the latest Agenda information call (301) 492-5707.

[S-1621-82 Filed 11-5-82; 12:50 pm]

BILLING CODE 6355-01-M

2

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 8 a.m., November 15, 1982

PLACE: Cash Room, Department of the Treasury (use Pennsylvania Avenue Entrance) Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220.

STATUS: Open. Matters to be considered:

1. The features of the new money market deposit account mandated by the Garn-St Germain Depository Institutions Act of 1982.

Note.—The meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC Offices at the Department of the Treasury, and copies may be purchased for $5.00 a cassette by calling (202) 566-5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1058 MT, Washington, D.C. 20220.

For further information about the DIDC and the November 15 meeting please call (202) 566-3734.

November 5, 1982.

Gordon Eastburn,

Acting Executive Secretary of the Committee.

[S-1618-82 Filed 11-5-82; 11:00 am]

BILLING CODE 6210-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

November 3, 1982.

Deletion of Agenda Item From November 4th Open Meeting

The following item has been deleted at the request of the Office of Commissioner Quello from the list of agenda items scheduled for consideration at the November 4, 1982 Open Meeting, and previously listed in the Commission's Notice of October 28, 1982.

Agenda, Item No., and Subject

General—2—*Title:* UHF Television Receiver Noise Figures. *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.

Issued: November 3, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1618-82 Filed 11-5-82; 11:20 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

FCC Holds Emergency Closed Meeting, Thursday, November 4th

The Federal Communications Commission held an Emergency Closed Meeting on Thursday, November 4, 1982, at 1919 M Street, NW., Washington, D.C. on litigation strategy relating to the decision in the matter listed below:

Agenda, Item No., and Subject

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 Broadcasting Company, Inc., Video Satellite Systems, Inc., and Western Union Telegraph Company and associated petitions to deny, comments, and other responsive pleadings. Summary: The above referenced applicants seek authority to establish interim Direct Broadcast Satellite (DBS) systems. These applications are subject to petitions to deny, comments, and other responsive pleadings.

The prompt and orderly conduct of Commission business did not permit announcment of this matter prior to the meeting.

This meeting was closed to the public because it concerned adjudicatory matters (See 47 CFR 0.603 (j)).

The following persons attended this meeting:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Broadcast Bureau and members of his staff
Chief, Office of Public Affairs and members of his staff

Actions by the Commission November 4, 1982. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson and Sharp voting to consider this matter in Closed Session.

Additional information concerning this matter may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1619-82 Filed 11-5-82; 11:25 am]

BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:35 a.m. on Wednesday, November 3, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Cedar Bluff Bank, Cedar Bluff, Alabama, which was placed in voluntary liquidation by its board of directors and closed on Tuesday, November 2, 1982; (2) accept the bid for the transaction submitted by Union State bank, Cedar Bluff, Alabama; (3) approve the applications of Union State Bank, Cedar Bluff, Alabama, for Federal deposit insurance, and for consent to purchase certain

assets of and to assume the liability to pay deposits made in Cedar Bluff Bank, Cedar Bluff, Alabama; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

At that same meeting, the Board of Directors considered an aplication for financial assistance, pursuant to section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)), by an insured bank. The name and location of the bank are authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chariman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1617-82 File 11-5-82; 11:19 am]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

[FR No. 1596]

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, November 10, 1982 at 11 a.m.

CHANGE IN MEETING: The following matter has been *deleted* for the meeting of this date:

Proposed regulations on joint fundraising and collecting agents (11 CFR 102.6 and 102.7)

The following matter has been *added* for the meeting of this date:

Proposed revision of 11 CFR 114.3 and 114.4

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1620-82 Filed 11-5-82; 12:17 pm]

BILLING CODE 6717-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 3, 1982.

TIME AND DATE: 10 a.m., Wednesday, November 10, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Florence Mining Company, Docket No. PITT 77-15, etc., IBMA 77-32. (The Commissioners granted the operators' petition for reconsideration of the Commission's August 31, 1982 decision, and the issues include whether 30 CFR 75.1405 applies to certain mine haulage equipment.)

* * * * *

TIME AND DATE: 11 a.m., or following oral argument, Wednesday, November 10, 1982.

PLACE: Same as above.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

2. Florence Mining Company—same as above.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-1626-82 Filed 11-5-82; 3:13 pm]

BILLING CODE 6735-01-M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, November 15, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: November 5, 1982.

James McAfee,

Associate Secretary of the Board.

[S-1624-82 Filed 11-5-82; 3:13 pm]

BILLING CODE 6210-01-M

9

INTERNATIONAL TRADE COMMISSION

Executive Resources Board (ERB)

[USITC ERB-82-3A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 49919, NOVEMBER 3, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Monday, November 15, 1982.

CHANGES IN THE MEETING: The Executive Resources Board (ERB) of the United States International Trade Commission has rescheduled the ERB meeting for Monday, November 15, 1982, at 10:00 a.m., instead of 11:00 a.m. There are no other changes to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1622-82 Filed 11-5-82; 2:10 pm]

BILLING CODE 7020-02-M

10

[USITC SE-82-49]

TIME AND DATE: 10 a.m., Friday, November 19, 1982.

PLACE: Room 117, 701 E. Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation 701-TA-200 [Preliminary] (Automated Fare Card Collection Equipment and Parts Thereof from France)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1623-82 Filed 11-5-82; 2:10 pm]

BILLING CODE 7020-02-M

11

PAROLE COMMISSION

[3P0401]

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: 10 a.m., Tuesday, November 9, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed meeting to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S–1625–82 Filed 11–5–82; 3:13 pm]

BILLING CODE 4410–01–M

federal register

Tuesday
November 9, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Immunology and Microbiology Devices; General Provisions and Classification of 162 Devices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 78N-2113]

Immunology and Microbiology Devices; General Provisions and Classification of 162 Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying 162 immunology and microbiology devices in commercial distribution. The preamble to this rule responds to comments received on the proposals regarding classification of these devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: December 9, 1982.

FOR FURTHER INFORMATION CONTACT: Srikrishna Vadlamudi (Immunology), Thomas M. Tsakeris (Microbiology), National Center for Devices and Radiological Health (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 22, 1980 (45 FR 27204-27359), FDA published proposed regulations containing general provisions applicable to the classification of immunology and microbiology devices and individual proposed regulations to classify 160 immunology and microbiology devices into one or more of three regulatory classes: class I (general controls), class II (performance standards), and class III (premarket approval). Of the 160 immunology and microbiology devices that were the subject of proposals, FDA is classifying 93 devices into class I (general controls), 64 devices into class II (performance standards), and two devices into class III (premarket approval). One proposed classification is being withdrawn, because the product is a licensed biologic and is regulated by FDA's National Center for Drugs and Biologics (hemolytic immunological test system, Docket No. 78N-2253, **Federal Register** of March 19, 1982; 47 FR 11880). FDA has decided not to publish classification regulations on medical devices that also are licensed biologics under section 351 of the Public Health Service Act (42 U.S.C. 262). Additionally, FDA is codifying the statute's classification into class III of 3 transitional immunology and microbiology devices previously considered new drugs that are in commercial distribution. Proposed regulations on these statutory classifications were unnecessary.

Classification of medical devices in commercial distribution is required by the Medical Device Amendments of 1976 (Pub. L. 94-295) (the amendments) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301-392). The effect of classifying a device into class I is to require that the device continue to meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. For a class III device not considered a new drug before the amendments that either was in commercial distribution before May 28, 1976, or is substantially equivalent to a device that was in commercial distribution before that date, each application for premarket approval must be submitted to FDA on or before June 28, 1985, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. For a class III device previously considered a new drug, the requirement of having premarket approval is already in effect. See section 520(1) of the act (21 U.S.C. 360j(1)).

The preamble to the proposed general provisions described the development of the general provisions and the proposed regulations classifying immunology and microbiology devices and the activities of the Immunology and Microbiology Devices Panel (formerly the Immunology Device Classification Panel and the Microbiology Device Classification Panel), an FDA advisory committee that makes recommendations to FDA concerning the classification of immunology and microbiology devices. FDA provided a period of 60 days for interested persons to submit written comments on these proposals. The comments received are discussed below.

Change in Format of Final Rules for Classification of Devices

To reduce printing costs, FDA is publishing as one final regulation the general provisions and classifications of 162 immunology and microbiology devices. Formerly, a separate final classification regulation was published in the **Federal Register** for each generic type of device. The docket number used to identify each of the proposed classification regulations continues to be used in this final regulation to identify each generic type of device.

Exemptions for Class I Devices

FDA proposed to exempt seven generic types of immunology and microbiology devices from requirements of the premarket notification procedures in Subpart E of Part 807 (21 CFR Part 807): Complement reagent (Docket No. 78N-2212), radial immunodiffusion plate (Docket No. 78N-2217), anaerobic chamber (Docket No. 78N-2119), manual colony counter (Docket No. 78N-2123); automated media dispensing and stacking device (Docket No. 78N-2131); microbiological incubator (Docket No. 78N-2135); and Wood's fluorescent lamp (Docket No. 78N-2138). The final rule for each of the seven devices exempts the device from the requirements of the premarket notification procedures. Further, FDA proposed to exempt each of the latter five of these seven devices from all of the requirements of the good manufacturing practice (GMP) regulations in Part 820 (21 CFR Part 820) with the exception of §§ 820.180 and 820.198 relating to records and complaint files. This final regulation exempts each of the latter five of the above devices from most requirements of the GMP regulations. FDA did not receive any public comments on the seven proposals.

The agency has determined that exemption of any device from requirements of §§ 820.180 and 820.198 of the GMP regulations would not be in the public interest. Moreover, compliance with these sections is not unduly burdensome for device manufacturers. The complaint file requirements of § 820.198 ensure that device manufacturers have adequate systems for complaint investigation and followup. The general requirements concerning records in § 820.180 ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, can determine whether the manufacturer's corrective actions are adequate, and can determine whether an exemption from other sections of the GMP regulation, if one has been granted, is still appropriate. Also, for the reasons given in the proposal, these exemptions do not apply to devices that are labeled or otherwise represented as sterile.

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device GMP regulation. These petitions may be submitted in accordance with provisions

of section 520(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)(2)). The agency announced the availability of the guidelines in a notice published in the **Federal Register** on Friday, January 18, 1980 (45 FR 3671).

Devices That Have Both Medical and Nonmedical Uses

FDA has clarified several regulations classifying products that have both medical and nonmedical uses. FDA will regulate a multipurpose product as a medical device if it is intended for a medical purpose, i.e., for "use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease," or "to affect the structure or any function of the body." (Section 201(h) of the act (21 U.S.C. 321(h)).) FDA will determine the intended use of a product based upon the expressions of the person legally responsible for its labeling and by the circumstances surrounding its distribution. The most important factors the agency will consider in determining the intended use of a particular product are the labeling, advertising, and other representations accompanying the product. Products that have medical uses only are clearly intended for medical purposes and, therefore, will be regulated as medical devices whether or not medical claims are made for them.

Changes in Classification in Final Regulations

Based on the comments received or upon reconsideration, FDA has changed the classification of each of six devices in the final regulations from that originally proposed. The classification of four devices was changed from class I to class II: cytomegalovirus serological reagents (Docket No.78N-2157), *Haemophilus* spp. serological reagents (Docket No. 78N-2169). varicella-zoster virus serological reagents (Docket No. 78N-2210), and total spinal fluid immunological test systems (Docket No. 78N-2278). The classification for two devices was changed from class II to class III: herpes simplex virus serological reagents (Docket No. 78N-2170) and rubella virus serological reagents (Docket No. 78N-2192). The reasons for these changes are identified in the discussion under each of these six docket numbers. FDA does not believe that it is necessary to issue a new proposal concerning these changes. The purpose of publishing a proposal and soliciting comments is to enable the agency to determine whether its proposed classification of a device is correct. After reviewing the comments submitted on a proposal or after reconsideration, the agency may determine that its proposed classification is incorrect. Persons interested in the classification process should therefore anticipate that in a final regulation a device may be placed in a class different from the one originally proposed. This possibility was specifically identified in the proposed general provisions for immunology and microbiology devices (see 45 FR 27204; April 22, 1980). Persons who disagree with a final classification for a device may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860). Occasionally the agency has made minor changes in device names or identifications to clarify the final regulations. Additionally, the agency is adding an explanation in § 866.1 that references in Part 866 to other regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

Changes in Device Advisory Committee Names

On April 28, 1978, the agency terminated all of the device classification panels, then reestablished them under new names and with a new structure. FDA published notices of these changes in the **Federal Register** of May 19, 1978 (43 FR 21666, 21667, and 21668) and May 26, 1978 (43 FR 22672 and 22673). The Immunology Device Classification Panel and the Microbiology Device Classification Panel were terminated, and their functions are now conducted by the Immunology Device Section and the Microbiology Device Section of the Immunology and Microbiology Devices Panel. Further, in the **Federal Register** of September 3, 1982 (47 FR 38883), FDA announced the establishment on August 5, 1982, of the Obstetrics-Gynecology Devices Panel and the Radiologic Devices Panel and the termination of the Obstetrics-Gynecology and Radiologic Devices Panel.

Classification Regulations Published to Date

The following table shows the current structure of the advisory committees involved with the classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel/section name	Publication date in FEDERAL REGISTER
Circulatory Systems Devices Panel.	
Mar. 9, 1979, 44 FR 13284-13434 (proposals); Feb. 5, 1980, 45 FR 7904-7971 (final regulations).	
Clinical Chemistry and Hematology Devices Panel	
Clinical Chemistry Device Section.	Feb. 2, 1982, 47 FR 4802-4929 (proposals).
Clinical Toxicology Device Section.	Feb. 2, 1982, 47 FR 4802-4929 (proposals).
Hematology and Pathology Device Section.	Sept. 11, 1979, 44 FR 53063 (proposals); Sept. 12, 1980, 45 FR 60576-60651 (final regulations).
General Medical Devices Panel	
General Hospital and Personal Use Device Section.	Aug. 24, 1979, 44 FR 49844-49954 (proposals); Oct. 21, 1980, 45 FR 69678-69737 (final regulations).
Gastroenterology-Urology Device Section.	Jan. 23, 1981, 46 FR 7562-7641 (proposals).
Immunology and Microbiology Devices Panel	
Immunology Device Section.	Apr. 22, 1980, 45 FR 27204-27359 (proposals); Nov. 9, 1982 (final regulations.)
Microbiology Device Section.	Apr. 22, 1980, 45 FR 27204-27359 (proposals); Nov. 9, 1982. (final regulations).
Obstetrics-Gynecology Devices Panel.	Apr. 3, 1979, 44 FR 19894-19971 (proposals); Feb. 26, 1980, 45 FR 12682-12720 (final regulations).
Radiologic Devices Panel	Jan. 29, 1982, 47 FR 4406-4451 (proposals).
Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel	
Ophthalmic Device Section.	Jan. 26, 1982, 47 FR 3694-3749, (proposals).
Ear, Nose, and Throat Device Section.	Jan. 22, 1982, 47 FR 3280-3325 (proposals).
Dental Device Section	Dec. 30, 1980, 45 FR 85962-86168 (proposals).
Respiratory and Nervous System Devices Panel	
Anesthesiology Device Section.	Nov. 2, 1979, 44 FR 63292-63426 (proposals); July 16, 1982, 47 FR 31130-31150 (final regulations).
Neurological Device Section.	Nov. 23, 1978, 43 FR 54640-55732 (proposals); Sept. 4, 1979, 44 FR 51726-51778 (final regulations).
Surgical and Rehabilitation Devices Panel	
Physical Medicine Device Section.	Aug. 28, 1979, 44 FR 50458-50537 (proposals).
Orthopedic Device Section.	July 2, 1982, 47 FR 29052-29140 (proposals).
General and Plastic Surgery Device Section.	Jan. 19, 1982, 47 FR 2810-2853 (proposals).

Transitional Devices

The amendments included transitional provisions applicable to devices intended for human use that were declared to be new drugs or antibiotic drugs before enactment of the amendments. (See section 520(l)(1)(E) of the act (21 U.S.C. 360j(l)(1)(E).) The transitional provisions assure that devices formerly regarded as new drugs or antibiotic drugs continue to be subject to needed regulatory controls as the amendments are being implemented. A device previously considered a new drug is classified into class III unless the agency in response to a petition has reclassified it into class I or class II. FDA is including in this final rule

provisions to codify the statutory classification into class III of the following 3 commercially distributed, transitional immunology and microbiology devices, which were the subject of the **Federal Register** notices on their former status as new drugs as listed below:

Device	Section; docket	Relevant notices
1. Oxidase screening test for gonorrhea	866.2420; 81N-0103	39 FR 3705; Jan. 29, 1974; 42 FR 63471; Dec. 16, 1977.
2. Gonococcal antibody test (GAT)	866.3290; 81N-0104	39 FR 3705; Jan. 29, 1974; 42 FR 63471; Dec. 16, 1977; 46 FR 28946; May 29, 1981.
3. Carcinoembryonic antigen (CEA) immunological test system as an aid in the detection and management of cancer.	866.6010; 81N-0102	38 FR 10488; Apr. 27, 1973; 45 FR 58964; Sept. 5, 1980.

There are, in addition, three other transitional immunological devices that are investigational and that are not in commercial distribution. Accordingly, these devices are not being made the subject of device classification regulations. These three devices are the alpha-1-fetoprotein, the Tennessee antigen, and the tissue polypeptide antigen immunological test systems when each is used as an aid in the detection and management of cancer.

Relevant notices were published in the **Federal Register** of April 27, 1973 (38 FR 10488) and September 5, 1980 (45 FR 58964). If FDA approves a premarket approval application for an investigational transitional device, the agency will publish a final classification regulation describing the device's statutory classification into class III.

As explained above, class III transitional devices that were previously considered new drugs are subject now to premarket approval.

Orders Issued in Response to Reclassification Petitions on Immunology Devices

In addition to classifying commercially marketed preamendments devices and issuing regulations describing the statutory classification of transitional devices, FDA also announces its decisions on reclassification petitions for devices first marketed after the enactment date of the amendments. Postamendments devices that are not substantially equivalent to devices marketed before the amendments are classified by statute into class III by action of section 513(f)(1) of the act without FDA rulemaking. In response to a petition received by FDA under section 513(f)(2) of the act and 21 CFR Part 860 of the regulations, FDA may reclassify a new device into class I or class II. The agency has received two such petitions concerning immunology devices. FDA is announcing the agency's decisions on the petitions. FDA also is issuing final regulations that describe the agency's reclassification of the devices that were subject of the petitions.

Petition 77P-0337; § 866.5240; Docket No. 78N-2235; Complement components immunological test system.

On June 28, 1977, FDA received petition 77P-0337 under section 513(f) of the act requesting that the agency reclassify the petitioner's "FIAX™ test kit for C3" from class III to class II. In the **Federal Register** (43 FR 5071) of February 7, 1978, FDA published the recommendation of the Immunology Device Section of the Immunology and Microbiology Devices Panel that the device be reclassified from class III to class II. The agency provided a period of 30 days for interested persons to submit written comments on the recommendation. No comments were received. FDA agreed with the panel's recommendation that the device be reclassified. In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter dated March 24, 1978 and sent to the petitioner, reclassified the device from class III to class II. Based upon additional findings of the panel, FDA advises that the device should be used in conjunction with other methods of diagnosis, such as observation of symptoms and examination of the patient's medical history.

FDA advises that the test kit for C3 reclassified into class II in response to the petition is included in the generic type of device in this final rule identified in § 866.5240 Complement components immunological test system (Docket No. 78N-2235). Accordingly, FDA announces the agency's decision on reclassification petition 77P-0337 as provided in 21 CFR 860.134(b)(7).

Petition 77P-0339; § 866.5100; Docket No. 78N-2225; Anti-nuclear antibody immunological test system.

On July 18, 1977, FDA received petition 77P-0339 under section 513(f) of the act requesting that the agency reclassify the petitioner's "FIAX ™ anti-DNA antibody test" from class III to class II. In the **Federal Register** of February 3, 1978 (43 FR 4680), FDA published the recommendation of the Immunology Device Section of the Immunology and Microbiology Devices Panel that the device be reclassified from class III to class II. The agency provided a period of 30 days for interested persons to submit written comments on the recommendation. The one comment received stated that the data used to support the petitioner's claim that its device was substantially equivalent to another manufacturer's commercially marketed preamendments anti-DNA antibody test kit shows that the petitioner's results were expressed in percent binding, while the preamendments device's results were reported in units of anti-DNA binding activity per milliliter. The comment said that because of the difference in the method used to report the test results from the petitioner's device, the petitioner had not demonstrated its device was substantially equivalent to the commercially marketed preamendments device.

FDA partially agrees with the comment. FDA agrees that the petitioner modified the method of reporting test results. However, FDA believes that the data submitted by the petitioner provided ample evidence that its device can discriminate between the disease and non-disease population and that this minor alteration does not significantly affect the clinical equivalence of its test results when compared with the results obtained using the preamendments device. Thus, FDA agreed with the panel's recommendation that the device be reclassified.

In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter dated April 12, 1978, and sent to the petitioner, reclassified the device from class III to class II. Based upon additional findings of the panel, FDA advises that the device should be used in conjunction with other methods of diagnosis, such as observation of symptoms, and examination of the patient's medical history.

FDA advises that the anti-DNA antibody test system reclassified into class II in response to the petition is included in the generic type of device in this final rule identified in § 866.5100 Anti-nuclear antibody immunological test system (Docket No. 78N-2225).

Accordingly, FDA announces the agency's decision on reclassification petition 77P–0339 as provided in 21 CFR 860.134(b)(7).

Related Regulations

In the **Federal Register** of September 7, 1982 (47 FR 39155), FDA amended the antibiotic drug and new animal drug regulations to exempt all classes of antibiotic drugs and antibiotic susceptibility devices from batch certification requirements. Certain devices identified in this final regulation to classify immunology and microbiology devices are antibiotic susceptibility devices: § 866.1620 Antimicrobial susceptibility test disc (Docket No. 78N–2114) and § 866.1640 Antimicrobial susceptibility test powder (Docket No. 78N–2115).

In a final report submitted to FDA by the Panel on Review of Blood and Blood Derivatives, the advisory panel questioned the value of the serological test for syphilis as a routine screening test for potential blood donors. The serological test for syphilis is included in the generic type of device identified in § 866.3820 *Treponema pallidum* nontreponemal test reagents. In the **Federal Register** of November 21, 1980 (45 FR 77134), FDA announced the availability of that panel report.

List of Immunology and Microbiology Devices and an Identification of Those Proposed Classification Regulations That Received Public Comments

The following is a list of immunology and microbiology devices being classified in this final regulation. The list shows the section of the Code of Federal Regulations under which the device classification is being codified, the docket number of the proposed classification regulation, the classification of each device, and a statement (yes or no) whether public comments were received on the proposed classification regulation. If no comments were received, the device is being classified as proposed.

Section	Device	Docket No.	Class	Comments
	Subpart B.—Diagnostic Devices			
866.1620	Antimicrobial susceptibility test disc	78N–2114	II	Yes.
866.1640	Antimicrobial susceptibility test powder	78N–2115	II	Yes.
866.1700	Culture medium for antimicrobial susceptibility tests	78N–2117	II	No.
	Subpart C—Microbiology Devices			
866.2050	Staphylococcal typing bacteriophage	78N–2118	I	Yes.
866.2120	Anaerobic chamber	78N–2119	I	No.
866.2160	Coagulase plasma	78N–2121	II	No.
866.2170	Automated colony counter	78N–2122	I	No
866.2180	Manual colony counter	78N–2123	I	No.
866.2300	Multipurpose culture medium	78N–2124	I	Yes.
866.2320	Differential culture medium	78N–2125	I	Yes.
866.2330	Enriched culture medium	78N–2126	I	Yes.
866.2350	Microbiological assay culture medium	78N–2127	I	Yes.
866.2360	Selective culture medium	78N–2128	I	Yes.
866.2390	Transport culture medium	78N–2129	I	Yes.
866.2410	Culture medium for pathogenic *Neisseria* spp.	78N–2130	II	No.
866.2420	Oxidase screening test for gonorrhea	81N–0103	III	(1)
866.2440	Automated medium dispensing and stacking device	78N–2131	I	No.
866.2450	Supplement for culture media	78N–2132	I	Yes.
866.2480	Quality control kit for culture media	78N–2133	I	Yes.
866.2500	Microtiter diluting and dispensing device	78N–2134	I	No.
866.2540	Microbiological incubator	78N–2135	I	No.
866.2560	Microbial growth monitor	78N–2136	I	No.
866.2580	Gas-generating device	78N–2137	I	No.
866.2600	Wood's fluorescent lamp	78N–2138	I	No.
866.2660	Microorganism differentiation and identification device	78N–2139	I	No.
866.2850	Automated zone reader	78N–2140	I	No.
866.2900	Microbiological specimen collection and transport device	78N–2141	I	No.
	Subpart D—Serological Reagents			
866.3010	*Acinetobacter calcoaceticus* serological reagents	78N–2281	I	No.
866.3020	Adenovirus serological reagents	78N–2142	I	No.
866.3035	*Arizona* spp. serological reagents	78N–2143	I	Yes.
866.3040	*Aspergillus* spp. serological reagents	78N–2144	I	Yes.
866.3060	*Blastomyces dermatitidis* serological reagents	78N–2145	II	No.
866.3065	*Bordetella* spp. serological reagents	78N–2146	I	No.
866.3085	*Brucella* spp. serological reagents	78N–2147	II	No.
866.3110	*Campylobacter fetus* serological reagents	78N–2149	I	Yes.
866.3120	Chlamydia serological reagents	78N–2150	I	No.
866.3125	*Citrobacter* spp. serological reagents	78N–2151	I	No.
866.3135	*Coccidioides immitis* serological reagents	78N–2152	II	No.
866.3140	*Corynebacterium* spp. serological reagents	78N–2153	I	Yes.
866.3145	Coxsackievirus serological reagents	78N–2154	I	No.
866.3165	*Cryptococcus neoformans* serological reagents	78N–2156	II	Yes.
866.3175	Cytomegalovirus serological reagents	78N–2157	II	Yes.
866.3200	*Echinococcus* spp. serological reagents	78N–2158	I	No.
866.3205	Echovirus serological reagents	78N–2159	I	No.
866.3220	*Entamoeba histolytica* serological reagents	78N–2160	II	No.
866.3235	Epstein-Barr Virus Serological reagents	78N–2162	I	No.
866.3240	Equine encephalomyelitis virus serological reagents	78N–2163	I	No.
866.3250	*Erysipelothrix rhusiopathiae* serological reagents	78N–2164	I	No.
866.3255	*Escherichia coli* serological reagents	78N–2165	I	No.
866.3270	*Flavobacterium* spp. serological reagents	78N–2166	I	No.
866.3280	*Francisella tularensis* serological reagents	78N–2167	II	No.
866.3290	Gonococcal antibody test (GAT)	81N–0103	III	(1)
866.3300	*Haemophilus* spp. serological reagents	78N–2169	II	Yes.
866.3305	Herpes simplex virus serological reagents	78N–2170	III	Yes.
866.3320	*Histoplasma capsulatum* serological reagents	78N–2173	II	No.
866.3330	Influenza virus serological reagents	78N–2174	I	No.
866.3340	*Klebsiella* spp. serological reagents	78N–2175	I	No.
866.3350	*Leptospira* spp. serological reagents	78N–2176	II	No.

Section	Device	Docket No.	Class	Comments
866.3355	*Listeria* spp. serological reagents	78N-2177	I	No.
866.3360	Lymphocytic choriomeningitis virus serological reagents	78N-2178	I	No.
866.3370	*Mycobacterium tuberculosis* immunofluorescent reagents	78N-2179	I	No.
866.3375	*Mycoplasma* spp. serological reagents	78N-2180	I	No.
866.3380	Mumps virus serological reagents	78N-2181	I	No.
866.3390	*Neisseria* spp. direct serological test reagents	78N-2182	II	No.
866.3400	Parainfluenza virus serological reagents	78N-2183	I	No.
866.3405	Poliovirus serological reagents	78N-2184	I	No.
866.3410	*Proteus* spp. (Weil-Felix) serological reagents	78N-2185	I	No.
866.3415	*Pseudomonas* spp. serological reagents	78N-2186	II	No.
866.3460	Rabiesvirus immunofluorescent reagents	78N-2187	II	No.
866.3470	Reovirus serological reagents	78N-2188	I	No.
866.3480	Respiratory syncytial virus serological reagents	78N-2189	I	No.
866.3490	Rhinovirus serological reagents	78N-2190	I	No.
866.3500	Rickettsia serological reagents	78N-2191	I	No.
866.3510	Rubella virus serological reagents	78N-2192	III	Yes.
866.3520	Rubeola (measles) virus serological reagents	78N-2193	I	No.
866.3550	*Salmonella* spp. serological reagents	78N-2194	II	No.
866.3600	*Schistosoma* spp. serological reagents	78N-2197	I	No.
866.3630	*Serratia* spp. serological reagents	78N-2198	I	No.
866.3660	*Shigella* spp. serological reagents	78N-2199	II	No.
866.3680	*Sporothrix schenckii* serological reagents	78N-2200	I	No.
866.3700	*Staphylococcus aureus* serological reagents	78N-2201	I	No.
866.3720	*Streptococcus* spp. exoenzyme reagents	78N-2202	II	Yes.
866.3740	*Streptococcus* spp. serological reagents	78N-2203	I	Yes.
866.3780	*Toxoplasma gondii* serological reagents	78N-2204	II	Yes.
866.3820	*Treponema pallidum* nontreponemal test reagents	78N-2206	II	No.
866.3830	*Treponema pallidum* treponemal test reagents	78N-2207	II	No.
866.3850	*Trichinella spiralis serological reagents*	78N-2208	I	No.
866.3870	*Trypanosoma* spp. serological reagents	78N-2209	I	No.
866.3900	Varicella-zoster virus serological reagents	78N-2210	II	Yes.
866.3930	*Vibrio cholerae* serological reagents	78N-2211	II	No.
	Subpart E.—Immunology Laboratory Equipment and Reagents			
866.4100	Complement reagent	78N-2212	I	No.
866.4500	Immunoelectrophoresis equipment	78N-2213	I	No.
866.4520	Immunofluorometer equipment	78N-2214	I	No.
866.4540	Immunonephelometer equipment	78N-2215	I	No.
866.4600	Ouchterlony agar plate	78N-2216	I	No.
866.4800	Radial immunodiffusion plate	78N-2217	I	No.
866.4830	Rocket immunoelectrophoresis equipment	78N-2218	I	No.
866.4900	Support gel	78N-2219	I	No.
	Subpart F.—Immunological Test Systems			
866.5040	Albumin immunological test system	78N-2220	II	No.
866.5060	Prealbumin immunological test system	78N-2221	I	No.
866.5065	Human allotypic marker immunological test system	78N-2222	I	Yes.
866.5080	*Alpha*-1-antichymotrypsin immunological test system	78N-2223	II	No.
866.5090	Antimitochondrial antibody immunological test system	78N-2224	II	No.
866.5100	Antinuclear antibody immunological test system	78N-2225	II	No.
866.5110	Antiparietal antibody immunological test system	78N-2226	II	No.
866.5120	Antismooth muscle antibody immunological test system	78N-2227	II	No.
866.5130	*Alpha*-1-antitrypsin immunological test system	78N-2228	II	No.
866.5150	Bence-Jones proteins immunological test system	78N-2229	II	No.
866.5160	*Beta*-globulin immunological test system	78N-2284	I	No.
866.5170	Breast milk immunological test system	78N-2230	I	No.
866.5200	Carbonic anhydrase B and C immunological test system	78N-2231	I	No.
866.5210	Ceruloplasmin immunological test system	78N-2232	II	No.
866.5220	Cohn fraction II immunological test system	78N-2233	I	No.
866.5230	Colostrum immunological test system	78N-2234	I	No.
866.5240	Complement components immunological test system	78N-2235	II	No.
866.5250	Complement C_1 inhibitor (inactivator) immunological test system	78N-2236	II	No.
866.5260	Complement C_{3b} inactivator immunological test system	78N-2237	II	No.
866.5270	C-reactive protein immunological test system	78N-2238	II	Yes.
866.5320	Properdin factor B immunological test system	78N-2239	II	No.
866.5330	Factor XIII, A, S, immunological test system	78N-2240	I	No.
866.5340	Ferritin immunological test system	78N-2241	II	No.
866.5350	Fibrinopeptide A immunological test system	78N-2242	II	No.
866.5360	Cohn fraction IV immunological test system	78N-2243	I	No.
866.5370	Cohn fraction V immunological test system	78N-2244	I	No.
866.5380	Free secretory component immunological test system	78N-2245	II	No.
866.5400	*Alpha*-globulin immunological test system	78N-2246	I	No.
866.5420	*Alpha*-1-glycoproteins immunological test system	78N-2247	I	No.
866.5425	*Alpha*-2-glycoproteins immunological test system	78N-2248	I	No.
866.5430	*Beta*-2-glycoprotein I immunological test system	78N-2249	I	No.
866.5440	*Beta*-2-glycoprotein III immunological test system	78N-2250	I	No.
866.5460	Haptoglobin immunological test system	78N-2251	II	No.
866.5470	Hemoglobin immunological test system	78N-2252	II	No.
866.5490	Hemopexin immunological test system	78N-2254	II	No.
866.5500	Hypersensitivity pneumonitis immunological test system	78N-2255	II	No.
866.5510	Immunoglobulins A, G, M, D, and E immunological test system	78N-2256	II	No.
866.5520	Immunoglobulin G (Fab fragment specific) immunological test system	78N-2257	II	Yes.
866.5530	Immunoglobulin G (Fc fragment specific) immunological test system	78N-2258	II	No.
866.5540	Immunoglobulin G (Fd fragment specific) immunological test system	78N-2283	I	No.
866.5550	Immunoglobulin (light chain specific) immunological test system	78N-2259	II	No.
866.5560	Lactic dehydrogenase immunological test system	78N-2260	I	No.
866.5570	Lactoferrin immunological test system	78N-2261	I	No.
866.5580	*Alpha*-1-lipoprotein immunological test system	78N-2262	II	No.
862.5590	Lipoprotein X immunological test system	78N-2263	I	No.
862.5600	Low-density lipoprotein immunological test system	78N-2264	II	No.
866.5620	*Alpha*-2-macroglobulin immunological test system	78N-2265	II	No.
866.5630	*Beta*-2-microglobulin immunological test system	78N-2266	II	No.

Section	Device	Docket No.	Class	Comments
866.5640	Infectious mononucleosis immunological test system	78N-2267	II	No.
866.5660	Multiple autoantibodies immunological test system	78N-2268	II	No.
866.5680	Myoglobin immunological test system	78N-2269	II	No.
866.5700	Whole human plasma or serum immunological test system	78N-2270	I	No.
866.5715	Plasminogen immunological test system	78N-2271	I	No.
866.5735	Prothrombin immunological test system	78N-2272	I	No.
866.5750	Radioallergosorbent (RAST) immunological test system	78N-2273	II	No.
866.5765	Retinol-binding protein immunological test system	78N-2274	I	No.
866.5775	Rheumatoid factor immunological test system	78N-2275	II	No.
866.5800	Seminal fluid (sperm) immunological test system	78N-2276	I	No.
866.5820	Systemic lupus erythematosus immunological test system	78N-2277	II	No.
866.5860	Total spinal fluid immunological test system	78N-2278	II	Yes.
866.5870	Thyroid autoantibody immunological test system	78N-2279	II	No.
866.5880	Transferrin immunological test system	78N-2280	II	No.
866.5890	Inter-*alpha* trypsin inhibitor immunological test system	78N-2281	I	No.
	Subpart G—Tumor Associated Antigen Immunological Test Systems			
866.6010	Carcinoembryonic antigen (CEA) immunological test system as an aid in the detection and management of cancer		III	(1)

[1] Not proposed; statutory classification.

Summaries of Comments and FDA's Responses to Comments

1. Section 866.1620; Docket No. 78N–2114 (45 FR 27211); Antimicrobial susceptibility test disc; proposed class II.

Section 866.1640; Docket No. 78N–2115 (45 FR 27213); Antimicrobial susceptibility test powder; proposed class II.

Section 866.2050; Docket No. 78N–2118 (45 FR 27215); Staphylococcal typing bacteriophage; proposed class I.

Section 866.2300; Docket No. 78N–2124 (45 FR 27219); Multipurpose culture media; proposed class I.

Section 866.2320; Docket No. 78N–2125 (45 FR 27220); Differential culture media; proposed class I.

Section 866.2330; Docket No. 78N–2126 (45 FR 27221); Enriched culture media; proposed class I.

Section 866.2350; Docket No. 78N–2127 (45 FR 27222); Microbiological assay culture media; proposed class I.

Section 866.2360; Docket No. 78N–2128 (45 FR 27223); Selective culture media; proposed class I.

Section 866.2390; Docket No. 78N–2129 (45 FR 27223); Transport culture media; proposed class I.

Section 866.2450; Docket No. 78N–2132 (45 FR 27227); Supplement for culture media; proposed class I.

Section 866.2480; Docket No. 78N–2133 (45 FR 27227); Quality control kit for culture media; proposed class I.

Section 866.3035; Docket No. 78N–2143 (45 FR 27236); *Arizona* spp. serological reagents; proposed class I.

Section 866.3040; Docket No. 78N–2144 (45 FR 27237); *Aspergillus* spp. serological reagents; proposed class I.

Section 866.3110; Docket No. 78N–2149 (45 FR 27241); *Campylobacter fetus* serological reagents; proposed class I.

Section 866.3740; Docket No. 78N–2203 (45 FR 27286); *Streptococcus* spp. serological reagents; proposed class I.

On the proposals concerning the devices listed above, FDA received comments arguing that, because of the devices' clinical importance, those devices proposed for classification into class I should instead be classified into class II, and those devices proposed for classification into class II should instead be classified into class III. No additional data were provided in support of the comments.

FDA disagrees with the comments. The agency believes that the proposed regulations to classify those devices provided adequate support for their proposed classifications. Accordingly, the proposed regulations are being adopted as proposed, sometimes with minor clarifying changes.

2. Section 866.2300; Docket No. 78N–2124; Multipurpose culture media; proposed class I.

Section 866.2320; Docket No. 78N–2125; Differential culture media; proposed class I.

Section 866.2330; Docket No. 78N–2126; Enriched culture media; proposed class I.

Section 866.2360; Docket No. 78N–2128; Selective culture media; proposed class I.

Section 866.2390; Docket No. 78N–2129; Transport culture media; proposed class I.

In addition to the comments described above requesting that the classifications of the devices above be upgraded from those proposed due to the clinical importance of these devices, comments also suggested that the "ready to use" media listed above be classified into class II but that dried media products be in class I. No additional data were provided in support of this position.

FDA disagrees with the comments. The agency believes, however, that manufacturers, through improved labeling of these devices, should provide more information to users regarding the performance characteristics of the devices. Accordingly, except where other comments described below justified changes, the proposed regulations on the devices listed above are being adopted as proposed, sometimes with minor clarifying changes.

3. Section 866.2480; Docket No. 78N–2133; Quality control kit for culture media.

FDA published in the **Federal Register** (45 FR 27227) a proposed regulation to classify quality control kit for culture media into class I.

A comment requested that the identification of the device be expanded to include materials other than paper discs that are capable of serving as vehicles for lyophilized quality control organisms.

FDA agrees with the comment. The agency is broadening the identification of the device to include materials other than paper discs that are suitable as vehicles for lyophilized quality control organisms. Accordingly, the proposed regulation is being adopted with the necessary clarification in the identification of the device.

4. Section 866.3140; Docket No. 78N–2153; *Corynebacterium* spp. serological reagents.

FDA published in the **Federal Register** (45 FR 27244) a proposed regulation to classify *Corynebacterium* spp. serological reagents into class I. One comment was received on the proposal. The comment requested that the device be classified into class II instead of class I because of the need to differentiate the clinically important *Corynebacterium diphtheriae* from other nonpathogenic cornyeforms.

FDA disagrees with the comment. The agency recognizes the importance of being able to differentiate *Corynebacterium diphtheriae* from nonpathogenic coryneforms. However, the agency also recognizes that the

diagnosis of disease caused by *Corynebacterium diphtheriae* more often depends upon diagnostic methods other than use of serological reagents, such as culture isolation, biochemical characterization, toxigenicity tests, and morphological examination. The agency believes that general controls for the device are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Accordingly, the proposed regulation is being adopted with a minor clarifying change.

5. Section 866.3165; Docket No. 78N-2156; *Cryptococcus neoformans* serological reagents.

FDA published in the Federal Register (45FR 27246) a proposed regulation to classify *Cryptococcus neoformans* serological reagents into class II. One comment was received on the proposal. The comment recommended that the device be classified into class I. The comment noted that the recommendation of the device advisory panel that the device be classified into class II was based on a published report of unsatisfactory performance with some of these devices. The problems with these devices developed because users were required to perform a preliminary step on the applicable reagents before performing the test, i.e., the sensitization of the latex particles with *Cryptococcus neoformans* antibody. The comment noted that the current manufacturing procedures for this device have been modified to provide users with presensitized latex particles, thereby reducing the variability described in the report.

FDA partially agrees with the comment. With regard to the cited study, FDA agrees that the availability of completely manufactured reagents should reduce the observed variability of test results. However, because of the frequent reliance upon these serologic test results and the serious risk to health resulting from a misdiagnosis of cryptococcosis, FDA believes that a performance standard is necessary to assure the safety and effectiveness of these devices.

In addition, FDA notes that the identification in the proposed regulation for these devices stated that *Cryptococcus neoformans* serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Cryptococcus neoformans* antibodies in serum. The words "and antisera" are erroneous and are deleted in the final rule. Accordingly, the proposed regulation is being adopted with this correction and minor clarifying changes.

6. Section 866.3175; Docket No. 78N-2157; Cytomegalovirus serological reagents.

FDA published in the Federal Register (45 FR 27248) a proposed regulation to classify cytomegalovirus serological reagents into class I. Two comments were received on the proposal. One comment requested that the device be classified into class III instead of class I based on the potential for fetal damage should infection with this virus occur during pregnancy. The second comment requested, for the same reasons, that the device be classified into class II instead of class I.

FDA partially agrees that the device should be more stringently regulated than had been proposed, but believes that performance standards, rather than premarket approval, will offer sufficient additional controls. On July 7, 1980, the agency had the comments considered by the Microbiology Device Section of the Immunology and Microbiology Devices Panel. The Section recommended that the device be classified into class II. The agency agrees with this recommendation.

Infection of humans with congenitally acquired cytomegalovirus is prevalent, but often asymptomatic. Because the antibody to this disease is often found in the general population, the diagnosis of the disease and its precise time of acute infection cannot always be established by serologic testing alone. Often other methods are used to provide a definitive diagnosis of cytomegalovirus infection. In cases where cytomegalovirus infection is diagnosed during pregnancy, it has been found that more than 95 percent of newborns that may have been infected in utero have no apparent disease at birth (Refs. 1, 2, and 3). The agency believes that general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device, but that premarket approval is not necessary to provide this assurance. Rather, performance standards are necessary to control the risks to health presented by the device and to assure the device has the desired sensitivity, specificity, and reproducibility. The agency believes that performance standards would provide resonable assurance of the safety and effectiveness of these devices. FDA also believes that sufficient reference materials, performance specifications, and evaluation methods are available to establish a performance standard for the device (Ref. 4).

Accordingly, FDA is changing the proposed regulation for cytomegalovirus serological reagents to reflect the change in classification from class I to class II and to make a minor clarifying change. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision.

7. Section 866.3300; Docket No. 78N-2169; *Haemophilus* spp. serological reagents.

FDA published in the Federal Register (45 FR 27257) a proposed regulation to classify *Haemophilus* spp. serological reagents into class I. One comment was received on the proposal. The comment requested that classification of the devices be changed from class I to class II based on the clinical importance of detecting *Haemophilus influenzae* in cases of infant meningitis.

FDA agrees with the comment. The agency believes that the *Haemophilus* spp. serological reagents identified in the proposed regulation should be classified into class II. The agency believes that performance standards are needed to assure that the devices have the necessary sensitivity, specificity, and reproducibility to detect *Haemophilus influenzae* accurately in cases of infant meningitis. The agency believes that performance standards will provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information to establish a performance standard for these devices.

Accordingly, FDA is changing the proposed regulation for *Haemophilus* spp. serological reagents to reflect the change in classification from class I to class II and to make a minor clarifying change. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision.

8. Section 866.3305; Docket No. 78N-2170; Herpes simplex virus serological reagents.

FDA published in the Federal Register (45 FR 27258) a proposed regulation to classify herpes simplex virus serological reagents into class II. Three comments were received on the proposal. All three comments expressed concern about the risks to the health of newborn infants that are associated with infection with the herpes simplex virus. Two comments requested that class III controls be applied to this device because of these risks to health and because medical practitioners rely upon the accuracy of the test results to make important clinical decisions, such as whether or not to perform a cesarean section delivery of an infant. The third comment urged that, before performance

standards are established, clinical data be obtained that compares the sensitivity and specificity of herpes simplex virus serological reagents with the accuracy of diagnosis of the infection by viral culture.

FDA agrees with the comments. On July 7, 1980, the agency had these comments considered by the Microbiology Device Section of the Immunology and Microbiology Devices Panel. The Section recommended that the direct fluorescent antibody reagents, as well as all reagents employed in more recently developed laboratory methods (e.g., enzyme immunoassays) of testing for herpes simplex virus antibodies in a patient's serum, be classified in class III. The agency agrees with this recommendation. FDA believes that, until performance standards are established and in effect for these devices, they should be classified into class III to control the risks to health that may result if these devices lack certain attributes, such as sensitivity specificity, or reproducibility.

The agency believes that the herpes simplex virus serological reagents are purported or represented to be for a use (detection of herpes simplex virus or its antibodies in specimens) which is of substantial importance in preventing impairment of human health. The agency believes that these devices present a potential unreasonable risk of illness or injury because failure to identify the virus or its antibodies may result in a serious risk to the health of the newborn infant. Incorrectly identifying the presence of herpes simplex virus may also cause a practitioner to perform an unnecessary cesarean section delivery of an infant. Premarket approval is necessary for the device because general controls and performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also believes that there is insufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Accordingly, FDA is changing the proposed regulation for herpes simplex virus serological reagents to reflect the change in classification from class II to class III and to make a minor clarifying change. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision.

9. Section 866.3510; Docket No. 78N–2192; Rubella virus serological reagents.

FDA published in the **Federal Register** (45 FR 27277) a proposed regulation to classify rubella virus serological reagents into class II. Two comments were received on the proposal. Both comments requested that the classification of the device be changed from class II to class III. The requests were based on the risks to the health of the developing fetus that are associated with infections with this virus. Because irreversible medical decisions are often made on the basis of the diagnostic information derived from the use of this device, the comments suggested classification of the device into class III.

FDA agrees with the comments. Serological testing for rubella virus antibodies is often the only method available to diagnose a current rubella virus infection. A laboratory test showing a significant increase in rubella virus antibodies in serum in the first 10 weeks of pregnancy usually is associated with fetal infection. Additionally, on July 7, 1980, the agency had these comments considered by the Microbiology Device Section of the Immunology and Microbiology Devices Panel. The Section recommended that all reagents employed in the more recently developed laboratory methods for testing for rubella virus be classified into class III. The agency agrees with this recommendation and FDA is classifying into class III all of the rubella virus serological reagents, because the newer methods are based on the older methods. FDA believes that, until performance standards are established and in effect for these devices, they should be classified into class III to control the risks to health that may result if these devices lack certain attributes, such as sensitivity, specificity or reproducibility.

The agency believes that the rubella virus serological reagents are purported or represented to be for a use (identification of rubella virus antibodies in serum) which is of substantial importance in preventing impairment of human health. The agency believes that this device presents a potential unreasonable risk of illness or injury because of the serious therapeutic consequences that can follow inaccurate diagnosis. Premarket approval is necessary for the device because general controls and performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA also believes that there is insufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Accordingly, FDA is changing the proposed regulation for rubella virus serological reagents to reflect the change in classification from class II to class III and to make minor clarifying changes. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision.

10. Section 866.3720; Docket No. 78N–2202; *Streptococcus* spp. exoenzyme reagents.

FDA published in the **Federal Register** (45 FR 27286) a proposed regulation to classify *Streptococcus* spp. exoenzyme reagents into class II. One comment was received on the proposal. The comment requested that this device be classified into class I instead of class II. The request for change in classification was based on alleged misinterpretation by the reviewing Panel of test results published in the scientific articles cited in support of the proposed classification regulation for the device.

FDA disagrees with the comment. The agency has reviewed the scientific articles in question. FDA believes that the conclusions reached by the Panel and cited in the proposed regulation are valid, particularly those conclusions that suggest that the device lacks adequate sensitivity and has excessive lot-to-lot variations in performance. Therefore, the agency believes that performance standards are necessary to assure the safety and effectiveness of the device. Accordingly, the proposed regulation is being adopted without change.

11. Section 866.3780; Docket No. 78N–2204; *Toxoplasma gondii* serological reagents.

FDA published in the **Federal Register** (45 FR 27287) a proposed regulation to classify *Toxoplasma gondii* serological reagents into class II. One comment was received on the proposal. The comment requested that the device be classified into class III instead of class II because of the potential for fetal damage should infection with *Toxoplasma gondii* occur during pregnancy.

FDA disagrees with the comment. On July 7, 1980, the agency had the comment considered by the Microbiology Device Section of the Immunology and Microbiology Devices Panel. The Section recommended that the device be classified into class II as proposed. Congenitally acquired *Toxoplasma gondii* is prevalent, but that condition is often asymptomatic. Because the antibody to this disease is often found in the general population, the diagnosis of the disease and its precise time of acute infection cannot always be established by serologic testing alone. Often other methods are used to provide a definitive diagnosis of acute toxoplasmosis. The agency believes that the data and views presented in the proposed regulation for

these devices adequately support their classification into class II. The agency also believes that performance standards would provide reasonable assurance of the safety and effectiveness of the device. FDA believes that sufficient reference materials, performance specifications, and evaluation methods are available to establish performance standards for these devices. Accordingly, the proposed regulation is being adopted with minor clarifying changes.

12. Section 866.3900; Docket No. 78N–2210; Varicella-zoster virus serological reagents.

FDA published in the **Federal Register** (45 FR 27293) a proposed regulation to classify varicella-zoster serological reagents into class I. One comment was received on the proposal. The comment requested that the device be classified into class III instead of class I because of the potential for fetal damage should infection with varicella-zoster virus occur during pregnancy.

FDA disagrees with the comment. On July 7, 1980, the agency had the comment considered by the Microbiology Device Section of the Immunology and Microbiology Devices Panel. The Section recommended that the device be classified into class II. FDA agrees with the recommendation. Although there is a potential risk to the fetus should infection with the varicella-zoster virus occur during pregnancy, in many cases there is no injury to the fetus due to a diagnosis of varicella-zoster virus infection during pregnancy. The agency believes that performance standards would provide reasonable assurance of the safety and effectiveness of the device and assure that the device has the desired sensitivity, specificity, and reproducibility. The agency also believes that sufficient reference materials, performance specifications, and evaluation methods are available to establish performance standards for these devices (Ref. 4).

Accordingly, FDA is changing the proposed regulation for varicella-zoster virus serological reagents to reflect the change in classification from class I to class II and to make a clarification in the name and identification of the device. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision.

13. Section 866.5065; Docket No. 78N–2222; Human allotypic marker immunological test system.

FDA published in the **Federal Register** (45 FR 27302) a proposed regulation to classify the human allotypic marker immunological test system into class I. One comment was received on the proposal. The comment stated that the majority of immunoglobulin allotypic reagents are used in forensic medicine and paternity testing and errors caused by incorrect specificity may be of legal significance. The comment suggested classification of the device into class II to provide a performance standard to reduce the chance of errors.

FDA disagrees with this comment. The agency believes that the data included in the proposed regulation and the intended use of the device supports classification into class I. Accordingly, the proposed regulation is being adopted with a minor clarifying change.

14. Section 866.5270; Docket No. 78N–2238; C-reactive protein immunological test system.

FDA published in the **Federal Register** (45 FR 27318) a proposed regulation to classify the C-reactive protein immunological test system into class II. One comment was received on the proposal. The comment alleged that tests for C-reactive protein are of little clinical usefulness and are rarely used in diagnosis of diseases. Therefore, the comment urged that C-reactive protein immunological test systems be in class I instead of class II.

FDA disagrees with this comment. The agency believes that tests for C-reactive protein measurement aid in the evaluation of the amount of injury to body tissues. FDA believes that a performance standard, that prescribes for this device acceptable ranges of accuracy, stability, precision, sensitivity, and specificity, is necessary to minimize any inaccurate diagnostic information. The agency believes that the intended use of the device supports its classification into class II. Accordingly, the proposed regulation is being adopted with minor clarifying changes.

15. Section 866.5520; Docket No. 78N–2257; Immunoglobulin G (Fab fragment specific) immunological test system.

FDA published in the **Federal Register** (45 FR 27336) a proposed regulation to classify the immunoglobulin G (Fab fragment specific) immunological test system into class II. One comment was received on the proposal. The comment suggested that an equally important and related device, the $F(ab')_2$, used in lymphocyte subpopulation identification, also be classified by FDA.

FDA disagrees with this comment. The agency believes that $F(ab')_2$ has been used only for research purposes and that the safety and effectiveness of the device in the diagnosis or treatment of human disease has not been established. Therefore, the classification of $F(ab')_2$ is inappropriate at this time. Because the comment did not address the proposed regulation to classify the immunoglobulin G (Fab fragment specific) immunological test system, the proposed regulation is being adopted with a minor clarifying change.

16. Section 866.5860; Docket No. 78N–2278; Total spinal fluid immunological test system.

FDA published in the **Federal Register** (45 FR 27356) a proposed regulation to classify the total spinal fluid immunological test system into class I. One comment was received on the proposal. The comment suggested that the device be classified into class II instead of class I because the sampling of spinal fluid alone involves significant patient risk and because this device is used in the diagnosis of various diseases of the nervous system, including multiple sclerosis, in addition to the uses of the device described in the proposed regulation.

FDA agrees with the comment. Although the agency believes that the risks to patients from collection of samples of spinal fluid alone would not be a basis for a change in the classification of the device, FDA agrees that measurement of spinal fluid proteins by immunochemical techniques has proven useful as an aid in the diagnosis of multiple sclerosis. Ratios of serum immunoglobulin I_gG and spinal fluid immunoglobulin I_gG in association with albumin levels may be important in diagnosis of other diseases of the nervous system. The agency believes that performance standards are necessary to assure the safety and effectiveness of the device and to assure the device has the desired sensitivity, specificity, and reproducibility. The agency also believes that there is sufficient information to establish a performance standard for these devices.

Accordingly, FDA is changing the proposed regulation for the total spinal fluid immunological test system to reflect the change in classification from class I to class II and to make a minor clarifying change. For the reasons discussed above in "Changes in Classification in Final Regulations," FDA has decided that it is unnecessary to issue a new proposal concerning this decision.

References

The following information has been placed in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Melish, M. E. and J. B. Hanshaw, "Congenital Cytomegalovirus Infection: Developmental Progess of Infants Detected by Routine Screening," *American Journal of Diseases in Children*, 126:190–194, 1973.

2. Reynolds, D. W., et al., "Inapparent Congenital Cytomegalovirus Infection With Elevated Cord I_gM Levels, "*New England Journal of Medicine*, 290:219–296, 1974.

3. Starr, J. B., R. D. Bart, and E. Gold, "Inapparent Congenital Cytomegalovirus Infection," *New England Journal of Medicine*, 282:1075–1077, 1970.

4. "Specifications and Evaluation Methods for Immunological and Microbiological Reagents, "Vol. 2, 4th Ed., Center for Desease Control, Public Health Service, Department of Health and Human Services, BIII–1–11, 1974.

List of Subjects in 21 CFR Part 866

Immunology and microbiology devices, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 520(1), 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 360j(1), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 866, to read as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

Subpart A—General Provisions

Subpart B—Diagnostic Devices

Subpart C—Microbiology Devices

Subpart D—Serological Reagents

Subpart E—Immunology Laboratory Equipment and Reagents

Subpart F—Immunological Test Systems

Authority: Secs. 513, 520(1), 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 360j(1), 371(a)).

Subpart A—General Provisions

§ 866.1 Scope.

(a) This part sets forth the classification of immunology and microbiology devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 cannot show merely that the device is accurately described by the section title and identification provisions of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

Subpart B—Diagnostic Devices

§ 866.1620 Antimicrobial susceptibility test disc.

(a) *Identification.* An antimicrobial susceptibility test disc is a device that consists of antimicrobic-impregnated paper discs used to measure by a disc-agar diffusion technique or a disc-broth elution technique the in vitro susceptibility of most clinically important bacterial pathogens to antimicrobial agents. In the disc-agar diffusion technique, bacterial susceptibility is ascertained by directly measuring the magnitude of a zone of bacterial inhibition around the disc on an agar surface. The disc-broth elution technique is associated with an automated rapid susceptibility test system and employs a fluid medium in which susceptibility is ascertained by photometrically measuring changes in bacterial growth resulting when antimicrobial material is eluted from the disc into the fluid medium. Test results are used to determine the antimicrobial agent of choice in the treatment of bacterial diseases.

(b) *Classification.* Class II (performance standards).

§ 866.1640 Antimicrobial susceptibility test powder.

(a) *Identification.* An antimicrobial susceptibility test powder is a device that consists of an antimicrobial drug powder packaged in vials in specified amounts and intended for use in clinical laboratories for determining in vitro susceptibility of bacterial pathogens to these therapeutic agents. Test results are used to determine the antimicrobial agent of choice in the treatment of bacterial diseases.

(b) *Classification.* Class II (performance standards).

§ 866.1700 Culture medium for antimicrobial susceptibility tests.

(a) *Identification.* A culture medium for antimicrobial susceptibility tests is a device intended for medical purposes that consists of any medium capable of supporting the growth of many of the bacterial pathogens that are subject to antimicrobial susceptibility tests. The medium should be free of components known to be antagonistic to the common agents for which susceptibility tests are performed in the treatment of disease.

(b) *Classification.* Class II (performance standards).

Subpart C—Microbiology Devices

§ 866.2050 Staphylococcal typing bacteriophage.

(a) *Identification.* A staphylococcal typing bacteriophage is a device consisting of a bacterial virus intended for medical purposes to identify pathogenic staphylococcal bacteria through use of the bacteria's susceptibility to destruction by the virus.

Test results are used principally for the collection of epidemiological information.

(b) *Classification.* Class I (general controls).

§ 866.2120 Anaerobic chamber.

(a) *Identification.* An anaerobic chamber is a device intended for medical purposes to maintain an anaerobic (oxygen free) environment. It is used to isolate and cultivate anaerobic microorganisms.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 866.2160 Coagulase plasma.

(a) *Identification.* Coagulase plasma is a device that consists of freeze-dried animal or human plasma that is intended for medical purposes to perform coagulase tests primarily on staphylococcal bacteria. When reconstituted, the fluid plasma is clotted by the action of the enzyme coagulase which is produced by pathogenic staphylococci. Test results are used primarily as an aid in the diagnosis of disease caused by pathogenic bacteria belonging to the genus *Staphylococcus* and provide epidemiological information on disease caused by these microorganisms.

(b) *Classification.* Class II (performance standards).

§ 866.2170 Automated colony counter.

(a) *Identification.* An automated colony counter is a mechanical device intended for medical purposes to determine the number of bacterial colonies present on a bacteriological culture medium contained in a petri plate. The number of colonies counted is used in the diagnosis of disease as a measure of the degree of bacterial infection.

(b) *Classification.* Class I (general controls).

§ 866.2180 Manual colony counter.

(a) *Identification.* A manual colony counter is a device intended for medical purposes that consists of a printed grid system superimposed on an illuminated screen. Petri plates containing bacterial colonies to be counted are placed on the screen for better viewing and ease of counting. The number of colonies counted is used in the diagnosis of disease as a measure of the degree of bacterial infection.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 866.2300 Multipurpose culture medium.

(a) *Identification.* A multipurpose culture medium is a device that consists primarily of liquid or solid biological materials intended for medical purposes for the cultivation and identification of several types of pathogenic microorganisms without the need of additional nutritional supplements. Test results aid in the diagnosis of disease and also provide epidemiological information on diseases caused by these microorganisms.

(b) *Classification.* Class I (general controls).

§ 866.2320 Differential culture medium.

(a) *Identification.* A differential culture medium is a device that consists primarily of liquid biological materials intended for medical purposes to cultivate and identify different types of pathogenic microorganisms. The identification of these microorganisms is accomplished by the addition of a specific biochemical component(s) to the medium. Microorganisms are identified by a visible change (e.g., a color change) in a specific biochemical component(s) which indicates that specific metabolic reactions have occurred. Test results aid in the diagnosis of disease and also provide epidemiological information on diseases caused by these microorganisms.

(b) *Classification.* Class I (general controls).

§ 866.2330 Enriched culture medium.

(a) *Identification.* An enriched culture medium is a device that consists primarily of liquid or solid biological materials intended for medical purposes to cultivate and identify fastidious microorganisms (those having complex nutritional requirements). The device consists of a relatively simple basal medium enriched by the addition of such nutritional components as blood, blood serum, vitamins, and extracts of plant or animal tissues. The device is used in the diagnosis of disease caused by pathogenic microorganisms and also provides epidemiological information on these diseases.

(b) *Classification.* Class I (general controls).

§ 866.2350 Microbiological assay culture medium.

(a) *Identification.* A microbiological assay culture medium is a device that consists primarily of liquid or solid biological materials intended for medical purposes to cultivate selected test microorganisms in order to measure by microbiological procedures the concentration in a patient's serum of certain substances, such as amino acids, antimicrobial agents, and vitamins. The concentration of these substances is measured by their ability to promote or inhibit the growth of the test organism in the innoculated medium. Test results aid in the diagnosis of disease resulting from either deficient or excessive amounts of these substances in a patient's serum. Tests results may also be used to monitor the effects of the administration of certain antimicrobial drugs.

(b) *Classification.* Class I (general controls).

§ 866.2360 Selective culture medium.

(a) *Identification.* A selective culture medium is a device that consists primarily of liquid or solid biological materials intended for medical purposes to cultivate and identify certain pathogenic microorganisms. The device contains one or more components that suppress the growth of certain microorganisms while either promoting or not affecting the growth of other microorganisms. The device aids in the diagnosis of disease caused by pathogenic microorganisms and also provides epidemiological information on these diseases.

(b) *Classification.* Class I (general controls).

§ 866.2390 Transport culture medium.

(a) *Identification.* A transport culture medium is a device that consists of a semisolid, usually non-nutrient, medium that maintains the viability of suspected pathogens contained in patient specimens while in transit from the specimen collection area to the laboratory. The device aids in the diagnosis of disease caused by pathogenic microorganisms and also provides epidemiological information on these diseases.

(b) *Classification.* Class I (general controls).

§ 866.2410 Culture medium for pathogenic Neisseria spp.

(a) *Identification.* A culture medium for pathogenic *Neisseria* spp. is a device that consists primarily of liquid or solid

biological materials used to cultivate and identify pathogenic *Neisseria* spp. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Neisseria*, such as epidemic cerebrospinal meningitis, other meningococcal disease, and gonorrhea, and also provides epidemiological information on these microorganisms.

(b) *Classification.* Class II (performance standards).

§ 866.2420 Oxidase screening test for gonorrhea.

(a) *Identification.* An oxidase screening test for gonorrhea is an in vitro device that consists of the articles intended to identify by chemical reaction, cytochrome oxidase, an oxidizing enzyme that is associated with certain bacteria including *Neisseria gonorrhoeae*. A sample of a male's urethral discharge is obtained on a swab which is placed into a wetting agent containing an ingredient that will react with cytochrome oxidase. When cytochrome oxidase is present, the swab turns a dark purple color within 3 minutes. Because it is unlikely that cytochrome oxidase-positive organisms other than *Neisseria gonorrhoeae* are present in the urethral discharge of males, the identification of cytochrome oxidase with this device indicates presumptive infection of the patient with the causative agent of gonorrhea.

(b) *Classification.* Class III (premarket approval) (transitional device).

§ 866.2440 Automated medium dispensing and stacking device.

(a) *Identification.* An automated medium dispensing and stacking device is a device intended for medical purposes to dispense a microbiological culture medium into petri dishes and then mechanically stack the petri dishes.

(b) *Classification.* Class I (general controls). This device is exempt from the premarket notification procedures in Subpart E of Part 807. This device also is exempt from the good manufacturing practice regulation in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 866.2450 Supplement for culture media.

(a) *Identification.* A supplement for culture media is a device, such as a vitamin or sugar mixture, that is added to a solid or liquid basal culture medium to produce a desired formulation and that is intended for medical purposes to enhance the growth of fastidious microorganisms (those having complex nutritional requirements). This device aids in the diagnosis of diseases caused by pathogenic microorganisms.

(b) *Classification.* Class I (general controls).

§ 866.2480 Quality control kit for culture media.

(a) *Identification.* A quality control kit for culture media is a device that consists of paper discs (or other suitable materials), each impregnated with a specified, freeze-dried, viable microorganism, intended for medical purposes to determine if a given culture medium is able to support the growth of that microorganism. The device aids in the diagnosis of disease caused by pathogenic microorganisms and also provides epidemiological information on these diseases.

(b) *Classification.* Class I (general controls).

§ 866.2500 Microtiter diluting and dispensing device.

(a) *Identification.* A microtiter diluting an dispensing device is a mechanical device intended for medical purposes to dispense or serially dilute very small quantities of biological or chemical reagents for use in various diagnostic procedures.

(b) *Classification.* Class I (general controls).

§ 866.2540 Microbiological incubator.

(a) *Identification.* A microbiological incubator is a device with various chambers or water-filled compartments in which controlled environmental conditions, particularly temperature, are maintained. It is intended for medical purposes to cultivate microorganisms and aid in the diagnosis of disease.

(b) *Classification.* Class I (general controls). This device is exempt from premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820 with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 866.2560 Microbial growth monitor.

(a) *Identification.* A microbial growth monitor is a device intended for medical purposes that measures the concentration of bacteria suspended in a liquid medium by measuring changes in light scattering properties, optical density, electrical impedance, or by making direct bacterial counts. The device aids in the diagnosis of disease caused by pathogenic microorganisms.

(b) *Classification.* Class I (general controls).

§ 866.2580 Gas-generating device.

(a) *Identification.* A gas-generating device is a device intended for medical purposes that produces predetermined amounts of selected gases to be used in a closed chamber in order to establish suitable atmospheric conditions for cultivation of microorganisms with special atmospheric requirements. The device aids in the diagnosis of disease.

(b) *Classification.* Class I (general controls).

§ 866.2600 Wood's fluorescent lamp.

(a) *Identification.* A Wood's fluorescent lamp is a device intended for medical purposes to detect fluorescent materials (e.g., fluorescein pigment produced by certain microorganisms) as an aid in the identification of these microorganisms. The device aids in the diagnosis of disease.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807. The device also is exempt from the good manufacturing practice regulation in Part 820 with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198 with respect to complaint files.

§ 866.2660 Microorganism differentiation and identification device.

(a) *Identification.* A microorganism differentiation and identification device is a device intended for medical purposes that consists of one or more components, such as differential culture media, biochemical reagents, and paper discs or paper strips impregnated with test reagents, that are usually contained in individual compartments and used to differentiate and identify selected microorganisms. The device aids in the diagnosis of disease.

(b) *Classification.* Class I (general controls).

§ 866.2850 Automated zone reader.

(a) *Identification.* An automated zone reader is a mechanical device intended for medical purposes to measure zone diameters of microbial growth inhibition (or exhibition), such as those observed on the surface of certain culture media used in disc-agar diffusion antimicrobial susceptibility tests. The device aids in decisionmaking respecting the treatment of disease.

(b) *Classification.* Class I (general controls).

§ 866.2900 Microbiological specimen collection and transport device.

(a) *Identification.* A microbiological specimen collection and transport device is a specimen collecting chamber

intended for medical purposes to preserve the viability or integrity of microorganisms in specimens during storage of specimens after their collection and during their transport from the collecting area to the laboratory. The device may be labeled or otherwise represented as sterile. The device aids in the diagnosis of disease caused by pathogenic microorganisms.

(b) *Classification.* Class I (general controls).

Subpart D—Serological Reagents

§ 866.3010 Acinetobacter calcoaceticus serological reagents.

(a) *Identification. Acinetobacter calcoaceticus* serological reagents are devices that consist of *Acinetobacter calcoaceticus* antigens and antisera used to identify this bacterium from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by the bacterium *Acinetobacter calcoaceticus* and provides epidemiological information on disease caused by this microorganism. This organism becomes pathogenic in patients with burns or with immunologic deficiency, and infection can result in sepsis (blood poisoning).

(b) *Classification.* Class I (general controls).

§ 866.3020 Adenovirus serological reagents.

(a) *Identification.* Adenovirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to adenovirus in serum. Additionally, some of these reagents consist of adenovirus antisera conjugated with a fluorescent dye and are used to identify adenoviruses directly from clinical specimens. The identification aids in the diagnosis of disease caused by adenoviruses and provides epidemiological information on these diseases. Adenovirus infections may cause pharyngitis (inflammation of the throat), acute respiratory diseases, and certain external diseases of the eye (e.g., conjunctivitis).

(b) *Classification.* Class I (general controls).

§ 866.3035 Arizona spp. serological reagents.

(a) *Identification. Arizona* spp. serological reagents are devices that consist of antisera and antigens used to identify *Arizona* spp. in cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Arizona* and provides epidemiological information on diseases caused by these microorganisms. *Arizona* spp. can cause gastroenteritis (food poisoning) and sepsis (blood poisoning).

(b) *Classification.* Class I (general controls).

§ 866.3040 Aspergillus spp. serological reagents.

(a) *Identification. Aspergillus* spp. serological reagents are devices that consist of antigens and antisera used in various serological tests to identify antibodies to *Aspergillus* spp. in serum. The identification aids in the diagnosis of aspergillosis caused by fungi belonging to the genus *Aspergillus.* Aspergillosis is a disease marked by inflammatory granulomatous (tumor-like) lessions in the skin, ear, eyeball cavity, nasal sinuses, lungs, and occasionally the bones.

(b) *Classification.* Class I (general controls).

§ 866.3060 Blastomyces dermatitidis serological reagents.

(a) *Identification. Blastomyces dermatitidis* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Blastomyces determatitidis* in ssrum. The identification aids in the diagnosis of blastomycosis caused by the fungus *Blastomyces dermatitidis.* Blastomycosis is a chronic granulomatous (tumor-like) disease, which may be limited to the skin or lung or may be widely disseminated in the body resulting in lesions of the bones, liver, spleen, and kidneys.

(b) *Classification.* Class II (performance standards).

§ 866.3065 Bordetella spp. serological reagents.

(a) *Identification. Bordetella* spp. serological reagents are devices that consist of antigens and antisera, including antisera conjugated with a fluorescent dye, used in serological tests to identify *Bordetella* spp. from cultured isolates or directly from clinical specimens. The identification aids in the diagnosis of diseases caused by bacteria belonging to the genus *Bordetella* and provides epidemiological information on these diseases. *Bordetella* spp. cause whooping cough (*Bordetella pertussis*) and other similiarly contagious and acute respiratory infections characterized by pneumonitis (inflammation of the lungs).

(b) *Classification.* Class I (general controls).

§ 866.3085 Brucella spp. serological reagents.

(a) *Identification. Brucella* spp. serological reagents are devices that consist of antigens and antisera used for serological identification of *Brucella* spp. from cultured isolates derived from clinical specimens or to identify antibodies to *Brucella* spp. in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Brucella* spp. directly from clinical specimens or cultured isolates derived from clinical specimens. The identification aids in the diagnosis of brucellosis (e.g., undulant fever, Malta fever) caused by bacteria belonging to the genus *Brucella* and provides epidemiological information on diseases caused by these microorganisms.

(b) *Classification.* Class II (performance standards).

§ 866.3110 Campylobacter fetus serological reagents.

(a) *Identification. Campylobacter fetus* serological reagents are devices that consist of antisera conjugated with a fluorescent dye used to identify *Campylobacter fetus* from clinical specimens or cultured isolates derived from clinical specimens. The identification aids in the diagnosis of diseases caused by this bacterium and provides epidemiological information on these diseases. *Campylobacter fetus* is a frequent cause of abortion in sheep and cattle and is sometimes responsible for endocarditis (inflammation of certain membranes of the heart) and enteritis (inflammation of the intestines) in humans.

(b) *Classification.* Class I (general controls).

§ 866.3120 Chlamydia serological reagents.

(a) *Identification.* Chlamydia serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to chlamydia in serum. Additionally, some of these reagents consist of chlamydia antisera conjugated with a fluorescent dye used to identify chlamydia directly from clinical specimens or cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Chlamydia* and provides epidemiological information on these diseases. Chlamydia are the causative agents of psittacosis (a form of pneumonia), lymphogranuloma venereum (a venereal disease), and

trachoma (a chronic disease of the eye and eyelid).

(b) *Classification.* Class I (general controls).

§ 866.3125 Citrobacter spp. serological reagents.

(a) *Identification. Citrobacter* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Citrobacter* spp. from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Citrobacter* and provides epidemiological information on diseases caused by these microorganisms. *Citrobacter* spp. have occasionally been associated with urinary tract infections.

(b) *Classification.* Class I (general controls).

§ 866.3135 Coccidioides immitis serological reagents.

(a) *Identification. Coccidioides immitis* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Coccidioides immitis* in serum. The identification aids in the diagnosis of coccidioidomycosis caused by a fungus belonging to the genus *Coccidioides* and provides epidemiological information on diseases caused by this microorganism. An infection with *Coccidioides immitis* produces symptoms varying in severity from those accompanying the common cold to those of influenza.

(b) *Classification.* Class II (performance standards).

§ 866.3140 Corynebacterium spp. serological reagents.

(a) *Identification. Corynebacterium* spp. serological reagents are devices that consist of antisera conjugated with a fluorescent dye used to identify *Corynebacterium* spp. from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Corynebacterium* and provides epidemiological information on diseases caused by these microorganisms. The principal human pathogen of this genus, *Corynebacterium diphtheriae*, causes diphtheria. However, many other types of corynebacteria form part of the normal flora of the human respiratory tract, other mucus membranes, and skin, and are either nonpathogenic or have an uncertain role.

(b) *Classification.* Class I (general controls).

§ 866.3145 Coxsackievirus serological reagents.

(a) *Identification.* Coxsackievirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to coxsackievirus in serum. Additionally, some of these reagents consist of coxsackievirus antisera conjugated with a fluorescent dye that are used to identify coxsackievirus from clinical specimens or from tissue culture isolates derived from clinical specimens. The identification aids in the diagnosis of coxsackievirus infections and provides epidemiological information on diseases caused by these viruses. Coxsackieviruses produce a variety of infections, including common colds, meningitis (inflammation of brain and spinal cord membranes), herpangina (brief fever accompanied by ulcerated lesions of the throat), and myopericarditis (inflammation of heart tissue).

(b) *Classification.* Class I (general controls).

§ 866.3165 Cryptococcus neoformans serological reagents.

(a) *Identification. Cryptococcus neoformans* serological reagents are devices that consist of antigens used in serological tests to identify antibodies to *Cryptococcus neoformans* in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) and are used to identify *Cryptococcus neoformans* directly from clinical specimens or from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of cryptococcosis and provides epidemiological information on this type of disease. Cryptococcosis infections are found most often as chronic meningitis (inflammation of brain membranes) and, if not treated, are usually fatal.

(b) *Classification.* Class II (performance standards).

§ 866.3175 Cytomegalovirus serological reagents.

(a) *Identification.* Cytomegalovirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to cytomegalovirus in serum. The identification aids in the diagnosis of diseases caused by cytomegaloviruses (principally cytomegalic inclusion disease) and provides epidemiological information on these diseases. Cytomegalic inclusion disease is a generalized infection of infants and is caused by intrauterine or early postnatal infection with the virus. The disease may cause severe congenital abnormalities, such as microcephaly (abnormal smallness of the head), motor disability, and mental retardation. Cytomegalovirus infection has also been associated with acquired hemolytic anemia, acute and chronic hepatitis, and an infectious mononucleosis-like syndrome.

(b) *Classification.* Class II (performance standards).

§ 866.3200 Echinococcus spp. serological reagents.

(a) *Identification. Echinococcus* spp. serological reagents are devices that consist of *Echinococcus* spp. antigens and antisera used in serological tests to identify antibodies to *Echinococcus* spp. in serum. The identification aids in the diagnosis of echinococcosis, caused by parasitic tapeworms belonging to the genus *Echinococcus* and provides epidemiological information on this disease. Echinococcosis is characterized by the development of cysts in the liver, lung, kidneys, and other organs formed by the larva of the infecting organisms.

(b) *Classification.* Class I (general controls).

§ 866.3205 Echovirus serological reagents.

(a) *Identification.* Echovirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to echovirus in serum. Additionally, some of these reagents consist of echovirus antisera conjugated with a fluorescent dye used to identify echoviruses from clinical specimens or from tissue culture isolates derived from clinical specimens. The identification aids in the diagnosis of echovirus infections and provides epidemiological information on diseases caused by these viruses. Echoviruses cause illnesses such as meningitis (inflammation of the brain and spinal cord membranes), febrile illnesses (accompanied by fever) with or without rash, and the common cold.

(b) *Classification.* Class I (general controls).

§ 866.3220 Entamoeba histolytica serological reagents.

(a) *Identification. Entamoeba histolytica* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Entamoeba histolytica* in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Entamoeba histolytica* directly from clinical specimens. The identification aids in the diagnosis of amebiasis caused by the microscopic

protozoan parasite *Entamoeba histolytica* and provides epidemiological information on diseases caused by this parasite. The parasite may invade the skin, liver, intestines, lungs, and diaphragm, causing disease conditions such as indolent ulcers, an amebic hepatitis, amebic dysentery, and pulmonary lesions.

(b) *Classification.* Class I (performance standards).

§ 866.3235 Epstein-Barr virus serological reagents.

(a) *Identification.* Epstein-Barr virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to Epstein-Barr virus in serum. The identification aids in the diagnosis of Epstein-Barr virus infections and provides epidemiological information on diseases caused by these viruses. Epstein-Barr viruses are thought to cause infectious mononucleosis and have been associated with Burkitt's lymphoma (a tumor of the jaw in African children and young adults) and postnasal carcinoma (cancer).

(b) *Classification.* Class I (general controls).

§ 866.3240 Equine encephalomyelitis virus serological reagents.

(a) *Identification.* Equine encephalomyelitis virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antobodies to equine encephalomyelitis virus in serum. The identification aids in the diagnosis of diseases caused by equine encephalomyelitis viruses and provides epidemiological information on these viruses. Equine encephalomyelitis viruses are transmitted to humans by the bite of insects, such as mosquitos and ticks, and may cause encephalitis (inflammation of the brain), rash, acute arthritis, or hepatitis.

(b) *Classification.* Class I (general controls).

§ 866.3250 Erysipelothrix rhusiopathiae serological reagents.

(a) *Identification. Erysipelothrix rhusiopathiae* serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Erysipelothrix rhusiopathiae* from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by this bacterium belonging to the genus *Erysipelothrix*. This organism is responsible for a variety of inflammations of the skin following skin abrasions from contact with fish, shellfish, or poultry.

(b) *Classification.* Class I (general controls).

§ 866.3255 Escherichia coli serological reagents.

(a) *Identification. Escherichia coli* serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Escherichia coli* from cultured isolates derived from clinical specimens. Additionally, some of these reagents consist of *Escherichia coli* antisera conjugated with a fluorescent dye used to identify *Escherichia coli* directly from clinical specimens or cultured isolates derived from clinical specimens. The identification aids in the diagnosis of diseases caused by this bacterium belonging to the genus *Escherichia*, and provides epidemiological information on deseased causes by this microorganism. Although *Escherichia coli* constitutes the greater part of the microorganisms found in the intestinal tract in humans and is usually nonpathogenic, those strains which are pathogenic may cause urinary tract infections or epidemic diarrheal disease, especially in children.

(b) *Classification.* Class I (general controls).

§ 866.3270 Flavobacterium spp. serological reagents.

(a) *Identification. Flavobacterium* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Flavobacteriuim* spp. from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Flavobacterium* and provides epidemiological information on diseases caused by these microorganisms. Most members of this genus are found in soil and water and, under certain conditions, may become pathogenic to humans. *Flavobacterium meningosepticum* is highly virulent for the newborn, in whom it may cause epidemics of septicemia (blood poisoning) and meningitis (inflammation of the membranes of the brain) and is usually attributable to contaminated hospital equipment.

(b) *Classification.* Class I (general controls).

§ 866.3280 Francisella tularensis serological reagents.

(a) *Identification. Francisella tularensis* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Francisella tularensis* in serum or to identify *Francisella tularensis* in cultured isolates derived from clinical specimens. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Francisella tularensis* directly from clinical specimens. The identification aids in the diagnosis of tularemia caused by *Francisella tularensis* and provides epidemiological information on this disease. Tularemia is a desease principally of rodents, but may be transmitted to humans through handling of infected animals, animal products, or by the bites of fleas and ticks. The disease takes on several forms depending upon the site of infection, such as skin lesions, lymph node enlargements, or pulmonary infection.

(b) *Classification.* Class II (performance standards).

§ 866.3290 Gonococcal antibody test (GAT).

(a) *Identification.* A gonococcal antibody test (GAT) is an in vitro device that consists of the reagents intended to identify by immunochemical techniques, such as latex agglutination, indirect fluorescent antibody, or radioimmunoassay, antibodies to *Neisseria gonorrhoeae* in sera of asymptomatic females at low risk of infection. Identification of antibodies with this device may indicate past or present infection of the patient with *Neisseria gonorrhoeae.*

(b) *Classification.* Class III (premarket approval) (transitional device).

§ 866.3300 Haemophilus spp. serological reagents.

(a) *Identification. Haemophilus* spp. serological reagents are devices that consist of antigens and antisera, including antisera conjugated with a fluorescent dye, that are used in serological tests to identify *Haemophilus* spp. directly from clinical specimens or tissue culture isolates derived from clinical specimens. The identification aids in the diagnosis of diseases caused by bacteria belonging to the genus *Haemophilus* and provides epidemiological information on diseases cause by these microorganisms. Diseases most often caused by *Haemophilus* spp. include pneumonia, pharyngitis, sinusitis, vaginitis, chancroid venereal desease, and a contagious form of conjunctivitis (inflammation of eyelid membranes).

(b) *Classification.* Class II (performance standards).

§ 866.3305 Herpes simplex virus serological reagents.

(a) *Identification.* Herpes simplex virus serological reagents are devices that consist of antigens and antisera

used in various serological tests to identify antibodies to herpes simplex virus in serum. Additionally, some of the reagents consist of herpes simplex virus antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify herpes simplex virus directly from clinical specimens or tissue culture isolates derived from clinical specimens. The identification aids in the diagnosis of diseases caused by herpes simplex viruses and provides epidemiological information on these diseases. Herpes simplex viral infections range from common and mild lesions of the skin and mucous membranes to a severe form of encephalitis (inflammation of the brain). Neonatal herpes virus infections range from an mild infection to a severe generalized disease with a fatal outcome.

(b) *Classification.* Class III (premarket approval).

§ 866.3320 Histoplasma capsulatum serological reagents.

(a) *Identification. Histoplasma capsulatum* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Histoplasma capsulatum* in serum. Additionally, some of these reagents consist of *Histoplasma capsulatum* antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Histoplasma capsulatum* from clinical specimens or cultured isolates derived from clinical specimens. The identification aids in the diagnosis of histoplasmosis caused by this fungus belonging to the genus *Histoplasma* and provides epidemiological information on the diseases caused by this fungus. Histoplasmosis usually is a mild and often asymptomatic respiratory infection, but in a small number of infected individuals the lesions may spread to practically all tissues and organs.

(b) *Classification.* Class II (performance standards).

§ 866.3330 Influenza virus serological reagents.

(a) *Identification.* Influenza virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to influenza in serum. The identification aids in the diagnosis of influenza (flu) and provides epidemiological information on influenza. Influenza is an acute respiratory tract disease, which is often epidemic.

(b) *Classification.* Class I (general controls).

§ 866.3340 Klebsiella spp. serological reagents.

(a) *Identification. Klebsiella* spp. serological reagents are devices that consist of antigens and antisera, including antisera conjugated with a fluorescent dye (immunofluorescent reagents), that are used in serological tests to identify *Klebsiella* spp. from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of diseases caused by bacteria belonging to the genus *Klebsiella* and provides epidemiological information on these diseases. These organisms can cause serious urinary tract and pulmonary infections, particularly in hospitalized patients.

(b) *Classification.* Class I (general controls).

§ 866.3350 Leptospira spp. serological reagents.

(a) *Identification. Leptospira* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Leptospira* spp. in serum or identify *Leptospira* spp. from cultured isolates derived from clinical specimens. Additionally, some of these antisera are conjugated with a fluorescent dye (immunofluorescent reagents) and used to identify *Leptospira* spp. directly from clinical specimens. The identification aids in the diagnosis of leptospirosis caused by bacteria belonging to the genus *Leptospira* and provides epidemiological information on this disease. *Leptospira* infections range from mild fever-producing illnesses to severe liver and kidney involvement producing hemorrhage and dysfunction of these organs.

(b) *Classification.* Class II (performance standards).

§ 866.3355 Listeria spp. serological reagents.

(a) *Identification. Listeria* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Listeria* spp. from cultured isolates derived from clinical specimens. Additionally, some of these reagents consist of *Listeria* spp. antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Listeria* spp. directly from clinical specimens. The identification aids in the diagnosis of listeriosis, a disease caused by bacteria belonging to the genus *Listeria*, and provides epidemiological information on diseases caused by these microorganisms. *Listeria monocytogenes*, the most common human pathogen of this genus, causes meningitis (inflammation of the brain membranes) and meningoencephalitis (inflammation of the brain and brain membranes) and is often fatal if untreated. A second form of human listeriosis is an intrauterine infection in pregnant women that results in a high mortality rate for infants before or after birth.

(b) *Classification.* Class I (general controls).

§ 866.3360 Lymphocytic choriomeningitis virus serological reagents.

(a) *Identification.* Lymphocytic choriomeningitis virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to lymphocytic choriomeningitis virus in serum. The identification aids in the diagnosis of lymphocytic choriomeningitis virus infections and provides epidemiological information on diseases caused by these viruses. Lymphocytic choriomeningitis viruses usually cause a mild cerebral meningitis (inflammation of membranes that envelop the brain) and occasionally a mild pneumonia, but in rare instances may produce severe and even fatal illnesses due to complications from cerebral meningitis and pneumonia.

(b) *Classification.* Class I (general controls).

§ 866.3370 Mycobacterium tuberculosis immunofluorescent reagents.

(a) *Identification. Mycobacterium tuberculosis* immunofluorescent reagents are devices that consist of antisera conjugated with a fluorescent dye used to identify *Mycobacterium tuberculosis* directly from clinical specimens. The identification aids in the diagnosis of tuberculosis and provides epidemiological information on this disease. *Mycobacterium tuberculosis* is the common causative organism in human tuberculosis, a chronic infectious disease characterized by formation of tubercles (small rounded nodules) and tissue necrosis (destruction), usually occurring in the lung.

(b) *Classification.* Class I (general controls).

§ 866.3375 Mycoplasma spp. serological reagents.

(a) *Identification. Mycoplasma* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Mycoplasma* spp. in serum. Additionally, some of these reagents consist of *Mycoplasma* spp. antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Mycoplasma* spp. directly from clinical specimens. The identification aids in the diagnosis of disease caused

by bacteria belonging to the genus *Mycoplasma* and provides epidemiological information on diseases caused by these microorganisms. *Mycoplasma* spp. are associated with inflammatory conditions of the urinary and respiratory tracts, the genitals, and the mouth. The effects in humans of infection with *Mycoplasma pneumoniae* range from inapparent infection to mild or severe upper respiratory disease, ear infection, and bronchial pneumonia.

(b) *Classification.* Class I (general controls).

§ 866.3380 Mumps virus serological reagents.

(a) *Identification.* Mumps virus serological reagents consist of antigens and antisera used in serological tests to identify antibodies to mumps virus in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used in serological tests to identify mumps viruses from tissue culture isolates derived from clinical specimens. The identification aids in the diagnosis of mumps and provides epidemiological information of mumps. Mumps is an acute contagious disease, particularly in children, characterized by an enlargement of one or both of the parotid glands (glands situated near the ear), although other organs may also be involved.

(b) *Classification.* Class I (general controls).

§ 866.3390 Neisseria spp. direct serological test reagents.

(a) *Identification. Neisseria* spp. direct serological test reagents are devices that consist of antigens and antisera used in serological tests to identify *Neisseria* spp. from cultured isolates. Additionally, some of these reagents consist of *Neisseria* spp. antisera conjugated with a fluorescent dye (immunofluorescent reagents) which may be used to detect the presence of *Neisseria* spp. directly from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Neisseria*, such as epidemic cerebrospinal meningitis, meningococcal disease, and gonorrhea, and also provides epidemiological information on diseases caused by these microorganisms. The device does not include products for the detection of gonorrhea in humans by indirect methods, such as detection of antibodies or of oxidase produced by gonococcal organisms.

(b) *Classification.* Class II (performance standards).

§ 866.3400 Parainfluenza virus serological reagents.

(a) Identification. Parainfluenza virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to parainfluenza virus in serum. The identification aids in the diagnosis of parainfluenza virus infections and provides epidemiological information on diseases caused by these viruses. Parainfluenza viruses cause a variety of respiratory illnesses ranging from the common cold to pneumonia.

(b) *Classification.* Class I (general controls).

§ 866.3405 Poliovirus serological reagents.

(a) *Identification.* Poliovirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to poliovirus in serum. Additionally, some of these reagents consist of poliovirus antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify polioviruses from clinical specimens or from tissue culture isolates derived from clinical specimens. The identification aids in the diagnosis of poliomyelitis (polio) and provides epidemiological information on this disease. Poliomyelitis is an acute infectious disease which in its serious form affects the central nervous system resulting in atrophy (wasting away) of groups of muscles, ending in contraction and permanent deformity.

(b) *Classification.* Class I (general controls).

§ 866.3410 Proteus spp. (Weil-Felix) serological reagents.

(a) *Identification. Proteus* spp. (Weil-Felix) serological reagents are devices that consist of antigens and antisera, including antisera conjugated with a fluorescent dye (immunofluorescent reagents), derived from the bacterium *Proteus vulgaris* used in agglutination tests (a specific type of antigen-antibody reaction) for the detection of antibodies to rickettsia (virus-like bacteria) in serum. Test results aid in the diagnosis of diseases caused by bacteria belonging to the genus *Rickettsiae* and provide epidemiological information on these diseases. Rickettsia are generally transmitted by arthropods (e.g., ticks and mosquitoes) and produce infections in humans characterized by rash and fever (e.g., typhus fever, spotted fever, Q fever, and trench fever).

(b) *Classification.* Class I (general controls).

§ 866.3415 Pseudomonas spp. serological reagents.

(a) *Identification. Pseudomonas* spp. serological reagents are devices that consist of antigens and antisera, including antisera conjugated with a fluorescent dye (immunofluorescent reagents), used to identify *Pseudomonas* spp. from clinical specimens or from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Pseudomonas*. *Pseudomonas aeruginosa* is a major cause of hospital-acquired infections, and has been associated with urinary tract infections, eye infections, burn and wound infections, blood poisoning, abscesses, and meningitis (inflammation of brain membranes). *Pseudomonas pseudomallei* causes melioidosis, a chronic pneumonia.

(b) *Classification.* Class II (performance standards).

§ 866.3460 Rabiesvirus immunofluorescent reagents.

(a) *Identification.* Rabiesvirus immunofluorescent reagents are devices that consist of rabiesvirus antisera conjugated with a fluorescent dye used to identify rabiesvirus in specimens taken from suspected rabid animals. The identification aids in the diagnosis of rabies in patients exposed by animal bites and provides epidemiological information on rabies. Rabies is an acute infectious disease of the central nervous system which, if undiagnosed, may be fatal. The disease is commonly transmitted to humans by a bite from a rabid animal.

(b) *Classification.* Class II (performance standards).

§ 866.3470 Reovirus serological reagents.

(a) *Identification.* Reovirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to reovirus in serum. The identification aids in the diagnosis of reovirus infections and provides epidemiological information on diseases caused by these viruses. Reoviruses are thought to cause only mild respiratory and gastrointestinal illnesses.

(b) *Classification.* Class I (general controls).

§ 866.3480 Respiratory syncytial virus serological reagents.

(a) *Identification.* Respiratory syncytial virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to respirator syncytial virus in serum. Additionally, some of these reagents consist of

respiratory syncytial virus antisera conjugated with a fluorescent dye (immunofluorescent reagents) and used to identify respiratory syncytial viruses from clinical specimens or from tissue culture isolates derived from clinical specimens. The identification aids in diagnosis of respiratory syncytical virus infections and provides epidemiological information on diseases caused by these viruses. Respiratory syncytial viruses cause a number of respiratory tract infections, including the common cold, pharyngitis, and infantile bronchopneumonia.

(b) *Classification.* Class I (general controls).

§ 866.3490 Rhinovirus serological reagents.

(a) *Identification.* Rhinovirus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to rhinovirus in serum. The identification aids in the diagnosis of rhinovirus infections and provides epidemiological information on diseases caused by these viruses. Rhinoviruses cause common colds.

(b) *Classification.* Class I (general controls).

§ 866.3500 Rickettsia serological reagents.

(a) *Identification.* Rickettsia serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to rickettsia in serum. Additionally, some of these reagents consist of rickettsial antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify rickettsia directly from clinical specimens. The identification aids in the diagnosis of diseases caused by virus-like bacteria belonging to the genus *Rickettsiae* and provides epidemiological information on these diseases. Rickettsia are generally transmitted by arthropods (e.g., ticks and mosquitoes) and produce infections in humans characterized by rash and fever (e.g., typhus fever, spotted fever, Q fever, and trench fever).

(b) *Classification.* Class I (general controls).

§ 866.3510 Rubella virus serological reagents.

(a) *Identification.* Rubella virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to rubella virus in serum. The identification aids in the diagnosis of rubella (German measles) or confirmation of a person's immune status from past infections or immunizations and provides epidemiological information on German measles. Newborns infected in the uterus with rubella virus may be born with multiple congenital defects (rubella syndrome).

(b) *Classification.* Class III (premarket approval).

§ 866.3520 Rubeola (measles) virus serological reagents.

(a) *Identification.* Rubeola (measles) virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to rubeola virus in serum. The identification aids in the diagnosis of measles and provides epidemiological information on the disease. Measles is an acute, highly infectious disease of the respiratory and reticuloendothelial tissues, particularly in children, characterized by a confluent and blotchy rash.

(b) *Classification.* Class I (general controls).

§ 866.3550 Salmonella spp. serological reagents.

(a) *Identification. Salmonella* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Salmonella* spp. from cultured isolates derived from clinical specimens. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Salmonella* spp. directly from clinical specimens or cultured isolates derived from clinical specimens. The identification aids in the diagnosis of salmonellosis caused by bacteria belonging to the genus *Salmonella* and provides epidemiological information on this disease. Salmonellosis is characterized by high grade fever ("enteric fever"), severe diarrhea, and cramps.

(b) *Classification.* Class II (performance standards).

§ 866.3600 Schistosoma spp. serological reagents.

(a) *Identification. Schistosoma* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Schistosoma* spp. in serum. The identification aids in the diagnosis of schistosomiasis caused by parasitic flatworms of the genus *Schistosoma.* Schistosomiasis is characterized by a variety of acute and chronic infections. Acute infection is marked by fever, allergic symptoms, and diarrhea. Chronic effects are usually severe and are caused by fibrous degeneration of tissue around deposited eggs of the parasite in the liver, lungs, and central nervous system. Schistosomes can also cause schistosome dermatitis (e.g., swimmer's itch), a skin disease marked by intense itching.

(b) *Classification.* Class I (general controls).

§ 866.3630 Serratia spp. serological reagents.

(a) *Identification. Serratia* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify *Serratia* spp. from cultured isolates. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Serratia* and provides epidemiological information on these diseases. *Serratia* spp. are occasionally associated with gastroenteritis (food poisoning) and wound infections.

(b) *Classification.* Class I (general controls).

§ 866.3660 Shigella spp. serological reagents.

(a) *Identification. Shigella* spp. serological reagents are devices that consist of antigens and antisera, including antisera conjugated with a fluorescent dye (immunofluorescent reagents), used in serological tests to identify *Shigella* spp. from cultured isolates. The identification aids in the diagnosis of shigellosis caused by bacteria belonging to the genus *Shigella* and provides epidemiological information on this disease. Shigellosis is characterized by abdominal pain, cramps, diarrhea, and fever.

(b) *Classification.* Class II (performance standards).

§ 866.3680 Sporothrix schenckii serological reagents.

(a) *Identification. Sporothrix schenckii* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Sporothrix schenckii* in serum. The identification aids in the diagnosis of sporothrichosis caused by a fungus belonging to the genus *Sporothrix* and provides epidemiological information on this disease. Sporothrichosis is a chronic tumorlike infection primarily of the skin.

(b) *Classification.* Class I (general controls).

§ 866.3700 Staphylococcus aureus serological reagents.

(a) *Identification. Staphylococcus aureus* serological reagents are devices that consist of antigens and antisera used in serological tests to identify enterotoxin (toxin affecting the intestine) producing staphylococci from cultured isolates. The identification aids

in the diagnosis of disease caused by this bacterium belonging to the genus *Staphylococcus* and provides epidemiological information on these diseases. Certain strains of *Staphylococcus aureus* produce an enterotoxin while growing in meat, dairy, or bakery products. After ingestion, this enterotoxin is absorbed in the gut and causes destruction of the intestinal lining (gastroenteritis).

(b) *Classification.* Class I (general controls).

§ 866.3720 Streptococcus spp. exoenzyme reagents.

(a) *Identification. Streptococcus* spp. exoenzyme reagents are devices used to identify antibodies to *Streptococcus* spp. exoenzyme in serum. The identification aids in the diagnosis of disease caused by bacteria belonging to the genus *Streptococcus* and provides epidemiological information on these diseases. Pathogenic streptococci are associated with infections, such as sore throat, impetigo (an infection characterized by small pustules on the skin), urinary tract infections, rheumatic fever, and kidney disease.

(b) *Classification.* Class II (performance standards).

§ 866.3740 Streptococcus spp. serological reagents.

(a) *Identification. Streptococcus* spp. serological reagents are devices that consist of antigens and antisera (excluding streptococcal exoenzyme reagents made from enzymes secreted by streptococci) used in serological tests to identify *Streptococcus* spp. from cultured isolates derived from clinical specimens. The identification aids in the diagnosis of diseases caused by bacteria belonging to the genus *Streptococcus* and provides epidemiological information on these diseases. Pathogenic streptococci are associated with infections, such as sore throat, impetigo (an infection characterized by small pustules on the skin), urinary tract infections, rheumatic fever, and kidney disease.

(b) *Classification.* Class I (general controls).

§ 866.3780 Toxoplasma gondii serological reagents.

(a) *Identification. Toxoplasma gondii* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Toxoplasma gondii* in serum. Additionally, some of these reagents consist of antisera conjugated with a fluorescent dye (immunofluorescent reagents) used to identify *Toxoplasma gondii* from clinical specimens. The identification aids in the diagnosis of toxoplasmosis caused by the parasitic protozoan *Toxoplasma gondii* and provides epidemiological information on this disease. Congenital toxoplasmosis is characterized by lesions of the central nervous system, which if undetected and untreated may lead to brain defects, blindness, and death of an unborn fetus. The disease is characterized in children by inflammation of the brain and spinal cord.

(b) *Classification.* Class II (performance standards).

§ 866.3820 Treponema pallidum nontreponemal test reagents.

(a) *Identification. Treponema pallidum* nontreponemal test reagents are devices that consist of antigens derived from nontreponemal sources (sources not directly associated with treponemal organisms) and control sera (standardized sera with which test results are compared) used in serological tests to identify reagin, an antibody-like agent, which is produced from the reaction of treponema microorganisms with body tissues. The identification aids in the diagnosis of syphilis caused by microorganisms belonging to the genus *Treponema* and provides epidemiological information on syphilis.

(b) *Classification.* Class II (performance standards).

§ 866.3830 Treponema pallidum treponemal test reagents.

(a) *Identification. Treponema pallidum* treponemal test reagents are devices that consist of the antigens, antisera and all control reagents (standardized reagents with which test results are compared) which are derived from treponemal sources and that are used in the fluorescent treponemal antibody absorption test (FTA–ABS), the *Treponema pallidum* immobilization test (T.P.I.), and other treponemal tests used to identify antibodies to *Treponema pallidum* directly from infecting treponemal organisms in serum. The identification aids in the diagnosis of syphilis caused by bacteria belonging to the genus *Treponema* and provides epidemiological information on syphilis.

(b) *Classification.* Class II (performance standards).

§ 866.3850 Trichinella spiralis serological reagents.

(a) *Identification. Trichinella spiralis* serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Trichinella spiralis* in serum. The identification aids in the diagnosis of trichinosis caused by parasitic roundworms belonging to the genus *Trichinella* and provides epidemiological information on trichinosis. Trichinosis is caused by ingestion of undercooked, infested meat, especially pork, and characterized by fever, muscle weakness, and diarrhea.

(b) *Classification.* Class I (general controls).

§ 866.3870 Trypanosoma spp. serological reagents.

(a) *Identification. Trypanosoma* spp. serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to *Trypanosoma* spp. in serum. The identification aids in the diagnosis of trypanosomiasis, a disease caused by parasitic protozoans belonging to the genus *Trypanosoma.* Trypanosomiasis in adults is a chronic disease characterized by fever, chills, headache, and vomiting. Central nervous system involvement produces typical sleeping sickness syndrome: physical exhaustion, inability to eat, tissue wasting, and eventual death. Chagas disease, an acute form of trypanosomiasis in children, most seriously affects the central nervous system and heart muscle.

(b) *Classification.* Class I (general controls).

§ 866.3900 Varicella-zoster virus serological reagents.

(a) *Identification.* Varicella-zoster virus serological reagents are devices that consist of antigens and antisera used in serological tests to identify antibodies to varicella-zoster in serum. The identification aids in the diagnosis of diseases caused by varicella-zoster viruses and provides epidemiological information on these diseases. Varicella (chicken pox) is a mild, highly infectious disease, chiefly of children. Zoster (shingles) is the recurrent form of the disease, occurring in adults who were previously infected with varicella-zoster viruses. Zoster is the response (characterized by a rash) of the partially immune host to a reactivation of varicella viruses present in latent form in the patient's body.

(b) *Classification.* Class II (performance standards).

§ 866.3930 Virbrio cholerae serological reagents.

(a) *Identification. Vibrio cholerae* serological reagents are devices that are used in the agglutination (an antigen-antibody clumping reaction) test to identify *Vibrio cholerae* from cultured isolates derived from clinical specimens. The identification aids in the diagnosis

of cholera caused by the bacterium *Vibrio cholerae* and provides epidemiological information on cholera. Cholera is an acute infectious disease characterized by severe diarrhea with extreme fluid and electrolyte (salts) depletion, and by vomiting, muscle cramps, and prostration. If untreated, the severe dehydration may lead to shock, renal failure, cardiovascular collapse, and death.

(b) *Classification.* Class II (performance standards).

Subpart E—Immunology Laboratory Equipment and Reagents

§ 866.4100 Complement reagent.

(a) *Identification.* A complement reagent is a device that consists of complement, a naturally occurring serum protein from any warm-blooded animal such as guinea pigs, that may be included as a component part of serological test kits used in the diagnosis of disease.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 866.4500 Immunoelectrophoresis equipment.

(a) *Identification.* Immunoelectrophoresis equipment for clinical use with its electrical power supply is a device used for separating protein molecules. Immunoelectrophoresis is a procedure in which a complex protein mixture is placed in an agar gel and the various proteins are separated on the basis of their relative mobilities under the influence of an electric current. The separated proteins are then permitted to diffuse through the agar toward a multispecific antiserum, allowing precipitation and visualization of the separate complexes.

(b) *Classification.* Class I (general controls).

§ 866.4520 Immunofluorometer equipment.

(a) *Identification.* Immunofluorometer equipment for clinical use with its electrical power supply is a device used to measure the fluorescence of fluorochrome-labeled antigen-antibody complexes. The concentration of these complexes may be measured by means of reflected light. A beam of light is passed through a solution in which a fluorochrome has been selectively attached to serum protein antibody molecules in suspension. The amount of light emitted by the fluorochrome label is detected by a photodetector, which converts light energy into electrical energy. The amount of electrical energy registers on a readout system such as a digital voltmeter or a recording chart. This electrical readout is called the fluorescence value and is used to measure the concentration of antigen-antibody complexes.

(b) *Classification.* Class I (general controls).

§ 866.4540 Immunonephelometer equipment.

(a) *Identification.* Immunonephelometer equipment for clinical use with its electrical power supply is a device that measures light scattering from antigen-antibody complexes. The concentration of these complexes may be measured by means of reflected light. A beam of light passed through a solution is scattered by the particles in suspension. The amount of light is detected by a photodetector, which converts light energy into electrical energy. The amount of electrical energy registers on a readout system such as a digital voltmeter or a recording chart. This electrical readout is called the light-scattering value and is used to measure the concentration of antigen-antibody complexes. This generic type of device includes devices with various kinds of light sources, such as laser equipment.

(b) *Classification.* Class I (general controls).

§ 866.4600 Ouchterlony agar plate.

(a) *Identification.* An ouchterlony agar plate for clinical use is a device containing an agar gel used to examine antigen-antibody reactions. In immunodiffusion, antibodies and antigens migrate toward each other through gel which originally contained neither of these reagents. As the reagents come in contact with each other, they combine to form a precipitate that is trapped in the gel matrix and is immobilized.

(b) *Classification.* Class I (general controls).

§ 866.4800 Radial immunodiffusion plate.

(a) *Identification.* A radial immunodiffusion plate for clinical use is a device that consists of a plastic plate to which agar gel containing antiserum is added. In radial immunodiffusion, antigens migrate through gel which originally contains specific antibodies. As the reagents come in contact with each other, they combine to form a precipitate that is trapped in the gel matrix and immobilized.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807.

§ 866.4830 Rocket immunoelectrophoresis equipment.

(a) *Identification.* Rocket immunoelectrophoresis equipment for clinical use is a device used to perform a specific test on proteins by using a procedure called rocket immunoelectrophoresis. In this procedure, an electric current causes the protein in solution to migrate through agar gel containing specific antisera. The protein precipitates with the antisera in a rocket-shaped pattern, giving the name to the device. The height of the peak (or the area under the peak) is proportional to the concentration of the protein.

(b) *Classification.* Class I (general controls).

§ 866.4900 Support gel.

(a) *Identification.* A support gel for clinical use is a device that consists of an agar or agarose preparation that is used while measuring various kinds of, or parts of, protein molecules by various immunochemical techniques, such as immunoelectrophoresis, immunodiffusion, or chromatography.

(b) *Classification.* Class I (general controls).

Subpart F—Immunological Test Systems

§ 866.5040 Albumin immunological test system.

(a) Identification. An albumin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the albumin (a plasma protein) in serum and other body fluids. Measurement of albumin aids in the diagnosis of kidney and intestinal diseases.

(b) *Classification.* Class II (performance standards).

§ 866.5060 Prealbumin immunological test system.

(a) *Identification.* A prealbumin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the prealbumin (a plasma protein) in serum and other body fluids. Measurement of prealbumin levels in serum may aid in the assessment of the patient's nutritional status.

(b) *Classification.* Class I (general controls).

§ 866.5065 Human allotypic marker immunological test system.

(a) *Identification.* A human allotypic marker immunological test system is a device that consists of the reagents used to identify by immunochemical techniques the inherited human protein

allotypic markers (such as nGm, nA_2m, and Km allotypes) in serum and other body fluids. The identification may be used while studying population genetics.

(b) *Classification.* Class I (general controls).

§ 866.5080 Alpha-1-antichymotrypsin immunological test system.

(a) *Identification.* An *alpha*-1-antichymotrypsin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques *alpha*-1-antichymotrypsin (a protein) in serum, other body fluids, and tissues. *Alpha*-1-antichymotrypsin helps protect tissues against proteolytic (protein-splitting) enzymes released during infection.

(b) *Classification.* Class II (performance standards).

§ 866.5090 Antimitochondrial antibody immunological test system.

(a) *Identification.* An antimitochondrial antibody immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the antimitochondrial antibodies in human serum. The measurements aid in the diagnosis of diseases that produce a spectrum of autoantibodies (antibodies produced against the body's own tissue), such as primary biliary cirrhosis (degeneration of liver tissue) and chronic active hepatitis (inflammation of the liver).

(b) *Classification.* Class II (performance standards).

§ 866.5100 Antinuclear antibody immunological test system.

(a) *Identification.* An antinuclear antibody immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the autoimmune antibodies in serum, other body fluids, and tissues that react with cellular nuclear constituents (molecules present in the nucleus of a cell, such as ribonucleic acid, deoxyribonucleic acid, or nuclear proteins). The measurements aid in the diagnosis of systemic lupus erythematosus (a multisystem autoimmune disease in which antibodies attack the victim's own tissues), hepatitis (a liver disease), rheumatoid arthritis, Sjogren's syndrome (arthritis with inflammation of the eye, eyelid, and salivary glands), and systemic sclerosis (chronic hardening and shrinking of many body tissues).

(b) *Classification.* Class II (performance standards).

§ 866.5110 Antiparietal antibody immunological test system.

(a) *Identification.* An antiparietal antibody immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the specific antibody for gastric parietal cells in serum and other body fluids. Gastric parietal cells are those cells located in the stomach that produce a protein that enables vitamin B_{12} to be absorbed by the body. The measurements aid in the diagnosis of vitamin B_{12} deficiency (or pernicious anemia), atrophic gastritis (inflammation of the stomach), and autoimmune connective tissue diseases (diseases resulting when the body produces antibodies against its own tissues).

(b) *Classification.* Class II (performance standards).

§ 866.5120 Antismooth muscle antibody immunological test system.

(a) *Identification.* An antismooth muscle antibody immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the antismooth muscle antibodies (antibodies to nonstriated, involuntary muscle) in serum. The measurements aid in the diagnosis of chronic hepatitis (inflammation of the liver) and autoimmune connective tissue diseases (diseases resulting from antibodies produced against the body's own tissues).

(b) *Classification* Class II (performance standards).

§ 866.5130 Alpha-1-antitrypsin immunological test system.

(a) *Identification.* An *alpha*-1-antitrypsin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the *alpha*-1-antitrypsin (a plasma protein) in serum, other body fluids, and tissues. The measurements aid in the diagnosis of several conditions including juvenile and adult cirrhosis of the liver. In addition, *alpha*-1-antitrypsin deficiency has been associated with pulmonary emphysema.

(b) *Classification.* Class II (performance standards).

§ 866.5150 Bence-Jones proteins immunological test system.

(a) *Identification.* A Bence-Jones proteins immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the Bence-Jones proteins in urine and plasma. Immunoglobulin molecules normally consist of pairs of polypeptide chains (subunits) of unequal size (light chains and heavy chains) bound together by several disulfide bridges. In some cancerous conditions, there is a proliferation of one plasma cell (antibody-producing cell) with excess production of light chains of one specific kind (monoclonal light chains). These free homogeneous light chains not associated with an immunoglobulin molecule can be found in urine and plasma, and have been called Bence-Jones proteins. Measurement of Bence-Jones proteins and determination that they are monoclonal aid in the diagnosis of multiple myeloma (malignant proliferation of plasma cells), Waldenstrom's macroglobulinemia (increased production of large immunoglobulins by spleen and bone marrow cells), leukemia (cancer of the blood-forming organs), and lymphoma (cancer of the lymphoid tissue).

(b) *Classification.* Class II (performance standards).

§ 866.5160 Beta-globulin immunological test system.

(a) *Identification.* A *beta*-globulin immunological test system is a device that consists of reagents used to measure by immunochemical techniques beta globulins (serum protein) in serum and other body fluids. *Beta*-globulin proteins include *beta*-lipoprotein, transferrin, glycoproteins, and complement, and are rarely associated with specific pathologic disorders.

(b) *Classification.* Class I (general controls).

§ 866.5170 Breast milk immunological test system.

(a) *Identification.* A breast milk immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the breast milk proteins.

(b) *Classification.* Class I (general controls).

§ 866.5200 Carbonic anhydrase B and C immunological test system.

(a) *Identification.* A carbonic anhydrase B and C immunological test system is a device that consists of the reagents used to measure by immunochemical techniques specific carbonic anhydrase protein molecules in serum and other body fluids. Measurements of carbonic anhydrase B and C aid in the diagnosis of abnormal hemoglobin metabolism.

(b) *Classification.* Class I (general controls).

§ 866.5210 Ceruloplasmin immunological test system.

(a) *Identification.* A ceruloplasmin immunological test system is a device

that consists of the reagents used to measure by immunochemical techniques the ceruloplasmin (copper-transporting serum protein) in serum, other body fluids, or tissues. Measurements of ceruloplasmin aid in the diagnosis of copper metabolism disorders.

(b) *Classification.* Class II (performance standards).

§ 866.5220 Cohn fraction II immunological test system.

(a) *Identification.* A Cohn fraction II immunological test system is a device that consists of the reagents that contain or are used to measure that fraction of plasma containing protein gamma globulins, predominantly of the IgG class. The device may be used as a coprecipitant in radioimmunoassay methods, as raw material for the purification of IgG subclasses, and to reduce nonspecific adsorption of plasma proteins in immunoassay techniques. Measurement of these proteins aids in the diagnosis of any disease concerned with abnormal levels of IgG gamma globulins such as agammaglobulinemia or multiple myeloma.

(b) *Classification.* Class I (general controls).

§ 866.5230 Colostrum immunological test system.

(a) *Identification.* A colostrum immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the specific proteins in colostrum. Colostrum is a substance excreted by the mammary glands during pregnancy and until production of breast milk begins 1 to 5 days after childbirth.

(b) *Classification.* Class I (general controls).

§ 866.5240 Complement components immunological test system.

(a) *Identification.* A complement components immunological test system is a device that consists of the reagents used to measure by immunochemical techniques complement components C1q, C_{1r}, C_{1s}, C_2, C_3, C_4, C_5, C_6, C_7, C_8, and C_9, in serum, other body fluids, and tissues. Complement is a group of serum proteins which destroy infectious agents. Measurements of these proteins aids in the diagnosis of immunologic disorders, especially those associated with deficiencies of complement components.

(b) *Classification.* Class II (performance standards).

§ 866.5250 Complement C_1 inhibitor (inactivator) immunological test system.

(a) *Identification.* A complement C_1 inhibitor (inactivator) immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the complement C_1 inhibitor (a plasma protein) in serum. Complement C_1 inhibitor occurs normally in plasma and blocks the action of the C_1 component of complement (a group of serum proteins which destroy infectious agents). Measurement of complement C_1 inhibitor aids in the diagnosis of hereditary angioneurotic edema (increased blood vessel permeability causing swelling of tissues) and a rare form of angioedema associated with lymphoma (lymph node cancer).

(b) *Classification.* Class II (performance standards).

§ 866.5260 Complement C_{3b} inactivator immunological test system.

(a) *Identification.* A complement C_{3b} inactivator immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the complement C_{3b} inactivator (a plasma protein) in serum. Complement is a group of serum proteins that destroy infectious agents. Measurement of complement C_{3b} inactivator aids in the diagnosis of inherited antibody dysfunction.

(b) *Classification.* Class II (performance standards).

§ 866.5270 C-reactive protein immunological test system.

(a) *Identification.* A C-reactive protein immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the C-reactive protein in serum and other body fluids. Measurement of C-reactive protein aids in evaluation of the amount of injury to body tissues.

(b) *Classification.* Class II (performance standards).

§ 866.5320 Properdin factor B immunological test system.

(a) *Identification.* A properdin factor B immunological test system is a device that consists of the reagents used to measure by immunochemical techniques properdin factor B in serum and other body fluids. The deposition of properdin factor B in body tissues or a corresponding depression in the amount of properdin factor B in serum and other body fluids is evidence of the involvement of the alternative to the classical pathway of activation of complement (a group of plasma proteins which cause the destruction of cells which are foreign to the body). Measurement of properdin factor B aids in the diagnosis of several kidney diseases, e.g., chronic glomerulonephritis (inflammation of the glomeruli of the kidney), lupus nephritis (kidney disease associated with a multisystem autoimmune disease, systemic lupus erythematosus), as well as several skin diseases, e.g., dermititis herpetiformis (presence of vesicles on the skin that burn and itch), and pemphigus vulgaris (large vesicles on the skin). Other diseases in which the alternate pathway of complement activation has been implicated include rheumatoid arthritis, sickle cell anemia, and gram-negative bacteremia.

(b) *Classification.* Class II (performance standards).

§ 866.5330 Factor XIII, A, S, immunological test system.

(a) *Identification.* A factor XIII, A, S, immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the factor XIII (a bloodclotting factor), in platelets (A) or serum (S). Measurements of factor XIII, A, S, aid in the diagnosis and treatment of certain bleeding disorders resulting from a deficiency of this factor.

(b) *Classification.* Class I (general controls).

§ 866.5340 Ferritin immunological test system.

(a) *Identification.* A ferritin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the ferritin (an iron-storing protein) in serum and other body fluids. Measurements of ferritin aid in the diagnosis of diseases affecting iron metabolism, such as hemochromatosis (iron overload) and iron deficiency amemia.

(b) *Classification.* Class II (performance standards).

§ 866.5350 Fibrinopeptide A immunological test system.

(a) *Identification.* A fibrinopeptide A immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the fibrinopeptide A (a blood-clotting factor) in plasma and other body fluids. Measurement of fibrinopeptide A may aid in the diagnosis and treatment of certain blood-clotting disorders.

(b) *Classification.* Class II (performance standards).

§ 866.5360 Cohn fraction IV immunological test system.

(a) *Identification.* A Cohn fraction IV immunological system is a device that consists of or measures that fraction of plasma proteins, predominantly *alpha-* and *beta*-globulins, used as a raw material for the production of pure *alpha-* or *beta*-globulins. Measurement of specific *alpha-* or *beta*-globulins aids in

the diagnosis of many diseases, such as Wilson's disease (an inherited disease affecting the liver and brain), Tangier's disease (absence of *alpha*-1-lipoprotein), malnutrition, iron deficiency anemia, red blood cell disorders, and kidney disease.

(b) *Classification.* Class I (general controls).

§ 866.5370 Cohn fraction V immunological test system.

(a) *Identification.* A Cohn fraction V immunological test system is a device that consists of or measures that fraction of plasma containing predominantly albumin (a plasma protein). This test aids in the diagnosis of diseases where albumin levels may be depressed, e.g., nephrosis (disease of the kidney), proteinuria (protein in the urine), gastroenteropathy (disease of the stomach and small intestine), rheumatoid arthritis, and viral hepatitis.

(b) *Classification.* Class I (general controls).

§ 866.5380 Free secretory component immunological test system.

(a) *Identification.* A free secretory component immunological test system is a device that consists of the reagents used to measure by immunochemical techniques free secretory component (normally a portion of the secretory IgA antibody molecule) in body fluids. Measurement of free secretory component (protein molecules) aids in the diagnosis or repetitive lung infections and other hypogammaglobulinemic conditions (low antibody levels).

(b) *Classification.* Class II (performance standards).

§ 866.5400 Alpha-globulin immunological test system.

(a) *Identificotion.* An *alpha*-globulin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the *alpha*-globulin (a serum protein) in serum and other body fluids. Measurement of *alpha*-globulin may aid in the diagnosis of inflammatory lesions, infections, severe burns, and a variety of other conditions.

(b) *Classification.* Class I (general controls).

§ 866.5420 Alpha-1-glycoproteins immunological test system.

(a) *Identification.* An *alpha*-1-glycoproteins immunological test system is a device that consists of the reagents used to measure by immunochemical techniques *alpha*-1-glycoproteins (a group of plasma proteins found in the *alpha*-1 group when subjected to electrophoresis) in serum and other body fluids. Measurement of specific *alpha*-1-glycoproteins may aid in the diagnosis of collagen (connective tissue) disorders, tuberculosis, infections, extensive malignancy, and diabetes.

(b) *Classification.* Class I (general controls).

§ 866.5425 Alpha-2-glycoproteins immunological test system.

(a) *Identification.* An *alpha*-2-glycoproteins immunolgical test system is a device that consists of the reagents used to measure by immunochemical techniques the *alpha*-2-glycoproteins (a group of plasma proteins found in the *alpha*-2 group when subjected to electrophoresis) in serum and other body fluids. Measurement of *alpha*-2-glycoproteins aids in the diagnosis of some cancers and genetically inherited deficiencies of these plasma proteins.

(b) *Classification.* Class I (general controls).

§ 866.5430 Beta-2-glycoprotein I immunological test system.

(a) *Identification.* A *beta*-2-glycoprotein I immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the *beta*-2-glycoprotein I (a serum protein) in serum and other body fluids. Measurement of *beta*-2-glycoprotein I aids in the diagnosis of an inherited deficiency of this serum protein.

(b) *Classification.* Class I (general controls).

§ 866.5440 Beta-2-glycoprotein III immunological test system.

(a) *Identification.* A *beta*-2-glycoprotein III immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the *beta*-2-glycoprotein III (a serum protein) in serum and other body fluids. Measurement of *beta*-2-glycoprotein III aids in the diagnosis of an inherited deficiency of this serum protein and a variety of other conditions.

(b) *Classification.* Class I (general controls).

§ 866.5460 Haptoglobin immunological test system.

(a) *Identification.* A haptoglobin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the haptoglobin (a protein that binds hemoglobin, the oxygen-carrying pigment in red blood cells) in serum. Measurement of haptoglobin may aid in the diagnosis of hemolytic diseases (diseases in which the red blood cells rupture and release hemoglobin) related to the formation of hemoglobin-haptoglobin complexes and certain kidney diseases.

(b) *Classification.* Class II (performance standards).

§ 866.5470 Hemoglobin immunological test system.

(a) *Indentification.* A hemoglobin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the different types of free hemoglobin (the oxygen-carrying pigment in red blood cells) in blood, urine, plasma, or other body fluids. Measurements of free hemoglobin aid in the diagnosis of various hematologic disorders, such as sickle cell anemia, Fanconi's anemia (a rare inherited disease), aplastic anemia (bone marrow does not produce enough blood cells), and leukemia (cancer of the blood-forming organs).

(b) *Classification.* Class II (performance standards).

§ 866.5490 Hemopexin immunological test system.

(a) *Indentification.* A hemopexin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the hemopexin (a serum protein that binds heme, a component of hemoglobin) in serum. Measurement of hemopexin aids in the diagnosis of various hematologic disorders, such as hemolytic anemia (anemia due to shortened in vivo survival of mature red blood cells and inability of the bone marrow to compensate for their decreased life span) and sickle cell anemia.

(b) *Classification.* Class II (performance standards).

§ 866.5500 Hypersensitivity pneumonitis immunological test system.

(a) *Identification.* A hypersensitivity pneumonitis immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the immunoglobulin antibodies in serum which react specifically with organic dust derived from fungal or animal protein sources. When these antibodies react with such dusts in the lung, immune complexes precipitate and trigger an inflammatory reaction (hypersensitivity pneumonitis). Measurement of these immunoglobulin G antibodies aids in the diagnosis of hypersensitivity pneumonitis and other allergic respiratory disorders.

(b) *Classification.* Class II (performance standards).

§ 866.5510 Immunoglobulins A, G, M, D, and E immunological test system.

(a) *Identification.* An immunoglobulins A, G, M, D, and E immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the immunoglobulins A, G, M, D, an E (serum antibodies) in serum. Measurement of these immunoglobulins aids in the diagnosis of abnormal protein metabolism and the body's lack of ability to resist infectious agents.

(b) *Classification.* Class II (performance standards).

§ 866.5520 Immunoglobulin G (Fab fragment specific) immunological test system.

(a) *Identification.* An immunoglobulin G (Fab fragment specific) immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the Fab antigen-binding fragment resulting from breakdown of immunoglobulin G antibodies in urine, serum, and other body fluids. Measurement of Fab fragments of immunoglobulin G aids in the diagnosis of lymphoproliferative disorders, such as multiple myeloma (tumor of bone marrow cells), Waldenstrom's macroglobulinemia (increased immunoglobulin production by the spleen and bone marrow cells), and lymphoma (tumor of the lymphoid tissues).

(b) *Classification.* Class II (performance standards).

§ 866.5530 Immunoglobulin G (Fc fragment specific) immunological test system.

(a) *Identification.* An immunoglobulin G (Fc fragment specific) immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the Fc (carbohydrate containing) fragment of immunoglobulin G (resulting from breakdown of immunoglobulin G antibodies) in urine, serum, and other body fluids. Measurement of immunoglobulin G Fc fragments aids in the diagnosis of plasma cell antibody-forming abnormalities, e.g., gamma heavy chain disease.

(b) *Classification.* Class II (performance standards).

§ 866.5540 Immunoglobulin G (Fd fragment specific) immunological test system.

(a) *Identification.* An immunoglobulin G (Fd fragment specific) immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the amino terminal (antigen-binding) end (Fd fragment) of the heavy chain (a subunit) of the immunoglobulin antibody molecule in serum. Measurement of immunoglobulin G Fd fragments aids in the diagnosis of plasma antibody-forming cell abnormalities.

(b) *Classification.* Class I (general controls).

§ 866.5550 Immunoglobulin (light chain specific) immunological test system.

(a) *Identification.* An immunoglobulin (light chain specific) immunological test system is a device that consists of the reagents used to measure by immunochemical techniques both kappa and lambda types of light chain portions of immunoglobulin molecules in serum, other body fluids, and tissues. In some disease states, an excess of light chains are produced by the antibody-forming cells. These free light chains, unassociated with gamma globulin molecules, can be found in a patient's body fluids and tissues. Measurement of the various amounts of the different types of light chains aids in the diagnosis of multiple myeloma (cancer of antibody-forming cells), lymphocytic neoplasms (cancer of lymphoid tissue), Waldenstrom's macroglobulinemia (increased production of large immunoglobulins), and connective tissue diseases such as rheumatoid arthritis or systemic lupus erythematosus.

(b) *Classification.* Class II (performance standards).

§ 866.5560 Lactic dehydrogenase immunological test system.

(a) *Identification.* A lactic dehydrogenase immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the activity of the lactic dehydrogenase enzyme in serum. Increased levels of lactic dehydrogenase are found in a variety of conditions, including megaloblastic anemia (decrease in the number of mature red blood cells), myocardial infarction (heart disease), and some forms of leukemia (cancer of the blood-forming organs). However, the diagnostic usefulness of this device is limited because of the many conditions known to cause increased lactic dehydrogenase levels.

(b) *Classification.* Class I (general controls).

§ 866.5570 Lactoferrin immunological test system.

(a) *Identification.* A lactoferrin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the lactoferrin (an iron-binding protein with the ability to inhibit the growth of bacteria) in serum, breast milk, other body fluids, and tissues. Measurement of lactoferrin may aid in the diagnosis of an inherited deficiency of this protein.

(b) *Classification.* Class I (general controls).

§ 866.5580 Alpha-1-lipoprotein immunological test system.

(a) *Identification.* An *alpha*-1-lipoprotein immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the *alpha*-1-lipoprotein (high-density lipoprotein) in serum and plasma. Measurement of *alpha*-1-lipoprotein may aid in the diagnosis of Tangier disease (a hereditary disorder of fat metabolism).

(b) *Classification.* Class II (performance standards).

§ 866.5590 Lipoprotein X immunological test system.

(a) *Identification.* A lipoprotein X immunological test system is a device that consists of the reagents used to measure by immunochemical techniques lipoprotein X (a high-density lipoprotein) in serum and other body fluids. Measurement of lipoprotein X aids in the diagnosis of obstructive liver disease.

(b) *Classification.* Class I (general controls).

§ 866.5600 Low-density lipoprotein immunological test system.

(a) *Identification.* A low-density lipoprotein immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the low-density lipoprotein in serum and other body fluids. Measurement of low-density lipoprotein in serum may aid in the diagnosis of disorders of lipid (fat) metabolism and help to identify young persons at risk from cardiovascular diseases.

(b) *Classification.* Class II (performance standards).

§ 866.5620 Alpha-2-macroglobulin immunological test system.

(a) *Identification.* An *alpha*-2-macroglobulin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the *alpha*-2-macroglobulin (a serum protein) in plasma. Measurement of *alpha*-2-macroglobulin may aid in the diagnosis of blood-clotting or clot lysis disorders.

(b) *Classification.* Class II (performance standards).

§ 866.5630 Beta-2-microglobulin immunological test system.

(a) *Identification.* A *beta*-2-microglobulin immunological test system is a device that consists of the

reagents used to measure by immunochemical techniques *beta*-2-microglobulin (a protein molecule) in serum, urine, and other body fluids. Measurement of *beta*-2-microglobulin aids in the diagnosis of active rheumatoid arthritis and kidney disease.

(b) *Classification.* Class II (performance standards).

§ 886.5640 Infectious mononucleosis immunological test system.

(a) *Identification.* An infectious mononucleosis immunological test system is a device that consists of the reagents used to measure by immunochemical techniques heterophile antibodies frequently associated with infectious mononucleosis in serum, plasma, and other body fluids. Measurements of these antibodies aid in the diagnosis of infectious mononucleosis.

(b) *Classification.* Class II (performance standards).

§ 866.5660 Multiple autoantibodies immunological test system.

(a) *Identification.* A multiple autoantibodies immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the autoantibodies (antibodies produced against the body's own tissues) in serum and other body fluids. Measurement of multiple autoantibodies aids in the diagnosis of autoimmune disorders (disease produced when the body's own tissues are injured by autoantibodies).

(b) *Classification.* Class II (performance standards).

§ 866.5680 Myoglobin immunological test system.

(a) *Identification.* A myoglobin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the myoglobin (an oxygen storage protein found in muscle) in serum and other body fluids. Measurement of myoglobin aids in the rapid diagnosis of heart or renal disease.

(b) *Classification.* Class II (performance standards).

§ 866.5700 Whole human plasma or serum immunological test system.

(a) *Identification.* A whole human plasma or serum immunological test system is a device that consists of reagents used to measure by immunochemical techniques the proteins in plasma or serum. Measurements of proteins in plasma or serum aid in the diagnosis of any disease concerned with abnormal levels of plasma or serum proteins, e.g., agammaglobulinemia, allergies, multiple myeloma, rheumatoid vasculitis, or hereditary angioneurotic edema.

(b) *Classification.* Class I (general controls).

§ 866.5715 Plasminogen immunological test system.

(a) *Identification.* A plasminogen immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the plasminogen (an inactive substance from which plasmin, a blood-clotting factor, is formed) in serum, other body fluids, and tissues. Measurement of plasminogen levels may aid in the diagnosis of fibrinolytic (blood-clotting) disorders.

(b) *Classification.* Class I (general controls).

§ 866.5735 Prothrombin immunological test system.

(a) *Identification.* A prothrombin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the prothrombin (clotting factor II) in serum. Measurements of the amount of antigenically competent (ability to react with protein antibodies) prothrombin aid in the diagnosis of blood-clotting disorders.

(b) *Classification.* Class I (general controls).

§ 866.5750 Radioallergosorbent (RAST) immunological test system.

(a) *Identification.* A radioallergosorbent immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the allergen antibodies (antibodies which cause an allergic reaction) specific for a given allergen. Measurement of specific allergen antibodies may aid in the diagnosis of asthma, allergies, and other pulmonary disorders.

(b) *Classification.* Class II (performance standards).

§ 866.5765 Retinol-binding protein immunological test system.

(a) *Identification.* A retinol-binding protein immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the retinol-binding protein that binds and transports vitamin A in serum and urine. Measurement of this protein may aid in the diagnosis of kidney disease and in monitoring patients with kidney transplants.

(b) *Classification.* Class I (general controls).

§ 866.5775 Rheumatoid factor immunological test system.

(a) *Identification.* A rheumatoid factor immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the rheumatoid factor (antibodies to immunoglobulins) in serum, other body fluids, and tissues. Measurement of rheumatoid factor may aid in the diagnosis of rheumatoid arthritis.

(b) *Classification.* Class II (performance standards).

§ 866.5800 Seminal fluid (sperm) immunological test system.

(a) *Identification.* A seminal fluid (sperm) immunological test system is a device that consists of the reagents used for legal purposes to identify and differentiate animal and human semen. The test results may be used as court evidence in alleged instances of rape and other sex-related crimes.

(b) *Classification.* Class I (general controls).

§ 866.5820 Systemic lupus erythematosus immunological test system.

(a) *Identification.* A systemic lupus erythematosus (SLE) immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the autoimmune antibodies in serum and other body fluids that react with cellular nuclear double-stranded deoxyribonucleic acid (DNA) or other nuclear constituents that are specifically diagnostic of SLE. Measurement of nuclear double-stranded DNA antibodies aids in the diagnosis of SLE (a multisystem autoimmune disease in which tissues are attacked by the person's own antibodies).

(b) *Classification.* Class II (performance standards).

§ 866.5860 Total spinal fluid immunological test system.

(a) *Identification.* A total spinal fluid immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the total protein in cerebrospinal fluid. Measurement of spinal fluid proteins may aid in the diagnosis of multiple sclerosis and other diseases of the nervous system.

(b) *Classification.* Class II (performance standards).

§ 866.5870 Thyroid autoantibody immunological test system.

(a) *Identification.* A thyroid autoantibody immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the thyroid autoantibodies

(antibodies produced against the body's own tissues). Measurement of thyroid autoantibodies may aid in the diagnosis of certain thyroid disorders, such as Hashimoto's disease (chronic lymphocytic thyroiditis), nontoxic goiter (enlargement of thyroid gland), Grave's disease (enlargement of the thyroid gland with protrusion of the eyeballs), and cancer of the thyroid.

(b) *Classification.* Class II (performance standards).

§ 866.5880 Transferrin immunological test system.

(a) *Identification.* A transferrin immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the transferrin (an iron-binding and transporting serum protein) in serum, plasma, and other body fluids. Measurement of transferrin levels aids in the diagnosis of malnutrition, acute inflammation, infection, and red blood cell disorders, such as iron deficiency anemia.

(b) *Classification.* Class II (performance standards).

§ 866.5890 Inter-alpha trypsin inhibitor immunological test system.

(a) *Identification.* An inter-*alpha* trypsin inhibitor immunological test system is a device that consists of the reagents used to measure by immunochemical techniques the inter-*alpha* trypsin inhibitor (a protein) in serum and other body fluids. Measurement of inter-alpha trypsin inhibitor may aid in the diagnosis of acute bacterial infection and inflammation.

(b) *Classification.* Class I (general controls).

Subpart G—Tumor Associated Antigen Immunological Test Systems

§ 866.6010 Carcinoembryonic antigen (CEA) immunological test system as an aid in the detection and management of cancer.

(a) *Identification.* A carcinoembryonic antigen (CEA) immunological test system as an aid in the detection and management of cancer is a device that consists of the reagents intended to measure by immunochemical techniques, such as enzyme immunoassay or radioimmunoassay, CEA in blood, plasma, other body fluids, and tissues. Measurement of CEA levels may aid in the detection and management of cancer.

(b) *Classification.* Class III (premarket approval) (transitional device).

The Food and Drug Administration has carefully analyzed the economic effects of this final rule in accordance with section 3(g)(1) of Executive Order 12291, and it has been determined that the final rule does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules classifying devices into class I generally maintain the status quo: These devices are now subject to only the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and under the final rule, would remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II would also remain subject only to the general controls provisions of the act unless and until an applicable performance standard were established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III that were not previously considered new drugs may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules are not major rules. The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rules on which it is based were issued prior to January 1, 1981, and are therefore exempt.

Effective date. This regulation is effective December 9, 1982.

(Secs. 513, 520(l), 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 360j(1), 371(a)).)

Dated: October 14, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
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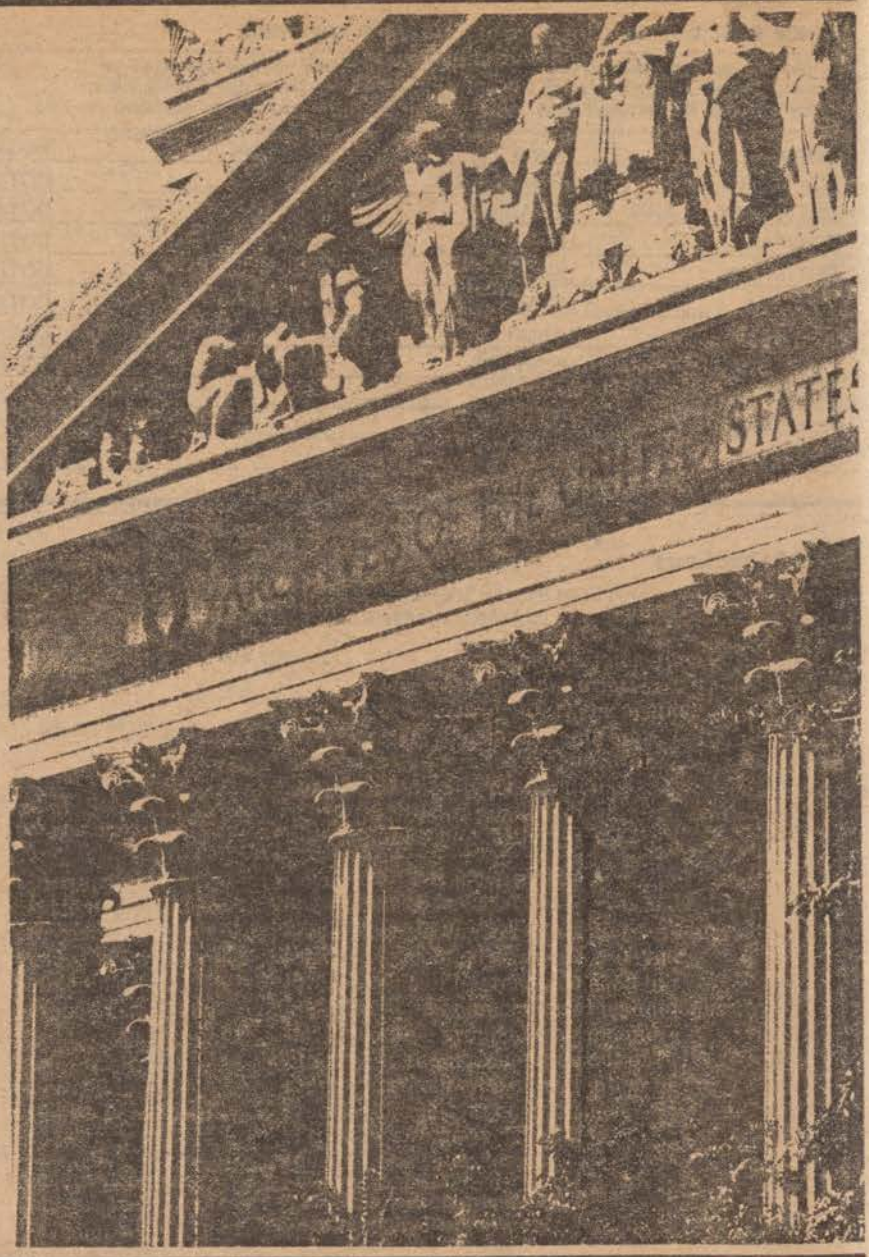

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