

Federal Register

Wednesday
November 10, 1982

Selected Subjects

Administrative Practice and Procedure
Federal Home Loan Bank Board

Air Pollution Control
Environmental Protection Agency

Animal Biologics
Animal and Plant Health Inspection Service

Authority Delegations (Government Agencies)
General Accounting Office

Cemeteries
Veterans Administration

Cotton
Agricultural Marketing Service

Electric Power Plants
Economic Regulatory Administration

Electric Power Rates
Indian Affairs Bureau

Endangered and Threatened Wildlife
Fish and Wildlife Service

Estate Taxes
Internal Revenue Service

Excise Taxes
Internal Revenue Service

Fisheries
National Oceanic and Atmospheric Administration

Government Contracts
General Accounting Office

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

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General Services Administration

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Veterans Administration

Imports

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Income Taxes

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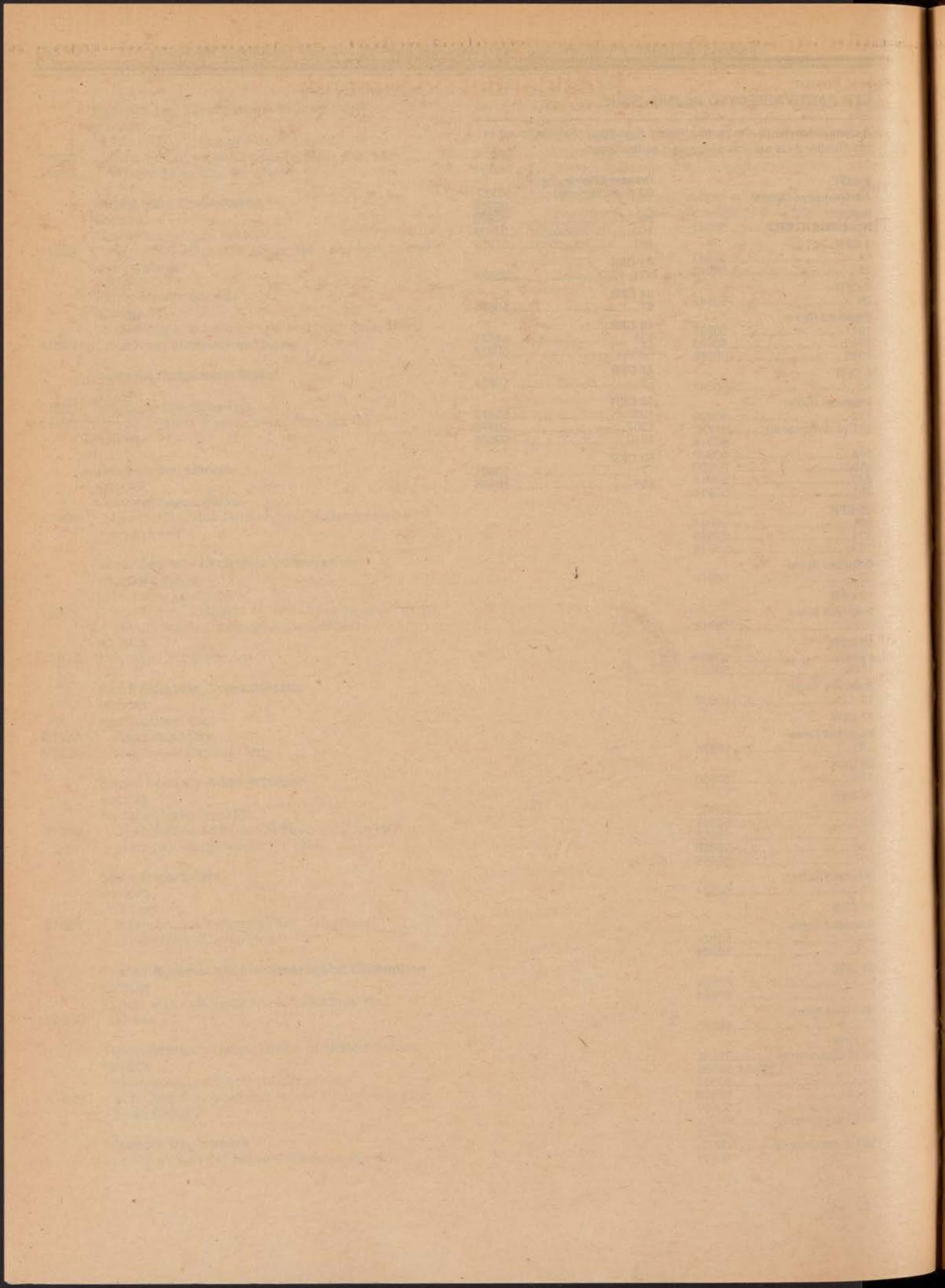
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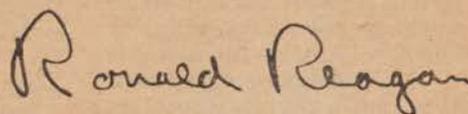
Title 3—

Notice of November 8, 1982

The President

Continuation of Iran Emergency

On November 14, 1979, by Executive Order No. 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy and economy of the United States constituted by the situation in Iran. Notices of the continuation of the national emergency were transmitted by the President to the Congress and the **Federal Register** on November 12, 1980 and November 12, 1981. Because our relations with Iran have not yet been normalized and the process of implementing the January 19, 1981 agreements with Iran is still under way, the national emergency declared November 14, 1979 must continue in effect beyond November 14, 1982. Therefore, pursuant to section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am so continuing the national emergency with respect to Iran declared on November 14, 1979. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
November 8, 1982.

[FR Doc. 82-31020

Filed 11-8-82; 3:13 pm]

Billing code 3195-01-M

Notes on the ...

Continuation of ...

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Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 51

Authorization of Administrator, GSA, To Prescribe Transportation-Related Forms and Procedures

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This amendment to Part 51 of Title 4, Code of Federal Regulations, reflects our decision, B-198137, June 3, 1982, authorizing the Administrator, General Services Administration, to prescribe transportation-related forms and procedures without consultation with the General Accounting Office. The reason for this amendment is to facilitate the Administrator's transportation audit.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel Billard, Attorney-Adviser, Office of General Counsel, General Accounting Office, 441 G Street, NW., Washington, D.C., Telephone 202-275-5477.

SUPPLEMENTARY INFORMATION:

List of Subjects in 4 CFR Part 51

Accounting, Authority delegations, Transportation.

PART 51—[AMENDED]

Therefore, § 51.2 of Title 4 of the Code of Federal Regulations is revised as follows:

§ 51.2 Standard forms and procedures.

In connection with the audit of payments for transportation services furnished for the account of the United States and the adjustment of claims pertaining thereto, the Administrator, General Services Administration, may prescribe standard forms and procedures without consultation with the General Accounting Office, except

that the prescription thereof is subject to the uniform standards and procedures necessary to permit performance of the discretionary function vested by statute in the Comptroller General and other uniform fiscal requirements deemed necessary, as prescribed in 4 CFR Part 52.

Milton J. Socolar,

Acting Comptroller General of the United States.

[FR Doc. 82-30849 Filed 11-9-82; 8:45 am]

BILLING CODE 1610-01-M

4 CFR Part 75

Standardized Fiscal Procedures; Technical Amendments

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This rule provides technical amendments to § 75.1 of Title 4, Code of Federal Regulations, by removing references to repealed provisions and substituting a reference to the current provisions relating to certificates on transportation bills. This change was made necessary as a result of the transfer from this Office to the General Services Administration of the authority to conduct passenger and freight transportation services audits and to issue regulations relating thereto. The substituted provisions are those which have been issued by GSA.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel Billard, Attorney-Adviser, Office of General Counsel, General Accounting Office, 441 G Street, N.W., Washington, D.C., telephone 202-275-5477.

SUPPLEMENTARY INFORMATION: Prior to October 12, 1975, the General Accounting Office, incident to performance of the transportation audit function, was responsible for regulations dealing with the presentation of transportation bills by carriers and other parties. Those regulations were published in Chapter 1, Subchapter D, Title 4 of the Code of Federal Regulations. The General Accounting Office Act of 1974, Public L. 93-604, 88 Stat. 1960, amended section 322 of the Transportation Act of 1940, 31 U.S.C. 244 (Supp. III 1979) by transferring the transportation rate audit function from the General Accounting Office to the General Services Administration,

effective October 12, 1975. On that date, the responsibility to promulgate regulations relating to transportation bills was also transferred to the General Services Administration, and those regulations are published in Chapter 101 of Title 41, Code of Federal Regulations.

List of Subjects in 4 CFR Part 75

Accounting, Government contracts, Transportation.

PART 75—[AMENDED]

Therefore, paragraph (a) of § 75.1, 4 CFR, is revised as follows:

§ 75.1 Contractors' and vendors' certificates.

(a) The General Accounting Office no longer requires that a certificate as to correctness and nonpayment be executed on the bills and invoices of contractors and vendors, with the exception that carriers, or other corporations, agencies, or persons furnishing transportation and accessorial services to the Government must continue to execute the certificates as provided in Chapter 101, Part 41 of Title 41, Code of Federal Regulations. Pending the eventual elimination of the contractors' and vendors' certificates from all other standard voucher forms, the certificates on such other forms need no longer be executed. However, the elimination of this requirement does not dispense with the necessity for the specific certification of facts required by certain contracts.

Milton J. Socolar,

Acting Comptroller General of the United States.

[FR Doc. 82-30848 Filed 11-10-82; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Revision of User Fees for Cotton Classification Service to Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This action finalizes the Interim Final Rule published at 47 FR

30963 on July 16, 1982 which revised the user fees for cotton classification services to producers. The Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357) contains amendments to the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471-476) which direct the Secretary of Agriculture to provide cotton classification services to producers and recover, as nearly as practicable, the costs of providing such services including administrative and supervisory costs through the imposition of a user fee. An overall increase in the fees is necessary to recover the projected costs of such services to producers.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Loyd R. Frazier, Chief, Marketing Services Branch, AMS, USDA, Washington, D.C. 20250, (202) 447-2147.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981, and has been classified "non-major" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, Agricultural Marketing Service (AMS), has determined that this action will not have a significant impact on a substantial number of small business entities as (i) cotton classification services will continue to be provided to producers; (ii) the revised fees will be imposed upon the producers who receive the services; and (iii) cotton classification is not mandatory.

The Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357) amended section 3a of the Cotton Statistics and Estimates Act, 7 U.S.C. 473a, to require that user fees shall be charged for the classification of producer cotton for fiscal years 1982, 1983, and 1984. This legislation directed the Secretary to set the user fee at a level that when combined with the proceeds from the sale of samples submitted for classification would recover, as nearly as practicable, the cost of the service provided, including the administrative and supervisory costs. The Secretary was also directed to take necessary action to insure that the Government cotton classification system continues to operate to provide an official quality description for the United States Cotton crop. The fee for classification of producers cotton was set at 60 cents per sample (46 FR 48113-48115).

Revisions in user fees for cotton classification services to producers were implemented by an Interim Final Rule published at 47 FR 30963 on July 16,

1982. Since the harvesting of the 1982 cotton crop was begun in mid-July, it was necessary to make the revisions effective immediately in order to insure that uniform fees would be paid by all participating growers during the 1982 cotton season. The Department accepted public comment for 60 days following publication of this rule. Only one comment was received and it did not demonstrate a need for revision of these amendments.

The classification fee to producers was increased from the initial charge of 60 cents to 67 cents per sample. The increase in the fee is necessary due to the following conditions: Operating costs for providing classification services to producers have increased. A 4.8 percent increase in salaries as well as increases in expenditures for rent, utilities, communications, supplies and materials have had a significant impact on these costs; (2) anticipated volume of cotton to be classed in FY 1983 is substantially below FY 1982 classings. The classing cost per sample is determined largely by the volume of classings since a large percentage of operational costs are fixed. Fixed costs include full-time salaries, building rents, utilities and equipment which cannot be adjusted in years of reduced cotton production and smaller classing volumes. The latest information available to the Department indicates that classings in fiscal year 1983 are now estimated at 10.8 million samples compared with classings of 14.8 million in fiscal year 1982. While this estimate is 1.2 million samples below the estimate stated in the supplementary information section of the interim final rule, no further change in the fees is deemed necessary at this time because the reduction does not change the underlining fee analysis developed to establish the fees so as to warrant any further changes; (3) a smaller volume of baled loose samples which are sold and used to defray a portion of the classing costs.

In setting the fee, a number of cost and revenue projections were made on the basis of limited information. These include: (1) The size of the 1982 cotton crop, (2) the percentage of the 1982 crop for which classification service will be requested, (3) the volume of baled samples to be sold and the price to be received therefor, and (4) the ability to collect classing fees. In recognition of these uncertainties, an adjustment in the per sample classing fee could become necessary during the year.

The fee for issuance of a new memorandum of classification at the request of the owner of the cotton for the business convenience of the owner

without the reclassification of such cotton was increased from \$1.80 to \$1.90 per sheet due to increased costs of providing this service.

The fee for a review classification was increased from \$1.00 to \$1.05 per sample. In order to avoid a policy that could encourage the unnecessary mutilation of cotton bale packaging by repeated resampling of bales when multiple classifications are desired, the Department will return the samples submitted for review classification if the producer so requests. To defray the costs of handling and returning these samples and to account for the loss in revenue which would have defrayed a portion of the costs of the review classification if the samples had been sold as baled loose cotton, a fee of 25 cents per sample will be charged for those samples returned at the request of the producer. This provision adheres to the policy of the Joint Cotton Industry's Bale Packaging Committee which represents all segments of the United States cotton industry and was formed to promote the improved condition and hence the marketability of United States cotton bales as they pass through marketing channels.

List of Subjects in 7 CFR Part 28

Classification, Cotton, Grades, Micronaire, Samples, Staples.

Accordingly, those sections of 7 CFR Part 28, as amended by the Interim Final Rule (47 FR 30963), are made final without change, and are set forth below:

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

1. Section 28.909 is amended by revising paragraph (b) to read as follows:

§ 28.909 Costs.

* * * * *

(b) The Division will periodically bill producers or the agents designated by the producers for the cost of classification. The cost for cotton classification service to producers is 67 cents per sample.

2. Section 28.910 is amended by revising paragraph (b) to read as follows:

Classification

§ 28.910 Classification of samples and issuance of memoranda.

* * * * *

(b) Upon request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of

such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be \$1.90 per sheet.

3. Section 28.911 is revised to read as follows:

§ 28.911 Review classification.

A producer may request one review classification for each bale of eligible cotton. The fee for review classification is \$1.05 per sample. Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20-28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instruction issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds of the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 25 cents per sample in addition to the fee established above in this section.

(Sec. 10, 42 Stat. 1519, Sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c, and Sec. 156, 95 Stat. 357, unless otherwise noted)

Dated: November 4, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-30919 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-083]

Restrictions on Importation of Horses From Sweden; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document extends to Sweden the prohibitions previously placed on the importations into the United States of certain horses from or

that have been in countries affected with contagious equine metritis (CEM). This action is necessary to protect the livestock of the United States from such disease.

DATES: Effective date: The foregoing amendment shall become effective November 3, 1982, except for horses then in transit to the United States from Sweden (i.e., loaded aboard a commercial carrier and en route to the United States).

Comments must be received on or before January 10, 1983.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, 6505 Belcrest Road, Federal Building, Room 870, Hyattsville, MD 20782.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, USDA, APHIS, VS, 6505 Belcrest Road, Federal Building, Room 818, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than \$100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The emergency nature of this action makes it impractical for the agency to follow the procedures in Executive Order 12291 with respect to this action.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. G. J. Fichtner, Director, National Program Planning Staffs, USDA, APHIS, VS, has determined that an emergency situation exists which warrants publication without opportunity for a

public comment period on this interim action because importation of horses from Sweden, a country affected with contagious equine metritis (CEM), must be restricted in order to protect the livestock of the United States from the introduction and dissemination of CEM.

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

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because only about 150 horses have been imported into the United States from Sweden during fiscal year 1982, out of about 30,000 horses imported into the United States. To the best of our knowledge, through the years the number of small entities involved in the importation of horses has been extremely limited because of factors such as the number of animals sold; stallion fees ranging from \$5,000 to \$50,000; stallions syndicated up to \$32,000,000 and the international operations involved. The average cost to import a horse from overseas is from \$5,000 to \$7,000, including preembarkation testing and treatment, the cost of transportation and post entry quarantine.

Background

On September 9, 1977 (42 FR 45895, September 13, 1977), a prohibition was placed on the importation into the United States of certain horses from England, Ireland, and France and the importation into the United States of certain horses that have been in such countries within the 60 days immediately preceding their export to the United States because of the existence of CEM in such countries. On September 16, 1977 (42 FR 48327-48328, September 23, 1977), the prohibition was extended to Australia and all of the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of

Man); on November 30, 1978 (43 FR 56876-56877, December 5, 1978), it was extended to include Belgium and the Federal Republic of Germany; on October 5, 1979 (44 FR 58896-58897, October 12, 1979), it was extended to include Italy; on July 1, 1980 (45 FR 45888-45889, July 8, 1980), it was extended to include Japan; on July 14, 1981 (46 FR 37240-37241, July 20, 1981), it was extended to include Denmark; and on August 25, 1981 (46 FR 43650-43651, August 31, 1981), it was extended to include Austria.

On December 8, 1977 (42 FR 63384-63385, December 16, 1977), an amendment extended the specified period as a condition for entry of such horses which have been in countries infected with CEM listed under § 92.2(i) of Title 9, Code of Federal Regulations, from 60 days to 12 months. This action was taken to protect the livestock of the United States against the introduction and dissemination of CEM, a communicable disease of horses, into the United States. CEM has now been found to exist in Sweden, and prohibitions on the importation of certain horses from or that have been in that country within 12 months immediately preceding their export to the United States are hereby placed in effect. The same restrictions that now apply to horses from Australia, Austria, Belgium, Denmark, Ireland, Italy, Japan, Federal Republic of Germany, France, and the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man) are hereby placed on the importation of certain horses from or that have been in Sweden.

List of Subjects in 9 CFR Part 92

Imports, Livestock and livestock products, Quarantine, Transportation, Contagious equine metritis (CEM).

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended by revising paragraph (i)(1) to read as follows:

§ 92.2 General prohibitions; exceptions.

(i)(1) Except as provided in paragraph (i)(2) of this section notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from the following listed countries and the

importation of all horses which have been in any such country within the 12 months immediately preceding their export to the United States is prohibited because of the existence of CEM in such countries: Australia, Austria, Belgium, Denmark, Ireland, Italy, Japan, Federal Republic of Germany, France, Sweden, and the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man).

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 7 CFR 2.17, 2.51, 371.2(d))

Comments submitted should bear a reference to the date and page number of this issue in the *Federal Register*.

Done at Washington, D.C., this 3rd day of November 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-30844 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts, 501, 504, and 506

[Docket Nos. ERA-R-82-02, ERA-R-81-14]

Powerplant and Industrial Fuel Use Act of 1978; Final Rules for Existing Facilities

AGENCY: Energy Department.

ACTION: Final rules.

SUMMARY: The Department of Energy (DOE) is issuing revisions to its final rules implementing Title III of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") to conform them to current DOE policy to not issue involuntary prohibition orders to existing major fuel burning installations (MFBI's) and to delete the regulations implementing the exemptions to prohibition orders for both MFBI's and existing electric powerplants. Included in these final rules are revisions to 10 CFR Part 501, Administrative procedures and sanctions, 504, Existing powerplants, and 506, Existing major fuel burning installations, of DOE's rules implementing FUA. These rules include provisions which were proposed on May 15, 1982, and corrected on June 10, 1982. An interim rule, 10 CFR 504.6, which was published on April 21, 1982 is adopted as final.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, 1000 Independence

Avenue, SW., Room GA-093, Washington, D.C. 20585, (202) 252-8678

Allan J. Stein, Office of the General Counsel, Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Comments
- III. Procedural Matters

I. Background

On June 9, 1981, DOE issued a notice of proposed rulemaking (46 FR 31216 (June 12, 1981)) to simplify the administrative procedures and exemption criteria applicable to owners or operators of new and existing powerplants and MFBI's subject to the prohibitions of FUA. These rules, as applicable to the new facilities regulatory program under FUA, were adopted in final form on November 30, 1981 (46 FR 59672 (December 7, 1981)). Final rules applicable to existing facilities were not promulgated at that time because Section 1021 of the Omnibus Budget Reconciliation Act (Pub. L. 97-35) (OBRA), enacted in August, 1981, substantially amended section 301 of FUA, relating to the prohibitions applicable to existing electric powerplants. Specifically, under the new section 301, the so-called "off gas" prohibitions of FUA were deleted and the prohibition order process was substantially amended. In the preamble to those final rules DOE stated that it would soon propose rules applicable to existing facilities to reduce unnecessary regulatory burdens for owners and operators of such facilities.

On November 27, 1981, DOE issued a notice proposing to revise its final rules in 10 CFR Parts 500, 501, and 504 to implement the OBRA amendments to Title III of FUA, which were applicable to existing electric powerplants. DOE adopted these proposals as final rules on April 7, 1982 (47 FR 17037 (April 21, 1982)). At same time, DOE issued revisions to 10 CFR 504.6 ("Prohibitions by order (case-by-case)") in interim final form; allowing time for additional public comments on that section. The interim final rule set forth amendments to the regulatory criteria (financial feasibility and technical capability) for DOE's issuance of prohibition orders to existing powerplants electing continued coverage under the former section 301 of FUA pursuant to procedures found at 46 FR 48118 (October 1, 1981), as well as existing MFBI's.

On May 13, 1982, DOE proposed to revise further its final rules implementing Title III of FUA, to remove all substantive and procedural regulations applicable to existing MFBI's, and remove exemption provisions applicable to existing powerplants (47 FR 22365 (May 24, 1982)) ("NOPR"). A technical correction to these proposals was issued on June 1, 1982 (47 FR 25153 (June 10, 1982)). As described in the NOPR, these proposals reflected the OBRA amendments to FUA concerning the prohibition order process for powerplants, and the implementation of DOE's announced policy of not issuing involuntary prohibition orders to existing MFBI's under section 302 of FUA. As noted in the NOPR, the existing facility rules (45 FR 53682 (August 12, 1980); 44 FR 43176 (July 23, 1979)), would remain in effect for any party to a proposed or final prohibition order issued under section 302 or the former section 301 of FUA.

The comment period on the NOPR, as extended, expired on July 26, 1982. The comment period on the interim final rule, as extended, expired on June 21, 1982. Most of the comments received by DOE strongly endorsed the content of these rules. All comments received by DOE have been considered in promulgating these final rules. Comments recommending revisions to the NOPR and/or the interim final rule are addressed in Section II, *infra*.

II. Comments

Several commenters requested that DOE's removal of its rules governing prohibition orders and exemptions for existing MFBI's be accompanied by a "legally binding commitment" to refrain from the issuance of such orders until new rules are promulgated. In the event that DOE chose not to provide such a commitment, one commenter favored the alternative of retention of the existing criteria so as to establish more stringent requirements for DOE's issuance of involuntary orders to MFBI's.

On January 29, 1981, the President's Task Force on Regulatory Relief was established to "[R]educe the burdens of existing and future regulations * * * and insure well reasoned regulations * * * [Executive Order No. 12291]. Consistent with this objective, DOE's proposal to remove its rules implementing the issuance of exemptions under Title III, Subtitle B of FUA and DOE-initiated prohibition orders under section 302 of FUA to existing MFBI's, conforms to its announced policy of not issuing or finalizing involuntary prohibition orders to existing MFBI's until and unless new

procedural and substantive requirements are adopted as rules in accordance with the applicable procedural and substantive requirements of law. In response to the foregoing comments, DOE has herein formalized this policy in a new section added to these final rules, 10 CFR 501.50. Further, in response to requests by the commenters that any adoption of new rules in the future be preceded by certain notice and hearing requirements, DOE considers that the "applicable procedural and substantive requirements of law" provide in this instance, at a minimum, notice, reasonable opportunity for public comment, and reasoned consideration of all comments submitted.

Several commenters expressed concern that removal of DOE's rules for existing MFBI's would preclude owners or operators of MFBI's from voluntarily seeking prohibition orders under section 302 of the Act. This is not the case.

In its May 24, 1982 NOPR, DOE proposed to delete the specific regulatory authority for MFBI-initiated prohibition orders in 10 CFR 501.51(d), together with its proposal to delete criteria and procedures applicable to any such orders. Rescission of these rules was proposed because, in the three years since FUA became effective, only one prohibition order was ever issued to a non-federal government existing MFBI and that was subsequently rescinded. It was felt that the proposal to remove these historically unused rules would be consistent with the aim of eliminating unnecessary regulations.

In response to the comments on this issue, however, DOE is retaining pertinent portions of 10 CFR 501.51(d), applicable to requests for initiation of prohibition order proceedings. Exercise of the prohibition order authorities in section 302 of the Act is discretionary with DOE, and DOE, to the extent funds are available for this purpose will, upon the request of the owner or operator of an existing MFBI, initiate prohibition order proceedings pursuant to 10 CFR 501.51(d).

Should any owner or operator of an MFBI hereinafter request initiation of a prohibition order proceeding, ERA will evaluate such request on a case-by-case basis. In making this evaluation, DOE will use as guidance the procedures and substantive criteria applicable to certifying electric powerplants (10 CFR Parts 501 and 504). This practice comports with DOE's determination to implement parallel statutory standards for MFBI and powerplant orders in a parallel regulatory manner (47 FR 17039-17040 (April 21, 1982)). In any such

proceeding, applicable procedures would be agreed to by DOE and the MFBI owner. Owners or operators of MFBI's seeking clarification of their rights and responsibilities under this authority may request a conference with DOE pursuant to 10 CFR 501.32.

Finally, several comments were addressed to the interim final rule, 10 CFR 504.6, as follows:

(1) One commenter, stating that a 25 percent derating does not necessarily constitute a "substantial" derating, recommended that DOE consider *all* deratings in excess of 10 percent on a case-by-case basis. This comment addresses an issue in the final rules under FUA (45 FR 53698 (August 12, 1980)) which was not proposed to be revised by DOE, and is therefore outside the scope of this rulemaking.

(2) One commenter recommended that the financial feasibility standards be broadened so as to include consideration, not only of whether a firm has the ability to obtain capital to finance the conversion without violating legal restrictions on its ability to raise debt or equity capital, but also of dilution of shareholder equity, a utility's ability to raise debt capital on reasonable terms, and maintenance of a utility's credit rating.

As noted by the commenter, the final rules, which incorporated the capital unavailability standards of 10 CFR § 503.35, currently permit consideration of dilution of shareholder equity and prevention of an unreasonably adverse impact on a utility's credit rating (45 FR 53698 (August 12, 1980); 47 FR 15315 (April 9, 1982)). DOE agrees that these are considerations appropriate to an evaluation of the financial feasibility of a conversion, and has reinstated this language directly into 10 CFR § 504.6 of these final rules.

III. Procedural Matters

A. *Section 102 of the National Environmental Policy Act (NEPA)*. DOE has determined that the removal of the prohibition order and exemption provisions implemented herein, including finalization of its interim final rule, 10 CFR 504.6, will not change the *status quo* and, therefore, is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Accordingly, the preparation of an Environmental Impact Statement for these final rules is not required.

B. *Executive Order No. 12291*. DOE has determined that the rules adopted herein in final form are not major rules under Executive Order No. 12291, which requires the preparation of a Regulatory

Impact Analysis for major rules. These final rules will not be likely to result in an annual effect on the economy of \$100 million or more. DOE foresees no major increase in costs or prices for consumers, industries, geographic regions or Federal, state or local government agencies. DOE does not consider it likely that these final rules will result in significant adverse effects on competition, employment, investment, or productivity. Therefore, no Regulatory Impact Analysis is required. These final rules were submitted to the Office of Management and Budget (OMB) at least 10 days prior to their publication.

C. *Regulatory Flexibility Act.* In its May 13, 1982 notice of proposed rulemaking (47 FR 22365, 22366 (May 24, 1982)), DOE certified that its proposals would not negatively impact firms that are "small entities" within the meaning of the Regulatory Flexibility Act. No comments were received concerning this certification. Accordingly, DOE certifies that these final rules will not negatively impact firms that are "small entities" within the meaning of the Regulatory Flexibility Act. Therefore, DOE is not required to publish a final regulatory flexibility analysis pursuant to section 603 of that Act.

List of Subjects

10 CFR Part 501

Administrative practice and procedure, Business and industry, Electric powerplants, Energy conservation, Natural gas, Petroleum.

10 CFR Part 504

Business and industry, Electric powerplants, Energy conservation, Natural gas, Petroleum.

10 CFR Part 506

Business and industry, Electric powerplants, Energy conservation, Natural gas, Petroleum.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35); Executive Order No. 12009 (42 FR 46267 (September 15, 1977)))

Issued in Washington, D.C. on October 28, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

In consideration of the foregoing, Parts 501, 504, and 506, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below.

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. By amending the table of contents for Part 501 by adding § 501.50:

Subpart E—Prohibition Rules and Orders

Sec.
501.50 Policy

1a. By revising §§ 501.31(b) and 501.33(b) of Subpart C to read as follows:

§ 501.31 Written comments.

(b) *Existing facilities.* Except as may be provided elsewhere in these regulations, ERA shall provide a period of at least 45 days for submission of written comments concerning a proposed prohibition rule or order or a petition for a permit. In the case of a proposed prohibition rule or order issued to an existing electing powerplant, ERA shall also provide for a period of at least 45 days for submission of written comments concerning a Tentative Staff Analysis. This period shall commence on the day after publication of the Notice of Availability of the Tentative Staff Analysis in the **Federal Register**. In the case of prohibition order proceedings for certifying powerplants under section 301 of FUA, as amended, ERA shall provide a period of at least 45 days, beginning the day after the Notice of Acceptance of certification is published, for submission of written comments concerning the certification and ERA's proposed prohibition order, and requests for public hearings. Prohibition order proceedings under section 301, as amended by OBRA, will have only one period of 45 days, since no Tentative Staff Analysis will be prepared. The comment period may be extended by ERA in accordance with § 501.7. See § 501.52(b) of this Part for further information with respect to the comment period. Written comments shall be filed in accordance with § 501.7.

§ 501.33 Requests for a public hearing.

(b) *Existing powerplants.* In the case of a petition for an exemption from a prohibition imposed by a final rule or order issued by ERA to an electing powerplant under former sections of Title III of FUA or a petition for a permit under § 504.1, any interested person may submit a written request that ERA convene a public hearing in accordance with section 701 of FUA within 45 days after the notice of the filing of a petition

is published in the **Federal Register**. In the case of a proposed prohibition rule or order issued to an electing powerplant under former section 301, the 45 day period in which to request a public hearing shall commence upon the publication of the Notice of Availability of the Tentative Staff Analysis. In the case of a proposed prohibition order to be issued to certifying powerplants under section 301 of FUA, as amended, the 45 day period in which to request a public hearing commences upon publication of the Notice of Acceptance of Certification. This time limit may be extended at the discretion of ERA in accordance with § 501.7.

2. By adding a new § 501.50 and amending § 501.51 by revising the introductory text of paragraph (a), paragraph (b) (2) and (3), and paragraph (d)(3) in § 501.51, as follows:

§ 501.50 Policy.

Except in conjunction with a prohibition order requested by the intended recipient, ERA shall not propose to prohibit or prohibit by rule or order the use of petroleum or natural gas either as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in an existing installation unless and until ERA adopts rules establishing regulatory requirements governing the issuance of such orders and rules in accordance with the applicable procedural and substantive requirements of law.

§ 501.51 Prohibitions by order—Existing facilities.

(a) ERA may prohibit, by order, the use of petroleum or natural gas as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in an existing electing powerplant, if:

(b) * * *

(2) Pursuant to section 701 of FUA, prior to the issuance of a final order to an electing powerplant, ERA shall publish a proposed order in the **Federal Register** together with a statement of the reasons for the order. In the case of a proposed order that would prohibit the use of petroleum or natural gas as a primary energy source, the finding required by former section 301(b)(1) of the Act shall be published with such proposed order.

(3) ERA shall provide a period for the submission of written comments of at

least three months after the date of the proposed order. During this period, the recipient of the proposed order and any other interested person must submit any evidence that they have determined at that time to support their respective positions as to each of the findings that ERA is required to make under former section 301(b) of the Act. A proposed order recipient may submit additional new evidence at any time prior to the close of the public comment period which follows publication of the Tentative Staff Analysis or prior to the close of the record of any public hearing, whichever occurs later. A request by the proposed order recipient for an extension of the three month period may be granted at ERA's discretion.

(d) * * *

(3) If ERA determines to accept the request, ERA shall publish a proposed order in the *Federal Register* together with a statement of the reasons for the order. In the case of any electric powerplant, the proceeding for issuance of the prohibition order shall thereafter continue in the same manner as proceedings commenced by ERA on its own initiative.

3. Subpart F is amended as follows:

A. Section 501.60 is amended by revising paragraph (a)(3) to read as follows:

Subpart F—Exemptions

§ 501.60 Purpose and scope.

(a) * * *

(3) If the petitioner owns, operates or controls a new powerplant or MFBI, this subpart provides the procedures for filing a petition requesting extension of a temporary exemption granted under Section 211 of FUA.

B. Section 501.62 is amended by revising paragraphs (d) and (e) to read as follows:

§ 501.62 Petition contents.

(d) *General requirements.* The evidence required under Part 503 Subpart B for each exemption(s) for which the petitioner is applying:

- (1) No alternate power supply (§ 503.8);
- (2) Use of mixtures (§ 503.9);
- (3) Alternative site (§ 503.11);
- (4) Compliance Plan (§ 503.12);
- (5) Environmental impact analysis (§ 503.13);
- (6) Fuels search (§ 503.14).

(e) *Specific evidence.* Evidence required for each exemption, segregated

by exemption (Part 503 Subparts C and D).

C. Section 501.68 is amended by revising paragraph (d) to read as follows:

§ 501.68 Decision and order.

(d) ERA may design any terms and conditions included in any temporary exemption issued or extended under Section 211 of FUA, to ensure, among other things, that upon expiration of the exemption the persons and powerplant or installation covered by the exemption will comply with the applicable prohibitions under FUA. For purposes of this provision, the subsequent grant of a permanent exemption to the subject unit shall be deemed compliance with applicable prohibitions.

PART 504—EXISTING POWERPLANTS

4. Part 504 is amended as follows:

A. By revising the heading for Part 504 to read, "Part 504—Existing Powerplants".

B. By revising § 504.2 to read as follows:

§ 504.2 Purpose and scope.

(a) Sections 504.5, 504.6, and 504.8, set forth the prohibitions that ERA, pursuant to § 301 of the Act, as amended, may impose upon existing powerplants after a review of the certification and prohibition order compliance schedule submitted by the owner or operator of a powerplant. Sections 504.5 and 504.8 are explanatory sections, and § 504.6 provides the informational requirements necessary to support the certification.

(b) Sections 504.6 and 504.7, set forth the prohibitions that ERA may impose upon certain electing powerplants, pursuant to former section 301 (b) and (c) of FUA, where ERA can make the findings as to the unit's technical capability and financial feasibility to use coal or another alternate fuel as a primary energy source. The prohibitions may be made to apply to electing powerplants unless an exemption is granted by ERA under the provisions of the Final Rule for Existing Facilities (10 CFR Parts 500, 501 and 504) published at 45 FR 53682, on August 12, 1980 and 46 FR 59872, on December 7, 1981. Any person who owns, controls, rents or leases an existing electing powerplant may be subject to the prohibitions imposed by and the sanctions provided for in the Act or these regulations, if ERA can make the findings required by former section 301 (b) and (c) of FUA.

C. By amending § 504.6 by revising paragraph (a) introductory text, (b),

(c)(1), (d), (e) introductory text and (e)(4), and (f) introductory text (retaining all footnotes). Paragraphs (f)(1) through (f)(3) are adopted as final to read as published at 47 FR 17045, April 21, 1982.

§ 504.6 Prohibitions by order (case-by-case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in existing powerplants under certain circumstances. In the case of certifying powerplants under section 301 of the Act, as amended, the petitioner must present evidence to support the certification, required by § 504.6 (c), (d), (e), and (f). In the case of electing powerplants, ERA must make the following findings required by § 504.6 (c), (d), (e), and (f), in order to issue a prohibition order to the unit, pursuant to former section 301 (b) or (c):

(b) In the case of electing powerplants, ERA must make a proposed finding regarding the technical capability of a unit to use alternate fuel as identified in subsection (a)(1) above prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the *Federal Register* along with the notice of the proposed prohibition.

(c) *Technical capability.* (1) In the case of electing and certifying powerplants, ERA will consider "technical capability" on a case-by-case basis in order to make the required finding. In the case of a certifying powerplant, the powerplant should present information to support the certification relevant to the considerations set forth below. ERA will consider the ability of the unit, from the point of fuel intake to physically sustain combustion of a given fuel and to maintain heat transfer.²

(d) *Substantial physical modification.* In the case of electing and certifying powerplants, ERA will make its determination on whether a physical modification to a unit is "substantial" on a case-by-case basis. In the case of certifying powerplants, ERA will consider the factors set forth below for the purpose of concurrence in the certification. ERA will consider physical modifications made to the unit as "substantial" where warranted by the magnitude and complexity of the engineering task or where the modification would impact severely upon operations at the site.³ ERA will not, however, assess physical modification on the basis of cost.

(e) *Substantial reduction in rated capacity.* In the case of electing and certifying powerplants, ERA will make this determination on the basis of the following factors. A certifying powerplant should present information to support its certification regarding these factors in order for ERA to make its review for concurrence.

(4) In assessing whether a unit's derating is not substantial, ERA will consider the impact of a reduction in rated capacity of the unit taking into consideration all necessary appurtenances such as air pollution control equipment required to burn an alternate fuel in compliance with environmental requirements expected to be applicable at the date the prohibitions contained in the final prohibition order become effective. However, the potential order recipient may raise in rebuttal the impact of derating on the site at which the unit is located and on the system as well as on the unit itself, if under subparagraph (2), or case-by-case, if under subparagraph (3).

(f) *Financial feasibility.* In the case of certifying and electing powerplants, ERA will make this finding based on the following considerations. A certifying powerplant should present information to support its certification relevant to these considerations in order for ERA to make its review for concurrence. Conversion of a unit to burn coal or an alternate fuel shall be deemed financially feasible if the firm has the actual ability to obtain sufficient capital to finance the conversion, including all necessary land, coal and ash handling equipment, pollution control equipment, and all other necessary expenditures, without violating legal restrictions on its ability to raise debt or equity capital, unreasonably diluting shareholder equity, or unreasonably adversely affecting its credit rating. ERA will consider any economic or financial factors presented by the proposed order recipient in determining the firm's ability or inability to finance the conversion including, but not limited to, the following:

5. By removing the note and revising the title and paragraph (a) of § 504.7 to read as follows:

§ 504.7 Prohibition against excessive use of petroleum or natural gas in mixtures—Electing powerplants.

(a) In the case of electing powerplants, if ERA finds that it is technically and financially feasible for a unit to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source, ERA may

prohibit, by order, the use in that unit of petroleum or natural gas, or both, in amounts exceeding the minimum amount necessary to maintain reliability of operation consistent with maintaining reasonable fuel efficiency of the mixture.

6. By removing and reserving Subparts C, D, and E (10 CFR 504.10-504.64), as follows:

Subpart C—[Removed and reserved]

Subpart D—[Removed and reserved]

Subpart E—[Removed and reserved]

By removing and reserving Part 506, as follows:

PART 506—[REMOVED AND RESERVED]

[FR Doc. 82-30921 Filed 11-9-82; 8:45 am]
BILLING CODE 6450-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1508 and 1509

Amendments to Requirements for Full-Size and Non-Full-Size Baby Cribs

Correction

In FR Doc. 82-29556 appearing on page 47534 in the issue of Wednesday, October 27, 1982, make the following correction:

On page 47534, third column, under "DATE", "August 27, 1982" should have read "August 27, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 176

Flathead Indian Irrigation Project, Montana; Revision of Power Rate Schedules and Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule and request for comments.

SUMMARY: The Bureau of Indian Affairs is publishing an interim rule which revises power rate schedules for the Flathead Indian Irrigation Project, Montana. Studies by the Project indicate that a rate adjustment is necessary in order to assure sound management and operation of the power system. Power rates will be increased by approximately 53 percent in order to

cover increased rates for purchased power costs.

DATES: Interim rule effective November 10, 1982. Written comments from the public and other interested parties must be received on or before December 10, 1982.

ADDRESS: Flathead Irrigation and Power Project, Bureau of Indian Affairs, P.O. Box G, St. Ignatius, Montana 59865.

FOR FURTHER INFORMATION CONTACT: Mr. E. M. Axtell, Flathead Project Engineer at (406) 745-2661.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Part 232, Flathead Indian Irrigation Project was renumbered as Part 176 on March 30, 1982 (47 FR 13326). All references in this document are made to Part 176.

A study performed by the Flathead Irrigation and Power Project indicates that a rate adjustment is necessary in order to assure sound management and operation of the power system in accordance with policies of the Bureau of Indian Affairs. Approximately fifty-three (53) percent additional fees are needed to offset expenses attributable to: (1) increased cost of power purchased from the Project's power suppliers, (2) rapidly increasing cost of material, labor and equipment, (3) development of a preventive program for safety purposes, (4) proposed increase of the reserve fund established for making emergency repairs and/or replacements, and (5) for other purposes to insure continuous operation of the power system.

The present method of increasing power rates involves the rulemaking process. Whenever one of the Project's power suppliers implements a rate increase, the Project must immediately review and analyze the effect of this action and, if necessary, initiate a change in rulemaking through the *Federal Register* to increase its power rates accordingly. The time delays associated with the rulemaking process have in the past prevented the Project from adjusting its power rates in a timely manner, thus causing economic instability in the operation of the power system.

A provision (§ 176.59) has been added by this interim rule which provides for the Area Director of the Billings Area Office, Bureau of Indian Affairs, to automatically adjust Project power rates through unilateral action when the costs of power and energy purchased through

the power suppliers of the Project increases in order to avoid delays in increasing Project power rates. Rate adjustments due to increased costs of material, labor and equipment, and for other purposes in connection with the management and operation of the power system will continue to be implemented through the rulemaking process.

The costs of purchasing power and electricity from the power suppliers to the Project have increased significantly during the past year. The power rate increases provided for in this rule must be implemented immediately if the Project is to continue to operate on a sound financial basis. Therefore, the 30 day waiting period usually provided before a rule becomes effective has been waived, and this interim rule will become effective immediately upon publication in the *Federal Register*. However, the policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the interim rule to the location identified in the ADDRESS section of this preamble. Comments must be received on or before December 10, 1982.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291, and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. If the rate increase goes into effect, total revenue is expected to increase from approximately \$4 million to slightly more than \$6 million in 1983. Project rates are low as compared to nearby utilities. They will continue to remain low after the rate hike. According to the Northwest Power Association, Flathead's basic residential rate of 1.86/kilowatt is about half the rate charged by nearby Missoula Electric Co-op, Flathead Electric Co-op and Ravalli Co-op. Small entities served by the Project will not lose their competitive advantage regionally or state-wide, at least as far as power costs are a cost of production.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or

environmental impact statement was prepared.

List of Subjects in 25 CFR Part 176

Electric power, Indians-lands, Irrigation.

PART 176—FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

An interim rule is hereby published to amend Part 176, Subchapter H, Chapter I of Title 25 of the Code of Federal Regulations as follows:

1. In § 176.51, paragraph (b) is revised to read as follows:

§ 176.51 Rate schedule No. 1: Residential, urban and rural.

- (b) *Monthly rate.* (1) 7.7 cents per kilowatt-hour for first 50 kilowatt-hours.
(2) 3.8 cents per kilowatt-hour for next 50 kilowatt-hours.
(3) 2.0 cents per kilowatt-hour for next 900 kilowatt-hours.
(4) 2.9 cents per kilowatt-hour for all over 1,000 kilowatt-hours.

In § 176.52, paragraph (b) is revised to read as follows:

§ 176.52 Rate schedule No. 2: General.

- (b) *Monthly rate.* (1) 9.2 cents per kilowatt-hour for first kilowatt-hours.
(2) 4.6 cents per kilowatt-hour for the next 50 kilowatt-hours.
(3) 3.9 cents per kilowatt-hour for all over 100 kilowatt-hours.

In § 176.54, paragraphs (b), (d), (e), and (i) are revised to read as follows:

§ 176.54 Rate schedule No. 4: General.

- (b) *Monthly rate.* (1) 7.7 cents per kilowatt-hour for the first 50 kilowatt-hours per kilowatt of billing demand.
(2) 3.8 cents per kilowatt-hour for the next 50 kilowatt-hours per kilowatt of billing demand.
(3) 2.0 cents per kilowatt-hour for all additional kilowatt-hours.

(d) *Additional discount.* An additional discount will be allowed and applied after the monthly bill has been computed:

- (1) If a customer takes delivery at the primary voltage of the distribution or transmission system of the project and at a location where the project has adequate and suitable facilities available for such delivery.

(2) If the customer furnishes, installs, operates, and maintains the sub-station or sub-stations with step-down transformers, protective equipment and

all other facilities (except metering equipment) needed by the customer in distributing, and utilizing the delivered power and energy.

(3) When the conditions and specifications in paragraphs (d) (1) and (2) of this section are satisfactory to the Project Engineer the following discounts apply:

(i) For three-phase delivery at the Project distribution voltage, a discount of 5 percent.

(ii) For three-phase delivery from the Project transmission system where not more than one transformation intervenes between the highest voltage of the Project power system and the delivery to the customer—a discount of 8 percent.

(e) *Minimum bill.* \$1.25 per month per kilowatt of billing demand, but not less than \$12.50 per month or 40 cents per KVA of transformer capacity.

(i) *Power factor adjustment.* An adjustment for power factor will be made by increasing the billing demand for each month by one (1) percent for each one (1) percent or major fraction thereof by which the lagging power factor is less than 95%.

4. Section § 176.55 is revised to read as follows:

§ 176.55 Rate schedule No. 5: Irrigation pumping and sprinkling.

(a) This schedule is available for single phase and three phase service used exclusively for irrigation pumping and sprinkling during the irrigation season, April 15 through October 15, where service may be discontinued during the balance of the year and the transformers removed at the discretion of the Project. Unless specifically permitted by the contract, use must be limited to the consumer's premises and must not be resold. If more than one meter is required for the customer's installation, or for the customer's convenience, a separate computation shall be made for each meter.

(b) *Rate per season or fraction thereof.* \$10.00 per horsepower connected; 1.4 cents per kilowatt-hour for all kilowatt-hours used. The minimum connected horsepower charge will be \$50.00.

(c) *Special terms and conditions.* (1) The minimum annual (seasonal) horsepower charge of \$10.00 per connected horsepower shall be paid each year during the life of the contract. Payment shall be required each year before the service is connected. If the service has not been connected by the close of the irrigation season, but in no

case later than October 15, the minimum annual (seasonal) charge will be assessed.

(2) At the close of the irrigation season the meter will be read and the total seasonal energy use (kilowatt-hours) will be computed and billed. The bills shall be due and payable within 30 calendar days after date of issue.

(3) If an account becomes delinquent, the Project Engineer shall have the option of canceling the contract, removing the Project's facilities, and demand payment of all delinquent bills plus any penalties provided in the contract for premature termination of the contract.

(4) For a delinquent account to be reconnected, payment of all delinquent bills will be required, plus the estimated energy charge for the coming season, plus the annual seasonal charge of \$10.00 per horsepower.

(5) An adjustment for power factor will be made by increasing the seasonal charge for the kilowatt-hours by one (1) percent or major fraction thereof by which the lagging power factor is less than 95%.

(6) Payment of the pump charge will be required by April 15 of each year. Pump routes will then be established for the purpose of energizing the pump services. Those who require a special time of connection or who pay after April 15 (excepting new pump installations) will be required to pay an additional fee in accordance with § 176.14(d).

5. Section 176.56 is revised to read as follows:

§ 176.56 Rate schedule No. 6: Area lights.

(a) *Application of schedule.* This schedule is available in the Project's service area where adequate capacity, phase and voltage are available for individual users of area lighting and for communities which desire a lighting system not exceeding 10 units. Service is from dusk to dawn, and the Project will own, operate and maintain the lights, including lamp and globe replacement and furnishing the necessary energy. Individual users of area lighting will be required to have another account under residential or general rate schedules.

(b) *Rate per unit.*

(1) Area light installed on existing pole or structure:

7,000 lumen unit, M.V.—\$6.10 per month
20,000 lumen unit, M.V.—\$8.50 per month

9,000 lumen unit, H.P.S.—\$5.50 per month
22,000 lumen unit, H.P.S.—\$7.50 per month

(2) Area light installed with new pole:
7,000 lumen unit, M.V.—\$7.60 per month

20,000 lumen unit, M.V.—\$10.00 per month

9,000 lumen unit, H.P.S.—\$7.00 per month

22,000 lumen unit, H.P.S.—\$9.00 per month

(c) *Special conditions.* (1) Where more than 150 feet of extension and/or one pole per unit are required, the customer will make a non-refundable contribution for the coverage at actual cost to the Project. Ownership of all facilities remains with the Project.

(2) The original term of contract shall be not less than three years. Should termination be requested by the customer within the contract minimum period, he/she shall be liable for the in and out costs, or the balance of the contract charges, whichever is the lesser.

6. A new § 176.57 is added to read as follows:

§ 176.57 Rate schedule No. 7: Street lighting (un-metered).

(a) *Application of schedule.* This schedule is available in the Project's service area where adequate capacity, phase and voltage are available for communities or municipalities which desire a lighting system. Service is from dusk to dawn and the Project will own, operate and maintain the lights, including lamp and globe replacement and furnishing the necessary energy.

(b) *Requirements.* The municipality or community will be required to have 10 or more lighting units under this rate schedule and will be subject to a negotiated contract with the Project Engineer.

7. A new § 176.58 is added to read as follows:

§ 176.58 Rate schedule No. 8: Street lighting (metered).

(a) *Application of schedule.* This schedule is available in the Project's service area where adequate capacity, phase and voltage are available, and where the service will be used exclusively for lighting public right-of-way. The Project will supply energy to a single metering point, and the customer will own and be responsible for maintaining and operating the lighting system.

(b) *Monthly rate.* The No. 2 general rate schedule in § 176.52 will apply.

8. A new § 176.59 is added to read as follows:

§ 176.59 Rate adjustments due to purchased power cost changes.

The rate schedules given in §§ 176.51, 176.52, 176.54, 176.55, 176.56, 176.57, and 176.58 shall be adjusted as necessary and appropriate to defray increases in costs of power and energy purchased

from the power supplier(s) of the Project. Rate adjustments pursuant to the provision in this section shall become effective upon unilateral action of the Area Director. When a rate adjustment is determined to be necessary, the Area Director shall give sufficient notice to customers and other interested parties.

(Sec. 7, 62 Stat. 273; 5 U.S.C. 301)

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 82-30801 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7850]

Temporary Income Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982; Special Transitional Rules and Related Matters Concerning Safe Harbor Leases

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations regarding transitional rules and related matters concerning safe harbor leases. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982 ("TERFA"). These regulations provide guidance to persons executing lease agreements under section 168(f)(8) of the Internal Revenue Code of 1954.

DATE: In general, the regulations apply with respect to certain safe harbor leases executed after July 1, 1982.

FOR FURTHER INFORMATION CONTACT: The Corporation Tax Division (Attention: LR-252-82), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington D.C. 20224 (202-566-4406), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations regarding the transition rules and related matters under section 208(d) of TEFRA (Pub. L. 97-248, 96 Stat. 439) concerning certain safe harbor leases executed after July 1, 1982. Since these transitional rules generally apply only to property placed in service before January 1, 1983, and since certain facilities may include both "transitional

rule" safe harbor lease property and property which does not qualify under such rules, there is a need for immediate guidance relating to these provisions so taxpayers leasing certain property under section 168(f)(8) of the Internal Revenue Code of 1954 can comply with these new provisions. These regulations will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 208 of TEFRA imposes certain additional limitations and requirements relating to safe harbor leases executed under section 168(f)(8) of the Internal Revenue Code of 1954; these new rules generally apply to certain property placed in service and safe harbor leases executed after July 1, 1982. However, section 208(d) of TEFRA provides transitional rules which for a limited time period permit certain property to be leased under the provisions of Code section 168(f)(8) which were in effect prior to the enactment of TEFRA.

These temporary regulations, presented in question and answer format, are intended to provide guidelines upon which taxpayers may rely to resolve questions specifically set forth herein. However, no inference should be drawn regarding issues not raised herein or reasons certain questions, and not others, are included in these regulations.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

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

List of Subjects in 26 CFR Part 5f

Income tax, Deductions, Leasing, Tax Equity and Fiscal Responsibility Act of 1982.

Adoption of amendments to the regulations.

Accordingly, a new Part 5f consisting of § 5f.168(f)(8)-1 is added to Title 26 of the Code of Federal Regulations. The new provision reads as follows:

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

§ 5f.168 (f) (8)-1 Questions and answers concerning transitional rules and related matters regarding certain safe harbor leases.

The following questions and answers concern the transitional rules and related matters regarding certain safe harbor leases under section 208(d) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) ("TEFRA"):

Q-1: If a lessee, prior to the period beginning after December 31, 1980, and ending before July 2, 1982 (the "window period"), enters into a binding contract to acquire property and the property is delivered to the lessee during the window period, is the property eligible for the transitional rule provided in section 208(d)(3) of TEFRA which applies the safe harbor leasing rules of section 168(f)(8) of the Internal Revenue Code of 1954 as in effect before the enactment of TEFRA?

A-1: Yes, assuming all other requirements of the TEFRA transitional rules are met. Section 208 (d) (3) (A) (i) and (ii) of TEFRA provide alternative tests under which an item of property may constitute "transitional safe harbor lease property" for purposes of the transitional rules under the modifications to the safe harbor lease provisions of section 168(f)(8). The tests are:

- (i) The lessee entered into a binding contract to acquire the property;
- (ii) The lessee entered into a binding contract to construct the property;
- (iii) The property was acquired by the lessee; or
- (iv) Construction of the property was commenced by or for the lessee.

These tests are stated in the alternative, and, accordingly, property may be eligible for pre-TEFRA safe harbor leasing if any one of the tests is satisfied. Thus, if a lessee acquired property during the window period, the property may be eligible for pre-TEFRA safe harbor leasing even though a binding contract to acquire the property was executed before the window period. Similarly, if construction of property commences during the window period, the property may be eligible for pre-TEFRA safe harbor leasing even though a binding contract to construct the property was executed before the window period.

Q-2: How do the transitional rules apply to components of an integrated manufacturing, production, or extraction process, none of which would be considered "placed in

service" until all of the components are placed in service?

A-2: (i) The transitional rules regarding acquisition, binding contracts, and commencement of construction are applied to each separate item of property which is part of a manufacturing, production, or extraction process. What constitutes a separate item will be determined on a case-by-case basis, taking into account all relevant factors. In general, a discrete component capable of performing a function which is separate from or in addition to the function of other components to which it may be related is a separate item of property; but an item that is integrated into a component which performs a function separate from other components to which it is related is not itself a separate item of property. For example, a bolt or a nut that is used to construct a machine does not constitute a separate item of property. On the other hand, the transitional rules will not be applied to an entire facility as a whole, as was the case under the investment tax credit transition rule of section 50 in *Hawaiian Independent Refinery, Inc. v. United States*, 49 AFTR 2d 675 (Ct. Cl. Tr. Judge 1982), where the taxpayer was held to have constructed a property which consisted of an entire refinery complex. Thus, for example, for purposes of these transitional rules, an oil or gas well, storage tanks, and pipeline located on a lease would not be considered a single item of property. Although each item is related to the production of oil or gas, each is discrete and each is capable of performing a separate function from the other. In addition, in the case of an integrated manufacturing, production, or extraction process, commencement of construction of one item of property within the process would not be considered construction of any other item of property that is part of the process.

(ii) If property qualifies as transitional safe harbor lease property, all direct and indirect costs allocable to the property (except for those described in § 5c.168(f)(8)-6 (a) (2) (ii)) and required to be capitalized for Federal income tax purposes will also qualify as transitional safe harbor lease property to the extent such costs are incurred on or before the date on which the property is leased under section 168(f)(8).

Q-3: What test will be applied in determining whether an item of property is constructed or acquired by the lessee?

A-3: Except as expressly provided in section 208(d)(3)(D) or (E) of TEFRA, the determination of whether and when any such events occurred with respect to an item of property will generally be made in accordance with the principles and precedents prior to TEFRA under the investment tax credit and depreciation allowance transitional provisions. See §§ 1.48-2(b)(8) and 1.167(c)-1 (a)(2), which provide definitions of the term "acquired", and §§ 1.48-2(b)(1) and 1.167(c)-1(a)(1), which provide definitions of the term "constructed by". Also see Rev. Rul. 80-312, 1980-2 C.B. 21, which discusses the factors to be considered in determining when a taxpayer has control over a project being constructed.

In general, for purposes of TEFRA section 208(d)(3), construction of an item of property is considered to have commenced when physical work of a significant nature has begun with respect to the property. Thus, construction does not begin when parts or components which enter into construction are acquired. If property is assembled from purchased parts or components, the commencement of construction occurs when actual assembly of the property begins. If a taxpayer manufactures a major part or component of an item of property for itself, construction will be considered to have begun when the manufacturing of that part or component commences. However, construction of an item of property will not be considered as begun if physical work by the taxpayer relates to minor parts or components. Clearing and grading of land will be considered in determining when construction begins on an item of property only if they are directly associated with the construction of the property.

Q-4: Under section 168(f)(8)(j), the at-risk rules are liberalized for closely held lessors that engage in safe harbor leasing. These rules apply "in the case of property placed in service after the date of enactment of this subparagraph," namely, after September 3, 1982.

Do the liberalized at-risk rules apply in the case where otherwise qualified property is placed in service by a lessee in August of 1982 but is leased by a corporate lessor subject to the at-risk rules after September 3, 1982?

A-4: The liberalized at-risk rule in section 168(f)(8)(j) is applicable in this case because, in determining whether property is placed in service before or after the date of enactment of section 168(f)(8)(j), the relevant date is the date the property is placed in service by the lessor. Additionally, a closely held corporate lessor, which is not a personal service corporation, may lease transitional safe harbor lease property placed in service after September 3, 1982, under the liberalized at-risk rule.

Q-5: Is it necessary for property placed in service by a lessee in December of 1982 to be leased before January 1, 1983, in order to qualify under the general transitional rule of section 208(d)(3)(A) of TEFRA, which requires that the property be placed in service before January 1, 1983?

A-5: The legislative intent of this transitional rule was to provide a 3-month period after property is placed in service by a lessee in which a safe harbor lease could be entered into. Cf. section 209(c) of TEFRA (3-month window applies to true leases entered into after 1983). The legislative intent further was to permit property to qualify as transitional safe harbor lease property if it was placed in service by the end of 1982 by a lessee. Accordingly, transitional safe harbor lease property placed in service in 1982 by a lessee may be leased in a safe harbor lease transaction within 3 months after it is placed in service by the lessee without losing its status as transitional safe harbor lease property.

However, for all other purposes of the Code other than section 168(f)(8)(D)(i), section 168(f)(8)(D)(viii)(II) will apply and the

property will be treated as originally placed in service not earlier than the date that the property is used under the lease. Thus, for example, if transitional safe harbor lease property is placed in service in December of 1982 and leased under section 168(f)(8) in January of 1983, the property will not lose its status as transitional safe harbor lease property, but the basis adjustment rules of section 48(g) will apply with respect to the property.

Q-6: Will a contract to acquire property be considered "binding" for purposes of section 208(d)(3)(A)(i) of TEFRA if the contract contains no liquidated damages clause?

A-6: Generally, an irrevocable contract which contains no provision for liquidated damages in the event of breach or cancellation would be considered binding. Moreover, in determining the amount of the lessee's potential liability, the fair market value of the property will not be taken into account. For example, if a lessee entered into an irrevocable contract to purchase an asset for \$100 and the contract contained no provision for liquidated damages, the contract would be considered binding notwithstanding the fact that the property at all times after July 1, 1982, had a value of \$99 and under local law the seller could only recover the difference in the event the lessee failed to perform. On the other hand, if the contract by its terms provided for liquidated damages of less than 5 percent of the purchase price which is in lieu of any damages allowable by law, in the event of breach or cancellation, the contract would not be considered binding.

Q-7: How does the 50-percent limitation on lessors in section 168(i)(1) and the 45-percent limitation on lessees in section 168(f)(8)(D)(ii) apply to corporations which are part of an affiliated group filing consolidated returns?

A-7: Both the 50-percent limitation on lessors and the 45-percent limitation on lessees will be applied on a consolidated basis for corporations filing consolidated returns.

Q-8: Section 168(f)(8)(j) liberalized the at-risk rules for safe harbor leasing and provides that in cases where the safe harbor lessee would be considered the owner of the property without regard to the safe harbor lease, the lessor is considered to be at risk with respect to the property in an amount equal to the amount the lessee is considered at risk with respect to such property as determined under section 465.

Will a corporate lessor that would ordinarily be subject to the at-risk rules under section 465 be exempt from such rules under section 168(f)(8)(j) in a situation where acquisition of the leased property is financed with nonrecourse debt by a lessee that is not subject to the at-risk rules?

A-8: Yes. The liberalized at-risk rules of section 168(f)(8)(j) will apply in cases where the lessee's ACRS deductions and investment tax credit with respect to the property would not have been limited under the at-risk rules had the parties not elected treatment under section 168(f)(8).

Q-9: Section 168(f)(8)(j)(ii) excepts certain service corporations from the liberalized at-risk rules of section 168(f)(8)(j)(i). Does the exception in subdivision (ii) also extend to

subsidiaries of such service corporations that file consolidated returns?

A-9: Yes. The liberalized at-risk rules of section 168(f)(8)(j)(i) will not apply to any subsidiary filing a consolidated return with a service organization described in section 168(f)(8)(j)(ii).

Q-10: Will property lose its status as transitional safe harbor lease property under section 208(d)(3) of TEFRA solely by reason of the fact that the person who is a party to a binding contract to acquire the property assigns his rights in the contract to another person?

A-10: When a person who is a party to a binding contract transfers his rights in the contract (or the property covered by the contract) to another person and the transferor (or a corporation which is a member of the same affiliated group as the transferor) will use the property under a lease for a period not less than 50 percent of the appropriate recovery period for the leased property under section 168(c), then to the extent of the transferred rights, this other person will succeed to the position of the transferor with respect to the binding contract and the property. Accordingly, under these circumstances, property will not lose its status as transitional safe harbor lease property.

In addition, property will not be disqualified as transitional safe harbor lease property solely by reason of a transfer by a person of his rights in a contract (or the property covered by the contract) in a transaction in which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor (e.g., transfers governed by sections 332, 351, 361, 721, and 731). Thus, for example, if a corporation entered into a binding contract for the construction or acquisition of property prior to July 1, 1982, and after such date assigned the contract to a corporation within the same affiliated group which files consolidated returns, the assignee will be entitled to treat the property acquired pursuant to the contract as transitional safe harbor lease property, assuming the property would have so qualified in the hands of the transferor. Similarly, if a joint venture or partnership between two corporations entered into a binding contract or commenced construction of property before July 2, 1982, but dissolved and distributed its assets to the partners or joint venturers after July 2, 1982, the joint venturers or partners may treat the assets as transitional safe harbor lease property, assuming the property would have so qualified had the joint venture or partnership remained in existence.

Q-11: During 1982, Corporation Y placed in service section 38 property with a total cost of \$100X. On August 15, 1982, Corporation Y placed in service the last component of an entire facility within the meaning of § 5c.168(f)(8)-6(b)(2). The facility had a total cost basis of \$40X, of which \$30X was transitional safe harbor lease property within the meaning of section 208(d)(3) of TEFRA and \$10X was not transitional safe harbor lease property. On November 1, 1982, Corporation Y sold and leased back under a section 168(f)

(8) lease the \$30X of transitional safe harbor lease property in the facility.

Will the entire facility rule in § 5c.168(f)(8)-6(b)(2) apply in this situation where the taxpayer has not leased all of the section 38 property in the facility?

A-11: No. The placed in service date, for purposes of the rule requiring that property be leased within 3 months after such property was placed in service by the lessee, would be determined under the entire facility rule in § 5c.168(f)(8)-6(b)(2) only if Corporation Y had leased all the qualified leased property in the facility. Since Corporation Y leased only the \$30X of transitional section 38 property, of the facility and did not lease the \$10X of nontransitional property, Corporation Y may not rely on the entire facility rule of § 5c.168(f)(8)-6(b)(2) for purposes of determining the placed in service date for the property under the section 168(f)(8) lease.

Q-12: Assume the same facts as in Q-11, except that Corporation Y had also placed in service by August 15, 1982, \$30X of miscellaneous machinery and equipment all of which was transitional safe harbor lease property within the meaning of section 208(d)(3) of TEFRA. On November 1, 1982, in addition to the \$30X of transitional property in the facility, Corporation Y also sold and leased back under a separate section 168(f)(8) lease the \$30X of miscellaneous machinery and equipment.

Will the entire facility rule in § 5c.168(f)(8)-6(b)(2) apply in this situation to the \$30X of transitional property in the facility?

A-12: Yes. Since Corporation Y leased \$30X of transitional machinery and equipment and the \$30X of the facility which consisted of transitional property, Corporation Y can lease none of the nontransitional property in the facility because, by reason of the 45-percent cap on lessees contained in section 168(f)(8)(D)(ii) and (iii) and (I), it is not qualified leased property for purposes of section 168(f)(8). Thus, on the facts, Corporation Y has leased all the qualified leased property in the facility.

Q-13: Corporation X constructed a manufacturing complex consisting of three integrated operational components, each with a different ADR present class life midpoint, which together constitute an "entire facility" within the meaning of § 5c.168(f)(8)-6(b)(2). The last components of the facility were placed in service on August 15, 1982. On October 1, 1982, Corporation X sold to Corporation Z and leased back under section 168(f)(8) all the qualified leased property of the facility.

For purposes of the rule requiring that property be leased within 3 months after such property was placed in service by the lessee, will the leased components of the entire facility be considered placed in service by the lessee on August 15, 1982, the date the last components were placed in service, if the components are leased at one time pursuant to documents consisting of three section 168(f)(8) leases with different terms to reflect the different ADR midpoint lives of the qualified leased property in the facility?

A-13: Yes. If the entire facility rule in § 5c.168(f)(8)-6(b)(2) applies, the facility components which were placed in service

prior to August 15, 1982, will be treated as placed in service by the lessee on August 15, 1982, for purposes of the 3-month rule. This rule will apply if all the qualified leased property of the facility is leased at one time. The documentation may be in the form of multiple, simultaneously executed agreements or maybe in the form of an agreement comprised of one or more parts or schedules. Each of the multiple agreements, or each of the parts or schedules of an agreement, may have different lease terms for property with different ADR midpoint lives, so long as each such agreement or part of schedule individually would be treated as a lease under section 168(f)(8), taking into account the entire facility rule, with lease terms commencing on the same date. A single transaction effected by multiple agreements or by an agreement with one or more parts or schedules will meet the maximum lease term requirement of § 5c.168(f)(8)-5(b) so long as each agreement or each part or schedule of an agreement meets the maximum lease term requirement.

Q-14: Under § 5c.168(f)(8)-6(b)(2), the special rule for facilities applies only if the entire facility is leased under a section 168(f)(8) lease.

Will a transaction not qualify under section 168(f)(8) if the parties, acting in good faith, omit an insubstantial portion of the qualified lease property from the lease?

A-14: No. The facility rule of § 5c.168(f)(8)-6(b)(2) will apply if the parties, acting in good faith, substantially comply with its terms.

Q-15: When will construction of an aircraft be considered to have been begun after June 25, 1981, and before February 20, 1982, for purposes of TEFRA Section 208(d)(3)(D)?

A-15: Construction of an aircraft will be considered to have been begun after June 25, 1981, and before February 20, 1982, if during such period any of the following events occurred:

- (i) Construction or reconstruction of a subassembly designated for the aircraft was commenced;
- (ii) Construction of a lot increment of subassemblies (one or more of which was designated for the aircraft) was commenced; or
- (iii) The stub wing join occurred.

Q-16: Does the definition of assets used in the manufacture or production of steel for purposes of TEFRA section 208(d)(2)(F) include all assets used in this function (such as electrical and steam generators and distribution equipment, coke oven by-product equipment) although not necessarily includable in the former ADR guideline class for primary steel mill products?

A-16: Yes, all assets that are used, in their primary function, as an integral part of the steel manufacturing or production process are included. Cf. § 1.48-1(d)(4). However, the steel manufacturing or production process does not include processing beyond the production of primary ferrous metals (as defined by the ADR Class for Manufacture of Primary Ferrous Metals).

Q-17: Where a qualified mass commuting vehicle meets the requirements for both the TEFRA section 208(d)(2) transitional rule and the TEFRA section 208(d)(5) special rule for

mass commuting vehicles, which provision will control?

A-17: The general transitional rule of TEFRA section 208(d)(2) will apply. Thus, pursuant to TEFRA section 208(d)(2)(B), the provisions of section 168(f)(8)(J), but not the provisions of section 168(i)(1), will apply only to such property. If the general transitional rule does not apply to a specific mass commuting vehicle, the provision of section 168(i)(1) applies to the lessor who leases such vehicle.

Q-18: Does the definition of a qualified mass commuting vehicle include component parts of a qualified mass commuting vehicle—such as an undercarriage of a subway car or the costs of rehabilitation or reconstruction of a mass commuting vehicle (or component part thereof)?

A-18: Yes.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: November 5, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-30918 Filed 11-5-82; 5:05 pm]

BILLING CODE 4830-01-M

26 CFR Parts 20 and 301

[T.D. 7847]

Special Lien for Additional Estate Tax Attributable to Farm, Etc.; Special Use Valuation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations implementing the special lien for additional estate tax imposed under section 2032A(c) of the Internal Revenue Code that was added by the Tax Reform Act of 1976. The regulation reflects changes made by the Technical Corrections Act of 1979 and the Economic Recovery Tax Act of 1981 and affects qualified heirs of decedents whose estates elect to come within the special use valuation provisions of section 2032A.

DATES: The regulations are effective for the estates of decedents dying after December 31, 1976.

FOR FURTHER INFORMATION CONTACT:

Fred E. Grundeman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224. Attention CC:LR:T (202) 566-3287, not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 24, 1982, the *Federal Register* published proposed amendments to the Estate Tax Regulations [26 CFR Part 20] under section 6324B of the Code relating to the special lien for additional estate tax arising when property is valued at its special use value for Federal estate tax purposes (47 FR 22388). Under section 2032A of the Code certain qualified real property may, for estate tax purposes, be valued at its special use value rather than its fair market value. Section 6324B of the Code, enacted by section 2003(b) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1861), imposes a special lien on the qualified real property in the amount of the estate tax savings. Section 6324B was amended by section 108(d) of the Technical Corrections Act of 1979 (Pub. L. 96-222, 94 Stat. 228), which extended the special lien to qualified replacement property, and by section 421(d)(2)(B) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 309), which extended the special lien to cover qualified exchange property. The regulation implements the special lien provisions and grants authority to district directors to allow adequate security to be substituted for the special lien. One comment from the public was received requesting that certain material included in the proposed regulation by cross reference be set out in full and that rules be included to clarify the treatment of property held indirectly by a partnership, corporation or trust. After careful consideration it was determined that incorporation by reference was sufficient and that the issues involving indirect ownership should properly be considered in regulations under section 2032A. Accordingly the requested changes were not adopted.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Furthermore, although the notice of proposed rulemaking solicited public comment, the Internal Revenue Service has concluded that these regulations are interpretative and that the notice and public procedure

requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

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

List of Subjects

26 CFR Part 20

Estate taxes.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Estate Tax Regulations (26 CFR Part 20) and the Procedure and Administration Regulations (26 CFR Part 301) as published in the *Federal Register* on May 24, 1982, [47 FR 22388], are adopted without change, as follows:

PART 20—[AMENDED]

Paragraph 1. There is inserted immediately after § 20.6324A-1 the following new section:

§ 20.6324B-1 Special lien for additional estate tax attributable to farm, etc., valuation.

(a) *General rule.* In the case of an estate of a decedent dying after December 31, 1976, which includes any interest in qualified real property, if the executor elects to value part or all of such property pursuant to section 2032A, a lien arises in favor of the United States on the property to which the election applies. The lien is in the amount equal to the adjusted tax difference attributable to such interest (as defined by section 2032A(c)(2)(B)). The term "qualified real property" means qualified real property as defined in section 2032A(b), qualified replacement property within the meaning of section 2032A(h)(3)(B), and

qualified exchange property within the meaning of section 2032A(i)(3). The rules set forth in the regulations under section 2032A shall apply in determining whether this section is applicable to otherwise qualified real property held by a partnership, corporation or trust.

(b) *Period of lien.* The lien shall arise at the time the executor files an election under section 2032A. It shall remain in effect until one of the following occurs:

(1) The liability for the additional estate tax under section 2032A(c) with respect to such interest has been satisfied; or

(2) Such liability has become unenforceable by reason of lapse of time; or

(3) The district director is satisfied that no further liability for additional estate tax with respect to such interest may arise under section 2032A(c), i.e., the required time period has elapsed since the decedent's death without the occurrence of an event described in section 2032A(c)(1), or the qualified heir (as defined in section 2032A(e)(1)) had died.

For procedures regarding the release or subordination of liens or discharge of property from liens, see § 301.6325-1 of this chapter (Regulations on Procedure and Administration).

(c) *Substitution of security for lien.* The district director may, upon written application of the qualified heir (as defined in section 2032A(e)(1)) acquiring any interest in qualified real property to which a lien imposed by section 6324B attaches, issue a certificate of discharge of any or all property subject to such lien, after receiving a bond or other security in an amount or value determined by the district director as sufficient security for the maximum potential liability for additional estate tax with respect to such interest. Any bond shall be in the form and with the security prescribed in § 301.7101-1 of this chapter.

(d) *Special rules.* The rules set forth in section 6324A(d)(1), (3), and (4), and the regulations thereunder, shall apply with respect to a lien imposed by section 6324B as if it were a lien imposed by section 6324A.

PART 301—[AMENDED]

Par. 2. Section 301.6325-1 is amended by inserting a new sentence immediately after the second sentence of paragraph (c)(1), by redesignating paragraph (d)(3) as (d)(4), and by inserting a new paragraph (d)(3). These amended and added provisions read as follows:

§ 301.6325-1 Release of lien or discharge of property.

(c) *Estate or gift tax liability fully satisfied or provided for.*—(1) *Certificate of discharge.* * * * If a lien has arisen under section 6324B (relating to special lien for additional estate tax attributable to farm, etc., valuation) and the district director determines that the liability for additional estate tax has been fully secured in accordance with § 20.6324B-1(c) of this chapter, the district director may issue a certificate of discharge of the real property from the section 6324B lien. * * *

(d) *Subordination of lien.* * * *

(3) *Subordination of section 6324B lien.* The district director may issue a certificate of subordination with respect to a lien imposed by section 6324B if the district director determines that the interests of the United States will be adequately secured after such subordination. For example, A, a qualified heir of qualified real property, needs to borrow money for farming purposes. If the current fair market value of the real property is \$150,000, the amount of the claim to which the special lien is to be subordinated is \$40,000, the potential liability for additional tax (as defined in section 2032A(c)) is less than \$55,000, and there are no other facts to indicate that the interest of the United States will not be adequately secured, the district director may issue a certificate of subordination. The result would be the same if the loan were for bona fide purposes other than farming.

The regulations are adopted under the authority contained in sections 6324B (90 Stat. 1861, 26 U.S.C. 6324B) and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Code.

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: October 27, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-30829 Filed 11-9-82; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 53

[T.D. 7849]

Minimum Investment Return of Private Foundations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the excise tax

imposed by section 4942 on the undistributed income of private foundation. These regulations clarify the treatment of future interests created by the private foundation. The regulations provide guidance to foundations that may be subject to this tax.

DATES: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT: George B. Baker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:EE-69-80, 202-566-3422 (not a toll-free call).

SUPPLEMENTARY INFORMATION:**Background**

On January 26, 1982, the **Federal Register** published proposed amendments to the Foundation and Similar Excise Tax Regulations (26 CFR Part 53) under section 4942 of the Internal Revenue Code of 1954 (47 FR 3558). The amendments were proposed to clarify the regulations relating to the excise tax imposed by section 4942 on the undistributed income of a private foundation. No written comments on the proposal were received, and no public hearing was held. Therefore, the proposals are adopted without change (other than one clerical change) as final regulations.

Regulatory Flexibility Act

No general notice of proposed rule making is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these regulations is George B. Baker of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 53.4942(a)-2

Excise taxes, Foundations, Investments, Minimum investment return.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Foundation and Similar Excise Tax Regulations (26 CFR Part 53) under section 4942, as published in the **Federal Register** (47 FR 3558), are adopted as proposed except that paragraph 2 of the notice of proposed rulemaking is revised to read as follows:

"**Par. 2.** The last sentence of paragraph (2) of § 53.4942(a)-3(d) and the last sentence of paragraph (2) of § 53.4942(a)-3(c) are removed."

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

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 13, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. Section 53.4942(a)-2(c) (2)(i) introductory text is revised to read as follows:

§ 53.4942(a)-2 Computation of undistributed income.

(c) *Minimum investment return.* * * *

(2) *Certain assets excluded.* * * *

(i) Any future interest (such as a vested or contingent remainder, whether legal or equitable) of a foundation in the income or corpus of any real or personal property, other than a future interest created by the private foundation after December 31, 1969, until all intervening interests in, and rights to the actual possession or enjoyment of, such property have expired, or, although not actually reduced to the foundation's possession, until such future interest has been constructively received by the foundation, as where it has been credited to the foundation's account, set apart for the foundation, or otherwise made available so that the foundation may acquire it at any time or could have acquired it if notice of intention to acquire had been given:

§ 53.4942 [Amended]

Par. 2. The last sentence of subparagraph (2) of § 53.4942(a)-3(d)

and the last sentence of subparagraph 2 of § 53-4942(a)-3(c) are removed.

[FR Doc. 82-30930 Filed 11-9-82; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 150

[T.D. 7846]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Definition of Property for Purposes of the Windfall Profit Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations relating to the windfall profit tax on domestic crude oil. The new temporary regulations relate to the definition of "property" for purposes of the windfall profit tax. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the *Federal Register*.

DATE: These regulations are effective with respect to crude oil removed after February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas W. Charnas of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

On November 5, 1982, the *Federal Register* published final regulations (47 FR 50215) under sections 4986, 4987, 4988, 4989, 4991, 4992, 4993, 4994, 4995, 4996, 4997, 6050C, 6076, 6081, and 6402 of the Internal Revenue Code of 1954. Those regulations were required to implement various sections of the Crude Oil Windfall Profit Tax Act of 1980. In general, those regulations superseded Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980. However, paragraph (i) of § 51.4996-1, relating to the definition of "property," was reserved in the final regulations. The final regulations did not supersede paragraph (i) of § 51.4996-1, relating to the definition of "property." This document amends paragraph (i) of § 51.4996-1. The amendment applies to entities, large and small, engaged in the production or purchase of domestic crude oil and related activities. The amendment is issued under the authority

of Code section 4997 (b), which grants the Secretary of the Treasury or his delegate authority to prescribe regulations necessary or appropriate to carry out the purposes of the windfall profit tax (including changes in the application of the energy regulations), and under the more general regulatory authority contained in section 7805.

Explanation of Provision

Paragraph (i) of § 51.4996-1, prior to amendment by this document, provided that the term "property" generally has the same meaning for windfall profit tax purposes as it had under the energy regulations (as defined in former § 212.72 of chapter II, title 10 of the Code of Federal Regulations), *i.e.*, the right to produce domestic crude oil, which arises from a lease or a fee interest, as of January 1, 1972. However, questions have been raised about certain aspects of the definition of "property." One area of inquiry is whether the determination of the geographical boundaries of a property is made without regard to whether there had been production of crude oil from a particular tract or premises before January 1, 1972. Another area of inquiry is whether the instrument transferring the right to produce crude oil must contain language referring specifically to that right or whether it is sufficient that the right be intrinsic in the property interest itself. The amendment makes it clear that, as a general rule, the boundaries of the interest (*e.g.*, leasehold or fee) that included the right to produce crude oil as that right existed on January 1, 1972, are to be used in the determination of "property" provided such right was in production in commercial quantities on that date. If such right was not in production in commercial quantities on January 1, 1972, the determination of "property" is generally made by reference to the geographical boundaries of the right to produce crude oil when crude oil is first produced thereafter in commercial quantities. For this purpose the term "commercial quantities" has the same meaning as that term has in proposed § 51.4996-1(n). See the notice of proposed rulemaking relating to newly discovered oil (LR-224-81) for the content of proposed § 51.4996-1(n) (47 FR 50306, Nov. 5, 1982).

The amendment also makes it clear that "property" is determined without regard to the nature or language of the instrument transferring the right to produce crude oil. For example, "property" is determined by a right to produce crude oil without regard to whether the instrument transferring the right is an oil and gas lease, a fee instrument containing language referring

specifically to that right, or a fee instrument in which the right to produce minerals is intrinsic to the right conveyed by that instrument.

The amendment reserves for subsequent publication the rules relating to the recognition of separate properties which are subject to a single right to produce. It is anticipated that the rules to be provided will generally follow the rules set forth in FEA Rul. 1977-1, 42 FR 3682 (1977), and FEA Rul. 1977-2, 42 FR 4409 (1977). These rulings deal with properties created from separate reservoirs, noncontiguous tracts, very large tracts, or created for special royalty owner and severance tax accountability. Also reserved for subsequent publication are rules relating to unitizations.

Drafting Information

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

List of Subjects in 26 CFR 150.4996-1

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Adoption of Amendments to the Regulations

PART 150—[AMENDED]

Accordingly, 26 CFR Part 150, Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980, is amended by revising paragraph (i) of § 51.4996-1 to read as follows:

§ 51.4996-1 Definitions.

* * * * *

(i) *Property*—(1) *In general.* Except as otherwise provided in section 4988(b) (relating to the net income limitation on windfall profit) and in paragraphs (i) (3) and (4) of this section, the "property" is determined by reference to the geographical boundaries of the right to produce crude oil as such right existed on January 1, 1972, provided such right was in production in commercial quantities (as defined in paragraph (n) of § 51.4996-1 of this chapter) on that date. If such right was not in production in commercial quantities on January 1, 1972, the determination of "property" is generally made by reference to the geographical boundaries of the right to produce crude oil when crude oil is first

produced thereafter in commercial quantities.

(2) *Right to produce.* The right to produce crude oil is an operating or working interest. It may arise, for example, from a lease or sublease or from a deed of a fee interest.

(3) *Separate properties from single right to produce.* [Reserved]

(4) *Unitizations.* [Reserved]

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples (references in the examples to production of crude oil mean production in commercial quantities):

Example (1). A purchased land in 1960 (receiving a standard special warranty deed) and used the land exclusively for farming until 1969 when he drilled a well in the southwest portion of the land. The well began producing crude oil in 1970 and is still in production. In 1973 A executed four oil and gas leases for portions of the land none of which included any area that ever had a producing well and each of which began producing crude oil in 1980. The boundaries of the "property" are determined by reference to the geographical boundaries of the fee interest held by A on January 1, 1972, because A's right to produce crude oil on January 1, 1972, was in production on that date.

Example (2). B purchased land in 1960 (receiving a standard special warranty deed) and used the land exclusively for farming. In 1973 B sold the west half of the land. In 1974 B drilled a well in the northeast portion of his land. The well began producing crude oil on February 1, 1974. "Property" is determined by reference to the geographical boundaries of B's fee interest on February 1, 1974, because those are the geographical boundaries of the right to produce crude oil when crude oil was first produced. Any "property" with respect to the land sold by B in 1973 will be determined by reference to the geographical boundaries of the right or rights pursuant to which crude oil is ultimately produced thereon.

Example (3). C purchased land in 1960 (receiving a standard special warranty deed) and used the land exclusively for farming. In 1970 C granted an oil and gas lease to D on the entire fee interest. In 1973 D drilled a well in the south half of the land. The well began producing crude oil in 1973. In 1974 D granted an oil and gas sublease to E on the north half of his lease. E drilled a well and began producing crude oil in 1974. "Property" is determined by the geographical boundaries of D's lease because those are the geographical boundaries of the right to produce crude oil when crude oil was first produced. "Property" is not determined by reference to the geographical boundaries of E's sublease because of the crude oil production from D's lease prior to execution of the sublease.

Example (4). On December 31, 1971, F granted an oil and gas lease to G on the north half of his fee interest and an oil and gas lease to H on the south half of his fee interest. Each lease provided that drilling was to commence within 5 years or the lease would

expire. On January 1, 1973, G began drilling a well in the land subject to his lease. The well began producing crude oil on January 15, 1973. As of December 31, 1976, no well had been drilled on the land subject to H's lease and H's lease expired. Because F had granted a lease to G that transferred to G before January 1, 1972, the right to produce crude oil, the "property" is determined by reference to the geographical boundaries of G's lease. G's lease was a right to produce crude oil pursuant to which the first production of crude oil after January 1, 1972, occurred. Thus the boundaries of G's lease in 1973 constitute the "property" for purposes of the windfall profit tax. "Property" is not determined by reference to the geographical boundaries of H's lease because no crude oil was produced pursuant to that right to produce crude oil. Also, "property" is not determined by reference to the geographical boundaries of that portion of F's fee interest not subject to G's lease (upon expiration of H's lease) because no crude oil has been produced pursuant to that right to produce crude oil.

Example (5). Assume the same facts as in example (4) except that on December 31, 1973, H granted an oil and gas sublease to I on the west half of his lease and an oil and gas sublease to J on the east half of his lease. Under each oil and gas sublease drilling was to commence on the land subject to the sublease within 3 years or the sublease would expire. J drilled a well during February of 1974 which began producing crude oil that month. No production occurred on I's sublease by December 31, 1976, and, at that time, I's sublease expired. Because H's lease did not produce crude oil before H granted oil and gas subleases to I and J, "property" is determined by reference to the geographical boundaries of J's sublease. J's sublease was a right to produce crude oil pursuant to which crude oil was actually produced. "Property" is not determined by reference to the geographical boundaries of I's sublease because the sublease expired before crude oil was produced pursuant to that right to produce. "Property" is not determined by reference to the geographical boundaries of that portion of H's lease that was not subject to J's sublease (land formerly subject to I's sublease) because crude oil was not produced pursuant to H's right to produce crude oil therefrom after the expiration of I's sublease. As in example (4) another "property" is determined by reference to the geographical boundaries of C's lease.

Example (6). Assume the same facts as in example (5) except that on January 1, 1977, H granted an oil and gas sublease to K of the portion of his lease that was formerly subject to I's sublease. Under the sublease, K was to commence drilling within 1 year. K drilled a well during May of 1977 which began producing crude oil that month. "Property" is determined by reference to the geographical boundaries of K's sublease because there was no crude oil production pursuant to H's lease before H granted oil and gas subleases to I and J nor was there crude oil production pursuant to I's sublease before it expired.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this

reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 4997 and 7805 of title 26 of the United States Code (94 Stat. 250 and 68A Stat. 917; 26 U.S.C. 4997 and 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: October 22, 1982.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-30899 Filed 11-5-82; 4:29 pm]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Disinterments From National Cemeteries; Consent and Notarization Requirements

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration (VA) is changing its regulation on disinterments from national cemeteries, to require that a request for disinterment include the consent of all living immediate family members over their notarized signatures as well as the notarized statement of the requester stating that all close living relatives have given consent. The change is being made because close living relatives and immediate family members have later protested the disinterment. This change is expected to eliminate the problem.

DATE: This regulation is effective October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Sonja McCombs, Department of Memorial Affairs (40F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2987.

SUPPLEMENTARY INFORMATION: On June 2, 1982, the proposed regulation was printed on pages 23954 and 23955 of the Federal Register (47 FR 23954-23955). A 30-day comment period was provided. The two responses received during the comment period contained several suggested changes. Each suggested change was contained on its individual merit; however, neither of the suggested changes was incorporated into the final regulation.

The first respondent proposed that the regulation read " * * * that the authority

of the living legal spouse be the only consent and signature required from its immediate family. However, if no legal spouse is alive, the consent and signature of other immediate family may be required. Such consent should be defined in a reasonable descending order based upon accepted standards of family definition." The individual also recommended " * * * that the proper authorities need to be contacted concerning vital records regulations in order to obtain the opinion of various state registrars. This is offered in order to provide comparable and compatible public service at the state or national level."

The regulation was not changed to incorporate these comments for the following reasons. The VA has experienced many cases in which children have protested the disinterment of their mother, or father, when the decedent's legal spouse authorized the disinterment. There have also been many cases where a brother, or sister, has protested the disinterment of another sibling when the mother, or father, authorized the disinterment. The VA does not wish to become involved in family disputes. The problems we have experienced here can be avoided by obtaining the consent and signature of all living immediate family members prior to permitting the disinterment.

The next of kin are responsible for making and paying all expenses for a disinterment. These arrangements include compliance with local and state health laws or regulations, engagement of a funeral director to accomplish the disinterment, and recasketing the remains (if necessary). The VA does not make arrangements in behalf of the next of kin for a disinterment.

The second respondent commented on several items contained in the regulation. These comments have been summarized as follows: "By way of general comment, it would appear that the VA is trying to make disinterment as difficult as possible for the family of a deceased veteran. In most instances, it is more difficult to disinter human remains from a veterans cemetery than it is from other cemeteries." The respondent also stated " * * * the proposed definition of immediate family member as found in § 1.621 is too broad and conflicts with many state statutory provisions on disinterment. The problem is that it includes two classes of family members—the surviving and not remarried spouse and children. The effect of this definition is that approval must be obtained from two distinct classes." The respondent suggested that immediate family members be redefined

to limit its application to one class of family member and that it list an order of preference. The respondent further stated that " * * * the proposed requirement that requests for disinterment be accompanied by a full statement of reasons, as prescribed in § 1.621(b)(1), is repugnant to a democratic society and constitutes an invasion of privacy." "In addition to constituting an invasion of privacy, the proposed regulation further provides that " * * * disinterments will be permitted only for cogent reasons * * *". In effect the VA establishes itself as the judge of whether a family's motives are acceptable to the government." The respondent " * * * strongly recommends that any requirement for information about the reasons or motives for disinterment be deleted and the VA only seek information about the location of the reinterment." The respondent commented that " * * * the proposed requirement that each signature be notarized, as found in § 1.621(b)(2), presents significant procedural impediments to families seeking disinterment from a national cemetery as long as the definition of immediate family members remain as proposed." The respondent also commented " * * * that the VA adopt a disinterment from national cemetery regulation that defers to state statutory provisions. In so doing, the possibility of conflict and confusion between state laws regarding ownership of human remains would be avoided and the insensitivity of the present requirements would be removed."

The regulation was not changed to incorporate the above comments and recommendations for the following reasons. Public Law 93-43, enacted by Congress in September 1973, authorized the VA to establish and maintain national cemeteries for the burial of eligible veterans and their dependents. Congress did not provide for disinterments under Public Law 93-43. A disinterment is not a veteran's burial benefit. The VA considers all burials in national cemeteries to be permanent and final and a disinterment is authorized only for the most compelling reasons. The VA does not become involved with family disputes and to avoid any problem it is necessary to obtain the consent and signature of all immediate family members prior to authorizing a disinterment. The VA will abide by decisions of local courts whenever family disputes are brought before such tribunal.

National cemeteries are under the jurisdiction of the VA. Public Law 93-43 granted the Administrator of the VA authority to make all rules and

regulations which are necessary or appropriate to carry out the responsibilities of administering national cemeteries. The VA, therefore, would not defer disinterments from national cemeteries to state statutory provisions.

The Administrator has determined that this regulation is nonmajor in accordance with Executive Order 12291, Federal Regulation. The Administrator hereby certifies that this proposed amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these regulations apply almost exclusively to individual veterans and their survivors. They will have no significant impact on small entities (i.e., small business, small private profit and nonprofit organizations, and small governmental jurisdictions).

There is no Catalog of Federal Domestic Assistance Number for disinterment of remains from national cemeteries.

Information collection requirements contained in this regulation (§ 1.621) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511) and have been assigned OMB control number 2900-0365.

List of Subjects in 38 CFR Part 1

Cemeteries, Claims, Government property, Veterans.

The proposed regulations are hereby adopted as final and are set forth below.

Approved: October 26, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 1—GENERAL PROVISIONS

38 CFR 1.621 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.621 Disinterments from national cemeteries.

(a) Interments of eligible decedents in national cemeteries are considered permanent and final. Disinterments will be permitted only for cogent reasons and then only with the prior written authorization of the Chief Memorial Affairs Director. Disinterments from a national cemetery will be approved only

when all living immediate family members of the decedent, to include the person who initiated the interment (whether or not he or she is a member of the immediate family), give their written consent, or when a court order or state instrumentality of competent jurisdiction directs the disinterment. "Immediate family members" are defined as surviving spouse, if not married, all adult children of the decedent, appointed guardian(s) of minor children, the appointed guardian of the surviving unmarried spouse or of the adult child(ren) of the decedent. When the person who initiated the interment is the remarried spouse, his or her written consent will not be required. In the absence of a surviving unmarried spouse and children, the decedent's parents will be considered "immediate family members." (38 U.S.C. 1004)

(b) All requests for authority to disinter remains will be submitted on VA Form 40-4970, Request for Disinterment, and will include the following information:

(1) A full statement of reasons for the proposed disinterment.

(2) Notarized statements by all eligible living immediate family members of the decedent, to include the person who initiated the interment (whether or not he or she is a member of the immediate family), that they consent to the proposed disinterment.

(3) A notarized statement, by the person requesting the disinterment that those who supplied affidavits comprise all the living immediate family members of the deceased. (38 U.S.C. 1004) (Approved by the Office of Management and Budget under OMB control number 2900-0365.)

[FR Doc. 82-30911 Filed 11-10-82; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 17

Medical Benefits; Recovery of the Cost of Certain Health Care

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its Medical Series of regulations to provide for reimbursement of medical costs in certain cases. The Veteran's Health Care, Training, and Small Business Act of 1981 provides statutory authority for seeking reimbursement for care and services furnished veterans for a nonservice-connected disability where entitlement to such care exists under workers' compensation plans or programs, uninsured motorists' insurance or a Uniform Crime Victims

Reparation statute. The Act also requires that the Administrator prescribe regulations for determining the reasonable cost of such care and service.

DATE: These regulations are effective October 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein (202) 389-2851.

SUPPLEMENTARY INFORMATION: This regulation implements Section 629 of Title 38, United States Code, as added by Public Law 97-72. The United States has the right to recover the reasonable cost of care and services provided a veteran for a nonservice-connected disability from a State, or political subdivision of a State, employer, employer's insurance carrier, or automobile accident reparations insurance carrier to the extent that the veteran, or the provider of care and services to the veteran, would be eligible to receive reimbursement or indemnification for such care and services if the care and services had not been furnished by a department or agency of the United States. The amount that may be recovered by the United States may not exceed the lesser of (1) an amount equal to the reasonable cost of the care and services furnished the veteran or (2) the maximum amount specified by the law of the State or political subdivision concerned or by any relevant contractual provision to which the veteran was a party or was subject. Effective with the enactment of Public Law 97-72 on November 3, 1981, the Veterans Administration has statutory authority to recover reasonable costs of care and services from workers' compensation plans or programs, uninsured motorists' insurance, or a Uniform Crime Victims Reparation Act.

On pages 35013 and 35014 of the *Federal Register* of August 12, 1982, proposed regulations were published for Title 38, Code of Federal Regulations, §17.62(h). Interested persons were given 30 days to submit comments, suggestions or recommendations. No comments were received regarding the proposed regulations. The proposed regulations are hereby adopted without change and are set forth below.

The Agency Head has determined that these revisions to VA regulations are nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation. The Administrator hereby certifies, as required by the Regulatory Flexibility Act (Pub. L. 96-354), that these revisions will not have a significant economic impact on a substantial number of small entities

because recovery of medical care costs in these situations has been, and still is being pursued under existing VA regulations. This regulation simply implements new Federal statutory authority to recover such costs and provides the method by which these charges are set. That method for computing charges is unchanged from the present VA practice.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

(Catalog of Federal Domestic Assistance Program Numbers: 64.009, 64.010, 64.011, 64.012, and 64.013)

Approved: October 26, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—MEDICAL

A new paragraph (h) is added to § 17.62 to read as follows:

§ 17.62 Charges for care or services.

* * * * *

(h) Furnished for nonservice connected disabilities.

(1) Charges at rates prescribed by the Administrator shall be made for inpatient or outpatient care and services rendered a veteran for nonservice connected disabilities.

(i) Incident to the veteran's employment and the disability is covered under a workers' compensation law or plan that provides reimbursement or indemnification for the cost of such care and services,

(ii) As the result of a motor vehicle accident in a State which requires automobile accident reparations insurance, or

(iii) As the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person so injured is entitled to receive health care and services for that injury at the expense of the State or subdivision.

(2) The method for computing charges for Veterans Administration medical care and services is based on the Veterans Administration Cost Distribution Report, which sets forth the actual basic costs and per diem rates by type of inpatient care and outpatient visit. Factors for depreciation of buildings and equipment and Central

Office overhead are added, based on Veterans Administration accounting manual instructions. Additional factors are added for interest on capital investment and for standard fringe benefit costs covering Government employee retirement and disability costs. The current year billing rates are projected on prior year actual rates by applying the budgeted percentage increase with an additional allowance for the civilian pay raise. The amount that may be recovered may not exceed the lesser of

(i) An amount equal to the reasonable cost of the care and services furnished the veteran, or

(ii) The maximum amount specified by the law of the State or political subdivision concerned or by any relevant contractual provision to which the veteran was party or was subject. (38 U.S.C. 629, Pub. L. 97-72)

(38 U.S.C. 210(c))

[FR Doc. 82-30912 Filed 11-9-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2212-2(b)]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of final rulemaking.

SUMMARY: On November 24, 1981, the Indiana Air Pollution Control Board submitted revisions to the ozone and total suspended particulate portions of its State Implementation Plan (SIP). The revisions are in the form of operating permits for Jeffboat, Incorporated, Jeffersonville; Tecumseh Pipe Line Company, Schererville; and Wayne Transportation Division of Wayne Corporation, Richmond. On June 22, 1982 (47 FR 26832), EPA announced the availability of these revisions and approved the permits as a revision to the Indiana SIP. EPA subsequently received a request for an opportunity to submit an adverse or critical comment on this approval of the operating permit for Jeffboat, Incorporated. Accordingly, EPA is today withdrawing its approval of this revision for Jeffboat, Incorporated. EPA approval of the emission limits for Tecumseh Pipe Line Company and Wayne Transportation Division remain in effect. Elsewhere in today's Federal Register, EPA is proposing to approve the Jeffboat,

Incorporated, revision and providing an opportunity to comment on the proposed approval.

EFFECTIVE DATE: This final rulemaking is effective on November 10, 1982.

ADDRESSES: Copies of the SIP revision are available for inspection at the following addresses:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

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

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

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

FOR FURTHER INFORMATION CONTACT: Sharon Reinders (312) 886-6034.

SUPPLEMENTARY INFORMATION: On November 24, 1981, the Indiana Air Pollution Control Board submitted revisions to the ozone and total suspended particulate portions of its State Implementation Plan (SIP). The revisions are in the form of operating permits for Jeffboat, Incorporated, Jeffersonville; Tecumseh Pipe Line Company, Schererville; and Wayne Transportation Division of Wayne Corporation, Richmond. On June 22, 1982 (47 FR 26832), EPA announced the availability of these revisions and approved the permits as revisions to the Indiana SIP. The reader is referred to 47 FR 26832 for further information about the revision.

In the approval notice of June 22, 1982, EPA advised the public that it was deferring the effective date of its approval for 60 days, until August 23, 1982, to provide an opportunity for the public to submit comments on the revision. EPA also announced that, if within 30 days of the publication of the notice of approval we received notice that someone wanted to submit an adverse or critical comment, we would withdraw the approval and begin a new rule by proposing action and establishing a 30-day comment period.

EPA has received notice that a member of the public wants to submit an adverse or critical comment on the revision pertaining to Jeffboat, Incorporated, in Jeffersonville. Therefore, in accordance with the procedure described above, EPA is today withdrawing its June 22, 1982, approval of the operating permit for Jeffboat, Incorporated. Elsewhere in today's Federal Register, EPA is proposing to approve this permit as a

SIP revision and establishing a 30-day comment period on its proposed approval. EPA's June 22, 1982, approval of emission limits for Tecumseh Pipe Line and Wayne Transportation Division remain in effect. EPA's approval of these limits were effective as of August 23, 1982.

EPA is withdrawing this action without providing prior notice or opportunity to comment. EPA finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable because EPA needs to withdraw its approval as quickly as possible in order to consider the comments which members of the public want to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. (See 46 FR 41051 and 46 FR 44477.) For the same reason, EPA finds that it has good cause under 5 U.S.C. 553(b) to make this withdrawal immediately effective.

Under Executive Order 12291, today's action is not "Major". The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

This notice is issued under authority of sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: November 3, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. Section 52.770(c) is amended by revising subparagraph (32) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *
(32) On November 24, 1981, Indiana submitted site specific emission limitations for Tecumseh Pipe Line

Company, Schererville; and Wayne Transportation Division, Richmond.

[FR Doc. 82-30922 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

(A-4-FRL 2239-5)

Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants; Florida: Delegation of Authority

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These amendments institute address changes for reports and applications required from operators of certain sources subject to Federal regulations. EPA has delegated to the State of Florida authority to administer and enforce 40 CFR Part 60 (Standards of Performance for New Stationary Sources) and 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants). These amendments provide that all reports, requests, applications, submittals, and communications required by these Federal standards will now be sent to the State.

EFFECTIVE DATE: June 10, 1982.

ADDRESSES: Copies of the Florida request and EPA's delegation letter may be examined during normal business hours at the following locations:

Air Planning Section, EPA, Region IV,
345 Courtland Street NE., Atlanta,
Georgia 30365

Bureau of Air Quality Management,
Florida Department of Environmental
Regulation, Twin Towers Office
Building, 2600 Blair Stone Road,
Tallahassee, Florida 32301

All requests, reports, applications, submittals, and other communications required by the Federal standards listed below should be sent to the Florida address rather than to EPA Region IV.

FOR FURTHER INFORMATION CONTACT:

Mr. Barry Gilbert, Air Management Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, phone 404/881-3286.

SUPPLEMENTARY INFORMATION: EPA reviewed the pertinent laws of the State of Florida and the rules and regulations thereof, and determined that they provide an adequate and effective procedure for implementation of the NSPS and NESHAPS by the State of Florida. Therefore, pursuant to Section

111 of Pub. L. 91-604 (1970) as amended by Pub. L. 95-95 (1977), the Clean Air Act (CAA) as amended, we delegated our primary authority for implementation and enforcement of NSPS and NESHAPS to the State of Florida as follows:

A. Responsibility for all sources located or to be located in the State of Florida subject to the Standards of Performance for New Stationary Sources promulgated in 40 CFR Part 60 and amendments thereto as published in the **Federal Register** as of the date of the State's request (May 19, 1982). The categories of new sources covered by this responsibility are: Fossil-Fuel Fired Steam Generators (D); Incinerators (E); Portland Cement Plants (F); Nitric Acid Plants (G); Sulfuric Acid Plants (H); Asphalt Concrete Plants (I); Petroleum Refineries (J); Storage Vessels for Petroleum Liquids (K); Secondary Lead Smelters (L); Secondary Brass & Bronze Plants (M); Iron & Steel Plants (N); Sewage Treatment Plants (O); Phosphate Fertilizer Industry—Wet Process Phosphoric Acid Plants (T), Superphosphoric Acid Plants (U), Diammonium Phosphate Plants (V), Triple Superphosphate Plants (W), and Granular Triple Superphosphate Storage Facilities (X); Ferroalloy Production Facilities (Z); Steel Plants: Electric Arc Furnaces (AA); Grain Elevators (DD); Gas Turbines (GG); Automobile & Light-Duty Truck Coating Operations (MM); and Ammonium Sulfate Manufacture (PP).

B. Responsibility for all sources located or to be located in the State of Florida subject to the National Emissions Standards for Hazardous Air Pollutants promulgated in 40 CFR Part 61 and amendments thereto as published in the **Federal Register** as of the date of the State's request (May 19, 1982). The categories of new sources covered by this responsibility are: Asbestos (B); Beryllium (C); Beryllium Rocket Motor Firing (D); Mercury (E); and Vinyl Chloride (F).

C. This delegation is based upon several conditions which are listed in our June 10, 1982, letter of delegation.

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on June 10, 1982, and it serves no purpose to delay the technical change of this addition of

the state address to the Code of Federal Regulations.

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

List of Subjects in 40 CFR Parts 60 and 61

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

(Secs. 101, 110, 111, 112, 301, Clean Air Act, as amended. (42, U.S.C. 7401, 7411, 7412, 7601))

Dated October 26, 1982.

Charles R. Jeter,

Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

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

In § 60.4, paragraph (b)(K) is added as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(K) Bureau of Air Quality Management, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

In § 61.04, paragraph (b)(K) is added as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(K) Bureau of Air Quality Management, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

[FR Doc. 82-30906 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL 2235-7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve changes to rules of sixteen Air Pollution Districts submitted by the California Air Resources Board (CARB) as revisions to the California State Implementation Plan (SIP). These revisions are generally administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved. In addition, this notice corrects an administrative error by updating 40 CFR 52.222, *Extensions*, to be consistent with recent updates to 40 CFR 52.238, *Attainment dates for national standards*.

DATE: This action is effective January 10, 1983.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and at the following locations.

Public Information Reference Unit,
Environmental Protection Agency,
Library, 401 "M" Street, SW., Room
2404, Washington, D.C. 20460

Library, Office of the Federal Register,
1100 "L" Street, NW., Room 8401,
Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, State
Implementation Plan Section, Air
Programs Branch, Air Management
Division, Environmental Protection
Agency, Region 9, 215 Fremont Street
San Francisco, CA 94105 (415) 974-7641

SUPPLEMENTARY INFORMATION: The
CARB submitted as SIP revisions the
following rules on the indicated dates:

November 5, 1981

Fresno County

Rule 409.6 Perchloroethylene Dry Cleaning
Operations

May 20, 1982

Monterey Bay Unified

Rule 422 Burning of Wood Wastes

Shasta County

Rule 2:6 Opening Burning General
Provisions

Rule 2:7 Conditions for Open Burning

Rule 2:8 Agricultural Burning

Rule 2:9 Additional No Burn Days (deleted)

Rule 2:11 Fees

Rule 4:4 Hearing Board Fees

South Coast AQMD

Rule 303 Hearing Board Fees

Rule 304 Analysis Fees

Tulare County

Rule 104 Enforcement

Rule 405 Process Weight

Yolo-Solano

Rule 4.1 Authorization to Construct Fees

Rule 4.2 Permit Fee Schedule

Yuba County

Rule 9.6 Equipment Breakdown

August 6, 1982

Bay Area AQMD

Rule 1-110 Exclusions

Rule 1-112 Breakdown

Rule 1-205 Atmosphere

Rule 1-233 Organic Compound

Rule 1-234 Organic Compound, Non-
Precursor

Rule 1-235 Organic Compound, Precursor

Rule 1-520 Continuous Emission Monitoring

Rule 1-522 Continuous Emission Monitoring
and Recordkeeping Procedures

Rule 1-530 Area Monitoring Downtime

Rule 1-540 Area Monitoring Data
Examination

Rule 1-543 Record Maintenance for Two
Years

Rule 1-544 Monthly Summary

Rule 1-602 Area and Continuous Emission
Monitoring Requirements

Rule 4-303 Abatement Actions

Rule 5-208 Hazardous Materials,
Combustible

Rule 5-402 Reporting

Rule 6-132 Source Gas Volume (Deleted)

Lake County

Rule 630 Permit Transfers

Rule 631 Duplicate Permits

Rule 660.1 Permit Fee Penalty

Rule 660.2 Cancellation or Denial

Rule 660.3 Miscellaneous Charges

San Joaquin County

Rule 203 Transfer

Rule 415 Open Burning

Rule 503 Filing Petitions

Rule 521 Emergency Variance

South Coast AQMD

Rule 407 Liquid and Gaseous Contaminants

Stanislaus County

Rule 203 Transfer

Rule 503 Filing Petitions

North Coast Air Basin

Del Norte County

Rule 616 Interim Variance

Rule 618 Modification of Increments of
Progress Schedule

Rule 620 Hearing Procedures

Humboldt County

Rule 616 Interim Variance

Rule 618 Modification of Increments of
Progress Schedule

Rule 620 Hearing Procedures

Mendocino County

Rule 610 Petition Procedures

Rule 616 Interim Variance

Rule 618 Modification of Increments of
Progress Schedule

Rule 620 Hearing Procedures

Northern Sonoma County

Rule 616 Interim Variance

Rule 618 Modification of Increments of
Progress Schedule

Rule 620 Hearing Procedures

Trinity County

Rule 616 Interim Variance

Rule 618 Modification of Increments of
Progress Schedule

Rule 620 Hearing Procedures

Except as described below for Fresno County, these rule revisions are administrative and do not significantly impact current emission control requirements.

Rule 409.6 (Perchloroethylene) submitted for Fresno County addresses a Group II Control Techniques Guidelines source category. EPA's evaluation has found the rule to be consistent with the Guidelines document and, thus, the Part D requirement for reasonably available control technology is met. Further, since this rule replaces requirements in the federal regulation 40 CFR 52.246, *Control of dry cleaning solvent vapor losses*, that regulation is being rescinded for Fresno County.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C. and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the California SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

This notice also corrects an administrative error made in final

notices on the Bay Area, San Diego, South Coast, and Stanislaus nonattainment area plans (NAPs). Although the attainment date extension requests for carbon monoxide or ozone in these California NAPs were approved, they were only codified in 40 CFR 52.238, *Attainment dates for national standards*. This notice corrects 40 CFR 52.222, *Extensions*, to be consistent with § 52.238 and the NAPs. For Stanislaus County, § 52.238 is also corrected with respect to carbon monoxide. In addition, this notice corrects clerical errors in 40 CFR 52.220, *Identification of plan*, paragraph (c) (89) and (92). These corrections impose no new requirements.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709). The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982 (Secs. 110, 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

List of Subjects in 40 CFR Part 52

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

Dated: November 3, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—[AMENDED]

Subpart F—California

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

1. Section 52.220 paragraph (c) is amended by correcting paragraphs (c)(89)(iii)-(v) and (92)(vi)(A), and by adding paragraphs (c)(104)(iii), (124), and (125)(ii)(B) and (iii)-(vii) as follows:

§ 52.220 Identification of plan.

- (c) * * *
- (89) * * *

- (iii) Yuba County APCD.
- (A) Amended Rules 3.8, 3.12, and 3.15.
- (iv) Imperial County APCD.
- (A) New Rule 418.1.
- (v) Monterey Bay Unified APCD.
- (A) New Rule 425.

- (92) * * *
- (vi) * * *
- (A) New or amended Rule 1113.

- (104) * * *
- (iii) Fresno County APCD.
- (A) New or amended Rule 409.6.

(124) Revised regulations for the following APCDs submitted on August 6, 1982, by the Governor's designee.

- (i) Bay Area AQMD.
- (A) New or amended Regulation 1: Rules 1-100, 1-112, 1-205, 1-233, 1-234, 1-235, 1-520, 1-522, 1-530, 1-540, 1-543, 1-544, and 1-602; Regulations 4: Rule 4-303; Regulation 5: Rules 5-208 and 5-402; and deletion of Regulation 6: Rule 6-132.
- (ii) Lake County APCD.

- (A) New or amended Rules 630, 631, 660.1, 660.2, and 660.3.

- (iii) San Joaquin County APCD.
- (A) New or amended Rules 203, 415, 503, and 521.

- (iv) South Coast AQMD.
- (A) New or amended Rule 407.
- (v) Stanislaus County APCD.
- (A) New or amended Rules 203 and 503.

- (vi) Del Norte County APCD.
- (A) New or amended Rules 616, 618, and 620.

- (vii) Humboldt County APCD.
- (A) New or amended Rules 616, 618, and 620.

- (viii) Mendocino County APCD.
- (A) New or amended Rules 610, 616, 618, and 620.

- (ix) Northern Sonoma County APCD.
- (A) New or amended Rules 616, 618, and 620.

- (x) Trinity County APCD.
- (A) New or amended Rules 616, 618, and 620.

- * * * * *
- (125) * * *
- (ii) * * *
- (B) New or amended Rules 303 and 304.

- (iii) Monterey Bay Unified APCD.
- (A) New or amended Rule 422.
- (iv) Shasta County APCD.
- (A) New or amended Rules 2:6, 2:7, 2:8, 2:9, 2:11 and 4:4.

- (v) Tulare County APCD.
- (A) New or amended Rules 104 and 405.

- (vi) Yolo-Solano APCD.
- (A) New or amended Rules 4.1 and 4.2.

- (vii) Yuba County APCD.
- (A) New or amended Rule 9.6.

2. Section 52.222 is amended by revising (b)(5)(v) and by adding (d)(4)(iii), (8), (9) and (10) as follows:

§ 52.222 Extensions.

- (b) * * *
- (5) * * *
- (v) Stanislaus County APCD for CO and TSP.

- (d) * * *
- (4) * * *
- (iii) Stanislaus County for O₃.

- (8) South Coast Air Basin for O₃ and CO.
- (9) Bay Area Air Quality Management District for O₃ and CO.
- (10) San Diego Air Basin for O₃ and CO.

3. In § 52.238 the entries for the San Joaquin Valley Intrastate are revised as follows:

§ 52.238 Attainment dates for national standards.

Air quality control region and nonattainment area	Pollutants						
	TSP		SO ₂		NO ₂	CO	O ₃
	Primary	Secondary	Primary	Secondary			
San Joaquin Valley Intrastate:
g. Stanislaus County.....	h.....	h.....	e.....	e.....	e.....	f.....	i.....

4. Section 52.246 is amended by adding paragraph (b)(3)(iv) as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

- (b) * * *

- (3) * * *
- (iv) Fresno County APCD.

40 CFR Part 52

[Docket No. RI 906; A-I-FRL-2234-7]

Approval and Promulgation of Implementation Plans, Rhode Island; Sulfur-in-Fuel and Particulate Emission Limitations for Kenyon Piece Dye Works**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final Rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Rhode Island. These revisions provide Kenyon Piece Dye Works with one year long variances from the State's sulfur-in-fuel and particulate emission limitations. The intended effect of this action is to allow Kenyon to burn less expensive fuel.

EFFECTIVE DATE: November 10, 1982.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408; and Air and Hazardous Materials Division, Room 204, 75 Davis Street, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Brian Hennessey (617) 223-5137.

SUPPLEMENTARY INFORMATION: On July 29, 1982, (47 FR 32741), EPA published a Notice of Proposed Rulemaking (NPR) approving one year variances for Kenyon Piece Dye Works from Regulations 8 (limiting the sulfur content in fuel) and 13 (particulate emission limitations). The revisions and the rationale for EPA's proposed action are explained in that NPR and will not be restated here. No public comments were received on the NPR. The July 29 NPR was parallel processed concurrently with Rhode Island's rulemaking procedures. The State's final submittal, dated July 1, 1982, included an additional permit condition for Kenyon which addressed the one stipulation in the NPR. This permit condition requires that Kenyon not exceed a particulate emission limitation of 0.15 pounds per million Btu actual input while burning the higher sulfur fuel. This substitute particulate emission limitation will protect air quality standards and will not allow the source to exceed increments established for the Prevention of Significant Deterioration.

Action: EPA is approving the State's July 1, 1982 submittal. It is effective for a period of up to one (1) year from today.

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 4, 1982.

Anne M. Gorsuch,
Administrator.

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

PART 52—[AMENDED]

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

Subpart 00—Rhode Island

In § 52. 2070, paragraph (c) is amended by adding subparagraph (16) as follows:

§ 52. 2070 Identification of plan.

* * * * *

(c) ***
(16) Variances from Regulations 8, "Sulfur Content in Fuels" and 13, "Particulate Emissions from Fossil Fired Steam or Hot Water Generating Units", for Kenyon Piece Dye Works, Richmond, submitted on July 1, 1982.

[FR Doc. 82-30883 Filed 11-9-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL 2221-7]

Approval and Promulgation of Implementation Plans; Texas Bulk Gasoline Plants, Bulk Terminals, and Service Station Stage I Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves revisions to the Texas State Implementation Plan (SIP) submitted by the Governor on April 13, 1979, and July 25, 1980. These revisions were proposed for approval by EPA in the August 5, 1982, issue of the Federal Register (47 FR 33991). The April 13, 1979, submittal revised Texas Air Control Board (TACB) Regulation V to provide control of volatile organic compound (VOC) emissions at gasoline bulk plants, bulk terminals, and from the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (Stage I vapor recovery at service stations). The July 25, 1980, submittal revised TACB Regulation V to specify a leak tight condition for vapor collection systems while operating at the three gasoline marketing operations noted above. In addition, this action promulgates test methods and procedures for vapor collection systems in use at the gasoline marketing operations. Further, this action exempts counties from federally promulgated regulations that control VOC emissions from the above mentioned gasoline marketing operations where approval of the revision causes equivalent federal and State Regulations to be applicable. This action corrects an error made in the July 1, 1982, issue of the Federal Register at 47 FR 28623.

EFFECTIVE DATE: December 10, 1982.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20460
EPA, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Richard Raybourne, SIP Section, 6AW-AS, Environmental Protection Agency, Region 6 Office, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On November 6, 1973, at 38 FR 30643 and 44 (amended at 42 FR 37380, July 21, 1977) EPA promulgated regulations providing control of certain VOC sources in a total of 23 Texas counties. These regulations were promulgated because the State's ozone control strategy was determined to be inadequate with regard to attainment of the ozone standards within the time frame specified by the Clean Air Act (CAA). The federal regulations as written provide coverage for 12 counties in the Houston and San Antonio area (40 CFR 52.2285), and 11

counties in the Dallas-Fort Worth area (40 CFR 52.2286). The intent of both federal promulgations was to control VOC emissions from gasoline bulk terminals, bulk plants, and from the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (Stage I vapor recovery at service stations).

Pursuant to Part D of Title I of the Clean Air Act (CAA) as amended in 1977, the Governor of Texas submitted SIP revisions on April 13, 1979, after adequate notice and public hearing. As part of the ozone control strategy, these revisions provide control of VOC emissions via TACB Regulation V subsections 131.07.52.101-104 (now 115.111-113) regarding bulk terminals, 131.07.53.101-103 (now 115.121-123) regarding bulk plants, and 131.07.54.101-105 (now 115.131-135) regarding Stage I vapor recovery at service stations.

After evaluation of the State's submittal, EPA issued a final rule (45 FR 19231) on March 25, 1980 in which no action was taken regarding the State's revisions to the above referenced subsections. The no action specified that the Federal regulations would remain in effect for Harris, Galveston, Brazoria, Bexar, Dallas, and Tarrant Counties, based on differences between the State and Federal versions of the regulations. The State regulations were approved for El Paso, Nueces, Ector, Gregg, Jefferson, Orange and Travis Counties, since these counties were not covered by the federally promulgated regulations. EPA's evaluation of the State's submittal, "Review of Texas State Implementation Plan Revision of April 13, 1979; June 1979," discusses the differences between the State and Federal versions of the regulations. EPA reevaluated the State's submittal in light of information provided by the applicable Control Technique Guidelines for gasoline marketing operations and current EPA policy, and in the August 5, 1982 issue of the *Federal Register* proposed approval of the revisions for the reasons specified in the Agency's evaluation report.¹ Public comment was solicited on August 5, 1982 regarding the Agency's proposed action. No comments were received. By this action, EPA is approving the revisions regarding the above noted TACB gasoline marketing subsections.

Exemption From Federal Regulations

Approval of the State's above referenced subsections causes

equivalent Federal and State regulations to become applicable in certain counties. EPA is therefore exempting these counties from the Federal regulations to avoid a situation of overlapping requirements as follows:

Harris County is subject to all three State subsections, therefore EPA exempts Harris County from the federally promulgated regulations.

Dallas, Tarrant, Bexar, Brazoria, and Galveston Counties are subject to the State's subsections with regard to bulk terminals and Stage I vapor recovery at service stations. EPA is therefore exempting these counties from the federally promulgated regulations as they pertain to bulk terminals and Stage I vapor recovery at service stations.

Submittal of July 25, 1980

On July 25, 1980, the Governor of Texas submitted, among other things, TACB Regulation V subsection 115.261, "Control of Volatile Organic Compound Leaks From Gasoline Tank Trucks in Harris County," after adequate notice and public hearing. This subsection was submitted as a control measure required as part of the ozone nonattainment area control strategy developed to meet the requirements of Part D of Title I of the CAA, as amended in 1977. Subsection 115.261 was approved by EPA on May 3, 1982, at 47 FR 18857.

A related portion of the July 25, 1980 submittal specifies a leak tight condition for vapor collection systems while operating at the three gasoline marketing operations discussed previously in this notice. This portion of the submittal thus becomes an integral part of the State's applicable subsections, which are approved by this notice. The State, however, has not included appropriate test methods and procedures for determining compliance with the emission limitations for vapor collection systems as required by the State's subsections. The lack of such test methods renders these regulations federally unenforceable. EPA proposed to use the test methods and procedures adopted by the State of Louisiana and approved by EPA on October 29, 1981 (at 46 FR 53412) for the purpose of Federal enforcement for the affected vapor collection systems. By this action, EPA is approving the above mentioned portion of the July 25, 1980 submittal and promulgating the Louisiana test methods and procedures with regard to the affected vapor collection systems.

This action serves to correct an error in the July 1, 1982 *Federal Register* (47 FR 28623) which approved the deletion of five Texas Counties from Stage I vapor recovery for the filling of gasoline storage vessels at motor vehicle fuel

dispensing facilities. In the July 1 notice, paragraph (c)(40) of § 52.2270 of 40 CFR Part 52 was incorrectly amended by referencing Texas Air Control Board Regulation V Subchapter 115.131 (formerly 131.07.54). The correct reference is Subchapter 115.135 (formerly 131.07.54.105).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

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

Incorporation by reference of the State Implementation Plan for Texas was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of sections 110 and 172 of the Clean Air Act, 42 U.S.C. 7410 and 7502.

List of Subjects in 40 CFR Part 52

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

Dated: November 4, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by correcting subparagraph (40) and adding new subparagraphs (48) and (49) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(40) Revisions to Subchapter 115.135 (formerly 131.07.54.105) of Regulation V were adopted by the Texas Air Control Board on September 7, 1979 and submitted by the Governor to EPA on November 2, 1979 (i.e., removal of Jefferson, Orange, El Paso, Nueces, and Travis Counties).

* * * * *

(48) Revisions to Subchapters 115.111-113 (formerly 131.07.52.101-104) regarding gasoline bulk terminals,

¹EPA Review of Texas State Implementation Plan Revision: Bulk Gasoline Plants, Bulk Terminals, and Service Station Stage I Vapor Recovery, April 13, 1979; May, 1982.

115.123-.124 (formerly 131.07.53.101-.103) regarding gasoline bulk plants, and 115.131-.135 (formerly 131.07.54.101-.105) regarding the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (Stage I vapor recovery at service stations) of Regulation V for the counties of Harris, Galveston, Brazoria, Bexar, Dallas, and Tarrant were adopted by the Texas Air Control Board on March 30, 1979 and submitted by the Governor to EPA on April 13, 1979.

(49) Revisions to Subchapters 115.111 and .113 (formerly 131.07.52.101 and .103) regarding gasoline bulk terminals, 115.121 and .123 (formerly 131.07.53.101 and .103) regarding gasoline bulk plants, and 115.131, .132, and .135 (formerly 131.07.54.101, .102, and .105) regarding the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (Stage I vapor recovery at service stations) of Regulation V were adopted by the Texas Air Control Board on July 11, 1980 and submitted by the Governor to EPA on July 25, 1980.

2. In § 52.2275, paragraph (d) is revised to read as follows:

§ 52.2275 Control strategy and regulations: Ozone.

(d) For purposes of Federal enforcement, the following test methods shall be used:

(1) For perchloroethylene dry cleaning systems subject to §§ 115.221-.223 of Regulation V of the Texas Air Control Board (TACB) Regulations, compliance with the requirements therein shall be determined by the following test methods and procedures:

(i) There shall be no liquid leakage of volatile organic compounds from any perchloroethylene dry cleaning system. Liquid leakage shall be determined by visual inspection of the following sources:

- (A) Hose connections, unions, coupling and valves.
- (B) Machine door gasket and seating.
- (C) Filter head gasket and seating.
- (D) Pumps.
- (E) Base tanks and storage containers.
- (F) Water separators.
- (G) Filter sludge recovery.
- (H) Distillation units.
- (I) Divertor valves.
- (J) Saturated lint from lint basket.
- (K) Cartridge filters.

The dryer exhaust must be vented through a carbon adsorber or equivalent control system for a vented solvent concentration of 100 ppm or less before dilution as determined by utilizing equipment which has already been shown to meet this limitation. The amount of solvent in filter and distillation wastes shall be determined

by utilizing the test method described by the American National Standards Institute in the paper, "Standard Method of Test for Dilution of Gasoline-Engine Crankcase Oils."

(2) For petroleum refineries subject to §§ 115.251-.255 of Regulation V of the TACB Regulations, compliance with the requirements shall be determined by the following test methods and procedures:

(i) No component of any petroleum refinery shall be allowed to leak at a rate which would result in a volatile organic compound concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in Appendix B of the OAQPS guideline series: "Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment," (EPA 450/2-78-036).

(3) For gasoline tank trucks subjects to §§ 15.261-.264 of Regulation V of the TACB Regulations and for vapor collection systems subject to §§ 115.111-.113, 115.121-.123, and 115.131-.135 of Regulation V of the TACB Regulations, compliance with the requirements therein shall be determined by the following test methods and procedures:

(i) *Gasoline tank trucks.* Gasoline tank trucks and their vapor collection systems shall not sustain a pressure change of more than three inches of water (0.75kPa) in five minutes when pressurized to eighteen inches of water (4.5kPa) or evacuated to six inches of water (1.45kPa) using the test procedure described in Appendix A of the OAQPS Guideline series: "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," December 1978, (EPA 450/2-78-051).

(ii) *Vapor collection system.* Loading and unloading operations shall not produce a reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters around the perimeter of a potential leak source as detected by a combustible gas detector using the test procedure described in Appendix B of the OAQPS Guideline series: "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," December 1978, (EPA 450/2-78-051). Vapor collection and processing equipment shall be designed and operated to prevent tank truck gauge pressure from exceeding eighteen inches of water (4.5kPa) and prevent vacuum from exceeding six inches of water (1.5kPa).

3. In § 52.2285 paragraph (d) is amended to add new subparagraph (4) as follows:

§ 52.2285 Control of evaporative losses from the filling of gasoline storage vessels in the Houston and San Antonio areas.

(d) * * *

(4) Any facility for loading and unloading of volatile organic compounds (including gasoline bulk terminals) in Bexar, Brazoria, Galveston and Harris Counties, any gasoline bulk plants in Harris County, and any filling of gasoline storage vessels (Stage I) for motor vehicle fuel dispensing facilities in Bexar, Brazoria, Galveston, and Harris Counties which is subject to Texas Air Control Board Regulation V subsections 115.111-.113, 115.121-.123, and 115.131-.135, respectively.

4. In § 52.2286 paragraph (d) is amended to add new subparagraph (4) as follows:

§ 52.2286 Control of evaporative losses from the filling of gasoline storage vessels in the Dallas-Fort Worth area.

(d) * * *

(4) Any facility for loading and unloading of volatile organic compounds (including gasoline bulk terminals) in Dallas or Tarrant County, and any filling of gasoline storage vessels (Stage I) for motor vehicle fuel dispensing facilities in Dallas or Tarrant County which is subject to Texas Air Control Board Regulation V subsections 115.111-.113 and 115.131-.135, respectively.

[FR Doc. 82-30903 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[A-4-FRL 2220-6; GA-002]

Approval of Portion of Georgia Plan To Control Total Reduced Sulfur from Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves a major portion of Georgia's plan for controlling total reduced sulfur (TRS) from existing kraft pulp mills. Georgia's plan was submitted to EPA by the Governor's designee on January 8, 1982, to comply with the requirements of section 111(d) of the Clean Air Act. Section 111(d) requires States to develop plans to control emissions of designated pollutants from certain existing sources.

DATE: This action is effective December 10, 1982.

ADDRESSES: Copies of the materials submitted by the State may be

examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street SW., Washington, D.C.
20460.

Air Management Branch EPA, Region
IV, 345 Courtland Street NE., Atlanta,
Georgia 30365.

Office of the Federal Register, 1100 L
Street NW., Room 8401, Washington,
D.C. 20005.

Georgia Department of Natural
Resources, Environmental Protection
Division, 270 Washington Street SW.,
Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT:

Mr. Barry Gilbert, Air Management
Branch, EPA Region IV at the above
address and telephone number 404/881-
3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On May
22, 1979 (44 FR 29828), EPA announced
the availability of a final guideline
document for the control of TRS from
existing kraft pulp mills. The notice
initiated the requirement that States
submit plans on or before February 22,
1980, and on April 14, 1980, the Georgia
Environmental Protection Division
(GEPD) submitted a plan. However, on
February 17, 1981, GEPD requested EPA
to return their plan for reevaluation and
on March 24, 1981, EPA returned the
plan.

GEPD submitted a revised plan on
January 8, 1982, which modified the
compliance schedule submitted with the
April 14, 1980, plan. The revised plan
differs from EPA's guideline in several
respects. The GEPD emission limits are
based on a 24-hour average and not a
12-hour average as recommended by
EPA. The GEPD emission limit for lime
kilns is 40 parts per million (ppm) as
compared to 20 ppm recommended by
EPA. These differences are acceptable
within the latitude allowed for welfare
related pollutants; therefore, EPA
hereby approves these regulations. On
the other hand, the plan is inconsistent
with EPA requirements in that the GEPD
rule does not require sources to begin on
compliance schedules until after
notification by the Director. This
notification is to take place ". . . when
ten (10) states have U.S. EPA approved
TRS Plans covering at least 25% of the
applicable kraft mills in the country and
the Director has determined that their
implementation schedule is consistent
with Georgia's implementation
schedule."

EPA proposed action on the Georgia
plan on June 17, 1982 (47 FR 26169), and
provided opportunity for public
comment. The GEPD provided

comments emphasizing that their
notification date is not vague. They feel
that it will be effective when EPA fulfills
its legal requirements under the Clean
Air Act and obtains TRS plans from
affected states. GEPD also stated that
EPA should implement the section
111(d) program on a uniform national
basis. In addition, several citizens from
the Savannah area requested that EPA
require GEPD to enforce timely
compliance schedules on the sources
emitting TRS. EPA still feels that the
regulation's notification date is vague as
to when it will occur and that if other
states choose such language, the
regulation may never have an effective
date. Any person should be able to
determine when the sources must begin
meeting the conditions of the
compliance schedules. Normally air
pollution control agencies use specific
dates in compliance schedules. This
prevents any misunderstanding on the
part of the public or the affected sources
as to the compliance status of the source
and prevents time-consuming and
expensive court suits. EPA's
requirements call for both a firm date in
compliance schedules and regulations
enforceable by EPA.

The responsibility for determining the
degree and timing of any control for
such pollutants is a State responsibility.
This policy is stated in 40 CFR 60.24(d)
as follows:

Where the Administrator has determined
that a designated pollutant may cause or
contribute to endangerment of public welfare
but that adverse effects on public health have
not been demonstrated, States may balance
the emission guidelines, compliance times,
and other information provided in the
applicable guideline document against other
factors of public concern in establishing
emission standards, compliance schedules,
and variances.

Section 40 CFR 60.24(d) then specifies
the factors of concern as relating to
available control technology, welfare
impacts, costs, timing, environmental
effects, information submitted at public
hearings, etc.

Although EPA does have the authority
to require States to submit plans, or in
the absence of a submittal, to prescribe
a plan, it is our general policy to rely on
the judgment of the individual States to
develop and implement such plans. This
is particularly true for the welfare-
related pollutants, such as TRS,
controlled under section 111(d). This
position is generally in keeping with the
priority we have assigned to section
111(d) actions and also with the
regulatory philosophy of the
Administration.

At this time four states have approved
TRS plans and other states are

developing plans. EPA will notify GEPD
as plans are approved. When GEPD
submits a notification date to EPA, EPA
will take action on the compliance
schedules at that time.

Action

Based on the foregoing, EPA hereby
approves Georgia's 111(d) plan, except
for the procedure for starting
compliance schedules discussed above.
EPA takes no action on this portion of
the plan. When GEPD adopts specific
dates for compliance schedules, EPA
will take action on this portion of the
plan. This action is effective December
30, 1982.

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

Under Executive Order 12291, today's
action is not "Major". It has been
submitted to the Office of Management
and Budget (OMB) for review.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur,
Administrative practice and procedure,
Intergovernmental relations, Reporting
and recordkeeping requirements.

(Secs. 111 and 301(a), Clean Air Act, as
amended (42 U.S.C. 7411 and 7601(a)))

Dated: November 4, 1982.

Anne M. Gorsuch,
Administrator.

PART 62—[AMENDED]

Subpart L—Georgia

Part 62 of Chapter I, Title 40, code of
Federal Regulations, is amended as
follows:

A new center heading and §§ 62.2620
and 62.2621 are added to Subpart L as
follows:

**Total Reduced Sulfur Emissions From
Kraft Pulp Mills**

§ 62.2620 Identification of plan.

(a) Title of plan: Georgia Plan to
Control Total Reduced Sulfur from
Existing Kraft Pulp Mills.

(b) The plan was officially submitted
on January 8, 1982, by the Georgia
Department of Natural Resources.

(c) The following sources are subject
to the requirements of the plan: (1)
Continental Can in Augusta, (2)
Continental Can in Port Wentworth, (3)
Brunswick in Brunswick, (4) Georgia
Kraft in Rome, (5) Georgia Kraft in

Macon, (6) Gilman in St. Marys, (7) Great Southern in Cedar Springs, (8) Interstate in Riceboro, (9) IIT Rayonier in Jesup, (10) Owens-Illinois in Valdosta, and (11) Union Camp in Savannah.

§ 62.2621 Compliance schedules.

EPA takes no action on this portion of the plan because of the vagueness of the starting dates for compliance schedules.

[FR Doc. 82-30921 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2236-1]

Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Rulemaking.

SUMMARY: This notice changes the air quality attainment designation relative to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP) for the portion of the Mesabi Iron Range located in St. Louis County, Minnesota. Three areas of St. Louis County are presently designated nonattainment for the secondary NAAQS for TSP. Based upon additional data received, EPA is reducing the size of one of those nonattainment areas and establishing two new secondary nonattainment areas. The remainder of St. Louis County will be designated as attainment of the NAAQS for TSP.

DATE: This final rulemaking becomes effective December 10, 1982.

ADDRESSES: Copies of the redesignation request and the supporting air quality data are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Minnesota Pollution Control Agency, Division of Air Quality, 1935 West County Road, B-2, Roseville, Minnesota 55113.

FOR FURTHER INFORMATION CONTACT: Delores Sieja at the EPA, Region V, address above or call (312) 886-6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added Section 107(d) to the Clean Air Act (the Act). This section directed each State to submit to the Administrator of EPA a list of the NAAQS attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The

Administrator published these lists in the Federal Register on March 3, 1978 (43 FR 8962), and made necessary amendments in the Federal Register on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

On October 5, 1978 (43 FR 46010), EPA designated three areas of the portion of the Mesabi Iron Range located in St. Louis County, Minnesota as nonattainment of the secondary NAAQS for TSP. These areas, identified by township, range and section number(s) are:

1. T56N, R18W, T57N, R17-19W; T58N, R16-18W; T59N, R16-18W
2. T57N, R20, Section 7
3. T59N, R13W; T60N, R12-13W

The remainder of the Iron Range, encompassing a multi-county area in northeastern Minnesota, is designated attainment of the NAAQS for TSP.

As a result of a decision by the Eighth Circuit Court of Appeals, the MPCA was requested by the EPA on June 15, 1981, to review the attainment status of the above three nonattainment areas. In reply to that request, the MPCA on February 16, 1982, requested that: (1) The secondary nonattainment area of area 1 above be reduced in size; (2) two new secondary nonattainment areas be established; and (3) the remainder of St. Louis County (which includes areas 2 and 3 above) be designated as attainment of the NAAQS for TSP.

The reduced secondary nonattainment area is:

T57N, R17W, Section 5

The two newly established secondary nonattainment areas are:

T57N, R21W, Section 13

T57N, R22W, Section 17

To support their request, the MPCA submitted State and industrial monitoring data collected at numerous sites during the period 1978-1981, where available. Violations of the secondary NAAQS for TSP were recorded at three industrial sampling sites in 1980 (Hanna Mining 6237 and 6239 and Eveleth

§ 81.324 Minnesota.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Minnesota—TSP				
St. Louis County:				
T57N, R17W, Section 5		X		
T57N, R21W, Section 13		X		
T57N, R22W, Section 17		X		

[FR Doc. 82-30909 Filed 11-9-82; 8:45 am]

Billing Code 6560-50-M

Taconite #2); no violations were recorded at these sites in 1981. The requested nonattainment areas include the area around each of these three monitors. No violations of the NAAQS for TSP were recorded for the remainder of the Mesabi Iron Range in 1980 and 1981.

Therefore, based upon the ambient air monitoring data, on August 23, 1982 (47 FR 36659) EPA proposed to approve the MPCA's redesignation request.

Interested parties were given until September 22, 1982 to comment on the proposed rulemaking. No comments were received. Therefore, pursuant to Section 107 of the Clean Air Act, EPA approves the redesignation as proposed on August 23, 1982. The redesignation is effective December 10, 1982.

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

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: November 4, 1982.

Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.324 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended. In the table for "Minnesota—TSP" the entry for St. Louis County should be revised to read as follows:

40 CFR Part 81

[A-5-FRL 2233-3]

Approval and Promulgation of Implementation Plans; Ohio**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rulemaking.

SUMMARY: This rulemaking revises the National Ambient Air Quality Standards (NAAQS) designation status for a portion of Clermont County, Ohio from unclassifiable to attainment for Total Suspended Particulates (TSP). This revision is based on a request from the State of Ohio to redesignate this area and on the supporting data the State submitted. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such a change.

DATE: This action will be effective January 10, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the redesignation request, technical support document and the supporting air quality data are available at the following addresses:
U.S. Environmental Protection Agency,
Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency,
Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

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

FOR FURTHER INFORMATION CONTACT:
Anne Ernstein, (312) 886-6036.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act the Administrator of EPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the available data warrant such a revision.

EPA's policy for redesignating an area from nonattainment or unclassified to attainment requires:

(1) At least, eight consecutive quarters of the most recent, quality assured,

representative ambient air quality data which show no violations of the appropriate NAAQS, or

(2) Four consecutive quarters of the most recent, quality assured, representative data on ambient air quality which show both (a) no violation of the appropriate NAAQS and (b) air quality improvement that results from legally enforceable emission reductions. In addition, EPA relies on all other available data in reviewing section 107 designation changes including monitoring, modeling and other pertinent information.

The primary TSP NAAQS is violated when, in a year, either: 1) The geometric mean value of monitored TSP concentrations exceeds 75 micrograms per cubic meter of air ($75 \mu\text{g}/\text{m}^3$) (the annual primary standard), or 2) the maximum 24-hour concentration of TSP exceeds $260 \mu\text{g}/\text{m}^3$ more than once (the 24-hour standard). The secondary TSP is violated when, in a year, the concentration exceeds $150 \mu\text{g}/\text{m}^3$ more than once.

On November 25, 1981 (46 FR 57677), EPA redesignated all but a small portion of Clermont County, Ohio from secondary nonattainment to attainment of the TSP NAAQS. In that notice, EPA also redesignated a small area in Clermont County, surrounding a TSP monitor at the Batavia-Monroe-Ohio-Pierce (BMOP) site in Hamlet, from secondary nonattainment to unclassified for TSP. EPA noted that the available evidence indicated that the BMOP monitor in Hamlet, which recorded violations of the secondary standard, was being unduly influenced by fugitive TSP emissions at the monitor site and the data therefore were invalid. At that time, EPA noted that the Hamlet area would be reevaluated upon the availability of two years of valid data at new monitor sites in the Hamlet area.

On July 12, 1982, the State of Ohio submitted additional information requesting that the unclassified area in Clermont County, be redesignated to attainment for the TSP NAAQS. The State of Ohio submitted available TSP air quality data from 1980-1982 for seven TSP sites, located in or within eight kilometers of the unclassified area to support the request. These data can be found in the State submittal (July 12, 1982) and Technical Support Document (August 24, 1982) in Region V's public inspection file.

Two years of data are available (1980 and 1981) for five sites (except BMOP and St. Bernadette) and these data show attainment of the TSP NAAQS. The two other sites (St. Bernadette and BMOP)

were discontinued by the Southwest Ohio Air Pollution Control Agency in May 1981. The St. Bernadette site showed no violations of the TSP NAAQS during its period of data collection (January 1980 through May 1981). The BMOP site, around which the present unclassified area is centered, showed violations of the secondary standard annually. However, the lack of industrial or commercial traditional/nontraditional sources in the immediate Hamlet area which could explain the large continued discrepancy in monitor readings between the BMOP monitor in Hamlet and nearby monitors, further confirms EPA's previous conclusions that the BMOP monitor in Hamlet was greatly influenced by fugitive TSP emissions at its site and its data are invalid.

The data from the other monitor sites in and near the unclassified area are sufficient to characterize the area's TSP air quality. Therefore, EPA approves the designation to attainment for TSP based on eight quarters of data at five sites within and near the TSP unclassified area in Clermont County, Ohio.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on January 10, 1983. However, if we receive notice by December 10, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: November 3, 1982.

Anne M. Gorsuch,

Administrator.

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

Part 81 of Chapter I, Title 40 of the

Code of Federal Regulations is amended as follows:

1. Section § 81.336 is amended by revising Clermont County, designation in the table for "Ohio TSP", to read as follows:

§ 81.336 Ohio.

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Clermont				X

[FR Doc. 82-30924 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6F1707/R490; PH-FRL 2242-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodity carrots. This regulation to establish a maximum permissible level for the combined residues of the fungicide in or on the commodity was requested, pursuant to a petition, by E. I. du Pont de Nemours and Co.

EFFECTIVE DATE: November 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of January 12, 1976 (41 FR 2671) which announced that E. I. du Pont de Nemours and Co., Wilmington DE 19898, had submitted a pesticide petition (PP 6F1707) proposing that 40 CFR 180.294 be amended by the establishment of a tolerance for the combined residues of the fungicide benomyl (methyl 1-

(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity carrots at 0.2 part per million (ppm).

There were no comments received in response to the notice of filing.

A comprehensive review of the data available for the chemical was conducted in connection with the Rebuttable Presumptions Against Registration (RPAR) for benomyl which was published in the Federal Register of December 6, 1977 (42 FR 61788).

These presumptions were based on information indicating that benomyl posed the risks of mutagenicity (point mutation and non-disjunction), spermatogenic depression and teratogenic effects, acute toxicity to aquatic organisms and significant population reduction in nontarget organisms. In the Federal Register of August 30, 1979 (44 FR 51166), the Agency issued a Preliminary Notice of Determination, which concluded that benomyl continued to pose the risks noted above with the exception of point mutations and significant population reductions in nontarget organisms. In the Notice and the accompanying Position Document 2/3, the Agency weighed the risks and benefits of use together and determined that certain modifications to the terms and conditions of use were necessary to reduce the risks of use to applicators.

Subsequent to these findings, data have become available which indicate that benomyl is oncogenic in mice. Additional teratogenic tests have also been submitted. A review of the presently registered uses and proposed uses of benomyl in light of the potential oncogenic and teratogenic adverse effects has been completed. The Agency's assessment of the potential

teratogenic and oncogenic risks does not raise prudent concerns for unreasonable risk when compared to the benefits of use of benomyl.

The scientific data considered in support of this tolerance included a 2-year dog feeding study with no-observed-effect level (NOEL) of 500 ppm; a 2-year rat feeding study with NOEL of 2,500 ppm; a 3-generation rat reproduction study with NOEL of 100 ppm and two teratology studies, one on rats with NOEL of 129 mg/kg and the other on rabbits with a NOEL of 500 ppm. Based on the 3-generation reproduction rat study with a NOEL of 100 ppm and using a 100-fold safety factor, the allowable daily intake (ADI) is 0.05 mg/kg/day and the maximum permissible intake (MPI) is 3.00 mg/day for a 60-kg person. Established tolerances result in a maximum theoretical residues exposure of 1.9160 mg/day for a 60-kg person and utilization of 63.87 percent of the ADI. This tolerance will result in an increase in the maximum theoretical residue exposure of 0.00144 mg/day for a 60-kg person and utilizes 0.048 percent of the ADI. Tolerances have previously been established for residues of benomyl and its metabolites in or on a variety of raw agricultural commodities ranging from 0.2 to 500 ppm. The metabolism of benomyl is adequately understood, and analytical methods, fluorometric or colorimetric, are available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the establishment of the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that

regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

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

List of Subjects in 40 CFR Part 180

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

Dated: October 29, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.294 is amended by adding and alphabetically inserting the commodity carrots to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
Carrots	0.2

[FR Doc. 82-30894 Filed 11-9-82; 8:45 am]

BILLING CODE 6550-50-M

40 CFR Part 180

[PP OF2420/R489; PH-FRL-2242-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiophanate-Methyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide thiophanate-methyl and its metabolites in or on the raw agricultural commodity potatoes. This regulation to establish the maximum permissible level for the combined residues of the fungicide in or on the commodity was requested pursuant to a petition by the Pennwalt Corp.

EFFECTIVE DATE: November 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm.

3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the *Federal Register* of December 16, 1980 (45 FR 82705) which announced that Pennwalt Corp., P.O. Box C, King of Prussia, PA 19406, had submitted a pesticide petition (PP OF2420) proposing that 40 CFR 180.371 be amended by the establishment of a tolerance for the combined residues of the fungicide thiophanate-methyl (dimethyl [(1,2-phenylene)bis(iminocarbonothioyl)]bis[carbamate], its oxygen analogue dimethyl-4,4'-o-phenylene bis (allophanate), and its benzimidazole-containing metabolites (calculated as thiophanate-methyl) in or on the raw agricultural commodity potatoes at 0.05 part per million (ppm).

There were no comments received in response to the notice of filing.

The data submitted in this petition and other relevant material have been evaluated. The scientific data considered in support of the tolerance were a 2-year rat oncogenic study (negative oncogenic potential, with a no-observed-effect-level (NOEL) of 160 ppm), a 2-year mouse oncogenic study (no observed oncogenic effects at highest dose of 640 ppm), a 2-year dog feeding study (NOEL of 10 mg/kg/day), a six generation rat reproduction study (NOEL of 160 ppm), a mouse teratology study (no-observed teratogenic effects at 1,000 mg/kg, a rat mutagenic study no-observed mutagenic effects at 1,000 mg/kg, no chromosomal aberrations in somatic and spermatogonial cells), and a dominant lethal study in mice (no-observed mutagenic effects at 500 mg/kg). Based on the rat feeding study, the NOEL is 8.0 mg/kg/day. Using a 100-fold safety factor, the allowable daily intake (ADI) is 0.08 mg/kg/day and the maximum permissible intake (MPI) is 4.8 mg/day for 60-kg person. The present and other established tolerances result in a maximum theoretical exposure of 0.7667 mg/day for a 60-kg person and utilize 15.97 percent of the ADI.

A comprehensive review of the data available for thiophanate-methyl was conducted in connection with the Rebuttable Presumptions Against Registration (RPAR) review and was published in the *Federal Register* of December 7, 1977. The presumption was based on the mutagenic potential of its

metabolite methyl benzimidazole carbamate (MBC). The Agency determined that the presumption was rebutted on the basis of low exposure potential (40 CFR 162.11(a)(4)(ii)) and that the current use patterns of thiophanate-methyl do not pose unreasonable adverse effects on the environment. Subsequent to this determination, a positive oncogenicity study on MBC was submitted to the Agency. The Agency's assessment of the potential oncogenic risk does not raise prudent concerns for unreasonable risks when compared to the benefits resulting from the use of thiophanate-methyl.

Tolerances have previously been established for residues of thiophanate-methyl in or on a variety of raw agricultural commodities, ranging from 0.2 to 15 ppm (40 CFR 180.371). The proposed tolerance in potatoes is considered to pose a negligible increment in exposure when compared to the already established tolerances.

Food residue studies on the crop for which tolerance is being proposed were submitted and evaluated for the petition. These studies demonstrated that residues of thiophanate-methyl and its metabolites in the crop will be less than the limits of sensitivity of analytical methodology or less than 0.05 ppm. The metabolism of thiophanate-methyl is adequately understood and an adequate analytical method is available for enforcement purposes (UV spectrofluorometry).

The pesticide is considered useful for the purpose for which the tolerances is sought. Based on the information considered by the Agency, it is concluded that the amount of thiophanate-methyl and its metabolites added to the diet from the proposed use is too small to substantially increase the risk to humans. Thus, the establishment of this tolerance in or on potatoes will protect the public health. Therefore the tolerance is established as set forth below.

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

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: October 29, 1982.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

PART 10—[AMENDED]

Therefore, 40 CFR 180.371 is amended by adding and alphabetically inserting the commodity potatoes (seed treatment) to read as follows:

§ 180.371 Thiophanate-methyl; tolerances for residues.

* * * * *

Commodities	Parts per million
Potatoes (seed treatment)	0.05

[FR Doc. 82-30882 Filed 11-9-82; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41
[FPMR Amdt. G-59]

Government Bill of Lading Correction Notice; Standard Form 1200

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation introduces a new Standard Form (SF) 1200, that will be used to correct or amend U.S. Government Bill of Lading (GBL), SF 1103; transit GBL, SF 1131; and GBL—

Privately Owned Personal Property, SF 1203. The new form establishes a uniform correction document to replace the individual agency-oriented correction forms currently used. The information requirement contained in this regulation (§ 101-41.302-7) has been reviewed by the General Services Administration and determined not to be subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations Procedures and Claims Branch, Office of Transportation Audits (202-275-0664).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Background

A notice of proposed rulemaking was published in the Federal Register of April 27, 1982 (47 FR 18007), inviting comments for 30 days ending May 27, 1982. No unfavorable comments were received.

List of Subjects in 41 CFR Part 101-41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The table of contents for Part 101-41 is amended by adding the following entries:

- Sec.
- 101-41.302-7 GBL Correction notice.
- 101-41.313-3 GBL Correction notice.
- 101-41.4901-1200 Standard form 1200, government bill of lading correction notice.

Subpart 101-41.3—Freight Transportation Services Furnished for the Account of the United States

2. Section 101-41.302-1 is amended by adding new paragraph (aa) to read as follows:

§ 101-41.302-1 Listing of forms.

* * * * *

(aa) SF 1200, Government Bill of Lading Correction Notice.

3. Section 101-41.302-7 is added to read as follows:

§ 101-41.302-7 GBL correction notice.

SF 1200 is used to alter or correct the GBL, transit GBL, and the personal property GBL. It is a single sheet form, and the number of copies to be prepared and distributed will be a matter for each Federal agency to establish. Recipients of a correction notice will alter or correct the GBL as indicated on the notice and attach the form to the GBL. Preparation of SF 1200 is not required when alterations or corrections are made prior to the distribution of the GBL. This form is not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

4. Section 101-41.313-3 is added to read as follows:

§ 101-41.313-3 GBL correction notice.

Federal agencies may obtain SF 1200, Government Bill of Lading Correction Notice, by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

Subpart 101-41.49—Illustrations of Forms

5. Section 101-41.4901-1200 is added to read as follows:

§ 101-41.4901-1200 Standard Form 1200, Government Bill of Lading Correction Notice.

Note.—The form illustrated in this § 101-41.4901-1200 is filed with the original document and does not appear in this volume.
(31 U.S.C. 244 and Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: October 22, 1982.

Gerald P. Carmen,
Administrator of General Services.

[FR Doc. 82-30694 Filed 11-9-82; 8:45 am]
BILLING CODE 6820-AM-M

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****44 CFR Part 67****National Flood Insurance Program;
Final Flood Elevation Determinations***Correction*

In FR Doc. 82-29172 beginning on page 47817 in the issue of Thursday, October 28, 1982, make the following change:

On page 47818, in the table, the second entry for "Florida" now reading "Belleair Beach (City), Pinellas County (FEMA-6246)" should read "Belleair Shore (City), Pinellas County (FEMA-6246)".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION**46 CFR Parts 531 and 536**

[Docket No. 81-51; General Orders 13 and 38]

**Time Limit for Filing of Overcharge
Claims; Stay of Final Rule**

AGENCY: Federal Maritime Commission.

ACTION: Stay of final rule.

SUMMARY: The Federal Maritime Commission is staying the effective date of final rules on time limit for filing of overcharge claims which were published at 47 FR 34556, August 10, 1982. The purpose of the stay is to allow additional time for consideration by the Commission of petitions for reconsideration and request for amendment of the final rules prior to their effective date.

DATE: Effective December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Final rules in subject proceeding were published on August 10, 1982. (47 FR 34556-34561) to become effective November 8, 1982. Various petitions for reconsideration and a request for amendment of the rules are pending disposition by the Commission. In order to allow additional time for consideration of these matters by the Commission prior to the effective date of the rules, the effective date hereby is postponed for an additional 45 days.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-30805 Filed 11-9-82; 8:45 am]

BILLING CODE 6730-01-M

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 73**

[BC Docket No. 82-417; RM-4114]

**FM Broadcast Station in Osakis,
Minnesota; Changes Made in Table of
Assignments***Correction*

In FR Doc. 82-29918, appearing on page 49404, on Monday, November 1, 1982, in the **SUMMARY** paragraph, paragraphs 1. and 3., "FM Channel 208A" should read "FM Channel 280A".

BILLING CODE 1505-01-M

**INTERSTATE COMMERCE
COMMISSION****49 CFR Part 1033**

[S.O. 1473]

**Various Railroads Authorized To Use
Tracks and/or Facilities of the
Chicago, Rock Island and Pacific
Railroad Company, Debtor**

AGENCY: Interstate Commerce Commission.

ACTION: Forty-Fourth Revised Service Order No., 1473.

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

DATES: Effective 12:01 a.m., November 10, 1982, and continuing in effect until 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided November 4, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and

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

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

Appendix A, to the previous order, is revised by deleting at Item 6., the authority for the St. Louis Southwestern Railroad Company to operate between Brinkley and Briark, Arkansas, at Stuttgart, Arkansas, and at Topeka, Kansas, as requested by the carrier pursuant to its purchase of the property.

All remaining items in Appendix A are renumbered accordingly.

Appendix A, of this order, is revised by adding at Item 19.B. & C., authority for the North Central Oklahoma Railroad Company (NCOK) to operate from El Reno to Hydro, Oklahoma, and from Geary to Okeene, Oklahoma, a total distance of approximately 79 miles. Another carrier, the Okarche Central Railway (Okarche), also requested authority to operate a portion of the same line. In its application, Okarche sought to operate from El Reno to Geary, Oklahoma, and from Geary to Okeene, Oklahoma, a total distance of 58 miles.

In considering the competing applications of NCOK and Okarche, the Board utilized certain established criteria. These criteria are: (1) Extent of current and/or proposed operations. (2) Service to the public. (3) Increased shipper market and/or competitive advantage. (4) Shipper support, and (5) Court approved lease arrangements with the Trustee.

The Board, in reviewing the applications of NCOK and Okarche, and based on the criteria, found that the operation proposed by NCOK is about 20 miles further than that proposed by Okarche and, coupled with its current operation, totals approximately 157 miles; that the overall service to the public would be greater; that the competitive and market advantages to shippers would be enhanced by NCOK's connection with Farm Rail at Hydro, Oklahoma, thus providing line continuity to shippers on both segments, and that, while neither carrier has notified the Board of a Court approved lease agreement, the Trustee's office has notified the Board that its negotiations with NCOK are near conclusion. In sum,

the Board felt compelled to grant the authority to NCOK as previously described.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

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

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

It is ordered, that:

§ 1033.1473 Service Order No. 1473.

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

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

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

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

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

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

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

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

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

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

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

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

pertinent authority conferred upon it by the Interstate Commerce Act.

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

(m) *Effective date.* This order shall become effective at 12:01 a.m., November 10, 1982.

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

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96-254.

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

List of Subjects in 49 CFR Part 1033

Railroads.

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

Appendix A

RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*
 - A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
 - B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).
2. *Union Pacific Railroad Company (UP):*
 - A. Beatrice, Nebraska.
 - B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
3. *Toledo, Peoria and Western Railroad Company (TPW):*
 - A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
4. *Chicago and North Western Transportation Company (CNW):*
 - A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
 - B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 9).

- C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.
- D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).
- E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).
- F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
- G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
- H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
- I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
- J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).
- K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
- L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
- M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
- N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
- O. at Sibley, Iowa.
- P. at Hartley, Iowa.
- Q. from Carlisle to Indianola, Iowa.
- R. at Omaha, Nebraska, (between milepost 502 to milepost 504).
- S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).
5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW)*:
- A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.
- B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).
6. *Missouri Pacific Railroad Company (MP)*:
- A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).
- B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).
- C. from Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7.)
7. *Norfolk and Western Railway Company (NW)*: is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.
8. *Cadillac and Lake City Railway Company (CLK)*:
- A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.
- B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.
- C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.
- D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.
9. *Baltimore and Ohio Railroad Company (BO)*:
- A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.
- B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.
10. *Keota Washington Transportation Company (KWTR)*:
- A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.
- B. at Vinton, Iowa (milepost 120.0 to 123.0).
- C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).
11. *The La Salle and Bureau County Railroad Company (LSBC)*:
- A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61) and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.
- B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
- C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.
- D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.
12. *The Atchison, Topeka and Santa Fe Railway Company (ATSF)*:
- A. at Alva, Oklahoma.
- B. at St. Joseph, Missouri.
13. *The Brandon Corporation (BRAN)*:
- A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.
14. *Iowa Northern Railroad Company (IANR)*:
- A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)
- B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.
15. *Iowa Railroad Company (IRRC)*:
- A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.
- B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.
- C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.
- D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)
- E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.
- F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)
- G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)
- H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.
- I. at Rock Island, Illinois including 26th Street Yard.
- J. from Altoona to Pella, Iowa.
16. *Missouri-Kansas-Texas Railroad Company (MKT)*:
- A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.
17. *Chicago Short Line Railway Company (CSL)*:
- A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Culmet switching district.
- B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.
18. *Kyle Railroad Company (Kyle)*:
- A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.
- B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.
- C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.
19. *North Central Oklahoma Railway, Inc. (NCOK)*:
- *A. from Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).
- *B. from El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

*C. from Geary, Oklahoma (milepost 0.0) to Okeene, Oklahoma (milepost 39.0) a distance of approximately 39 miles.

20. *South Central Arkansas Railway, Inc. (SCAR)*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

21. *Burlington Northern Railroad Company (BN)*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

22. *Fort Worth and Denver Railway Company (FWD)*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

23. *Omaha, Lincoln and Beatrice Railway Company (OLB)*

A. at Lincoln, Nebraska (milepost 559.16) to (milepost 560.83).

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

24. *Colorado and Eastern Railway Company (COE)*

A. at Lincoln, Nebraska (milepost 558.0) to (milepost 562.0) a distance of approximately 4.0 miles. (This authority is joint with OLB between mileposts 559.16 and 560.83, see Item 27, Note).

*Changed.

†Added.

[FR Doc. 82-30810 Filed 11-9-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1307 and 1310

[Ex Parte No. MC-88 and MC-88 (Sub-No. 1)]

Detention of Motor Vehicles— Nationwide; Detention of Motor Vehicles—Alaska

AGENCY: Interstate Commerce Commission.

ACTION: Removal of final rules.

SUMMARY: The Commission is eliminating the mandatory, uniform detention rules applicable to motor common carriers of property. This action is being taken to allow motor common carriers to adopt individual detention rules tailored to meet their needs and the needs of the shipping public in a more competitive environment. Carriers may establish their own non-discriminatory detention rules through tariff publications subject to our tariff rules, including those requiring clarity.

EFFECTIVE DATE: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7277;

or

Richard Armstrong, (202) 275-6430.

SUPPLEMENTARY INFORMATION: The Commission instituted a rulemaking proceeding in 1973 to develop uniform detention rules for motor common carriers of property. An extensive record was developed, and uniform detention rules were adopted¹ and became effective on August 20, 1978. On March 28, 1980, 19 months after the rules became effective, the Commission issued a notice informing the public that, in response to numerous petitions, replies and letters regarding problems with the uniform rules, the Commission would conduct a comprehensive review of the subject. These petitions, which were submitted by both shippers and carriers, included requests for interpretation, change, or exemption, based upon the diversity of the transportation industry.

By a notice served March 11, 1981,² the Commission proposed to abolish the uniform detention rules established for motor common carriers of property and allow carriers to establish their own non-discriminatory rules through tariff publications. Alternatively, the Commission sought comments on the following options: (1) Permit the carriers to develop their own detention rules in accordance with minimum standards or rules set by the Commission; (2) permit carriers to choose between developing their own rules or using rules prescribed by the Commission; or (3) retain the existing rules with needed modification. In response, comments were filed by 99 parties.³

Of those commenting, all but one rate bureau favor the retention of the uniform rules, with needed modifications. Most individually responding carriers also seek retention of the uniform rules, with modifications to address specific problems. A minority support elimination of the rules. Shippers, both large and small, hold divergent views. The majority indicate that uniform, mandatory rules should be abolished, while a sizeable minority seek retention of the uniform rules, with modifications. Almost no support was received for our option involving the minimum standards approach.

Positions of the Parties

Parties favoring the elimination of the uniform rules have submitted comments

¹ *Detention of Motor Vehicles—Nationwide*, 124 M.C.C. 880 (1976); 126 M.C.C. 803 (1977).

² 46 FR 17234 (March 18, 1981).

³ The National Motor Freight Traffic Association, Inc., also filed a Petition for Acceptance of Reply Comments and Reply Comments on November 10, 1981. Given the importance of this proceeding, we will accept the pleading and make it part of the record.

which support much of the reasoning we expressed in our notice of proposed rulemaking. Many of these parties state that the rules have not worked as intended and cannot be amended satisfactorily to reflect the diverse economic and operational conditions encountered by shippers or receivers and their carriers in different geographic areas. In the same vein, they argue that the uniform rules do not recognize the unique aspects of different segments of industry. Some examples cited are commercial segments served by specialized carriers, such as the food and grocery industry, contrasted with production-line industries served by traditional call-on-demand carriers. Also, they state that the rules do not account for unique traffic patterns such as occur in the Alaska trade. Parties further claim the uniform rules discourage innovation by forcing shippers and receivers to adapt their practices to these rigid rules, regardless of the inefficiencies which may be involved. An example cited by several parties is where operation of the present uniform rules encourages hand loading of just over 10 percent of a shipment to gain additional free time. Carriers also complain of the burdensome and expensive recordkeeping requirements imposed by the rules. Shippers similarly argue that they must also keep extensive detention records to protect themselves.

Several parties claim that the uniform rules, in the present competitive environment, have not decreased discrimination concerns. They state that the rules were adopted when there was little effective competition among motor carriers. This lack of competition, especially involving line-haul rate levels, led to discriminatory practices using individual detention charges. Pointing out that the regulatory environment has been significantly altered in favor of competition, several parties state that carriers in effect are currently circumventing the uniform rules by individually adjusting their line-haul rates. One party also contends that comprehensive enforcement is not currently being provided and probably will not be in the future. Another party argues that abolition of the uniform rules will have little effect upon the practice of lumping, since coercion will still be illegal as a matter of law. In summary, these parties indicate that, as a result of present economic and regulatory reality, elimination of the rules should not create new opportunities for abuses.

In numerous comments, parties conclude that elimination of the rigid, mandatory rules is consistent with the

National Transportation Policy, as amended by the Motor Carrier Act of 1980 (MCA), 49 U.S.C. 10101. One position is that the lack of flexibility under the rules inhibits carriers from offering the variety of service and pricing options encouraged under the MCA. This arguably results in poorer equipment utilization. Another position advanced is that detention is an integral factor in ratemaking and should be subject to the same flexibility granted by the MCA. Finally, several parties estimate that, at present, less than 20 percent of all truckload traffic in interstate commerce is subject to the uniform rules. Accordingly, they contend that the rules should be abolished to allow motor common carriers to compete more effectively with other carriers in furtherance of the competitive goals of the MCA.

Those opposing the elimination of the rules have submitted comments which include arguments and evidence of the positive effect of the uniform rules upon five interrelated issues. These issues involve: (1) Equipment utilization; (2) discrimination; (3) ease of administration and enforceability; (4) owner-operators; and (5) the goals of the National Transportation Policy and the MCA. Some of these parties also recommended modifications which they claim will eliminate the objections to the uniform rules. Additionally, many parties restate the findings on which we based our promulgation of the uniform rules and argue that these findings remain correct and that the shipping public and common carriers will be faced with the same problems as existed before if the uniform rules are eliminated.

More specifically, with regard to equipment utilization, those opposing elimination contend that uniform rules provide incentives for expeditious loading and unloading. Many parties testify that they have observed shorter loading and unloading times under the uniform rules and that more consignors and consignees now offer appointment times at their docks and have taken other measures to increase the efficiency of their facilities. Three carriers submitted evidence indicating that, although tonnage handled increased, detention billings significantly decreased after the uniform rules were adopted. Additionally, they state that the uniform rules contain a penalty element which encourages efficient equipment use better than the marketplace would, since the rules place the cost burden on the shippers which actually cause the detention.

These parties further allege that common carriers will return to discriminatory practices if uniform rules are eliminated. They claim that all parties are more likely to comply with nationwide, uniform rules due to their visibility. In their view, competition will not solve the problem of discrimination, and increased competition actually may compound the problem. They conclude that carriers do not have the economic strength to resist anticipated pressure by large shippers and receivers for preferential and discriminatory treatment. Arguably, small shippers will be hurt, since they cannot compete with large shippers in this regard.

Many parties commented upon the ease of administration and enforceability of the present uniform rules. They point out that uniform rules require less tariff checking and facilitate tariff simplification and the use of standardized data processing equipment. They state that the need for uniformity is even greater today, since there are more carriers in the marketplace. Several claim that the rules have been very beneficial in definitively establishing who was responsible for detention and otherwise reducing conflicts. Finally, as for enforcement, a number of carriers state that they experienced a significant improvement in adherence to the rules by shippers and receivers once the rules were made uniform. Numerous parties also contend that only uniform rules can be effectively enforced.

Several parties argue that owner-operators will be particularly hurt if uniform rules are eliminated. They claim that carriers which rely on owner-operators either will not have detention rules or, if they do, will not attempt to enforce them, especially where the owner-operator provides both the power unit and trailer. They allege that owner-operators have little input, since they will not be parties to any negotiations between carriers and shippers concerning individual detention rules, and that carriers do not have the same incentive for expeditious loading and unloading when the carriers do not own the equipment. It is also pointed out that most owner-operators are paid on a percentage-of-revenue basis, and therefore it is important for them to avoid non-productive idle time.

Finally, numerous parties argue that the uniform rules are consistent with the current National Transportation Policy. They state that uniform rules encourage more efficient transportation and that increased efficiency and productivity rank equally with increased competition as goals of the current National

Transportation Policy. Many parties further argue that uniform rules do not place common carriers at a competitive disadvantage to private or contract carriers, since neither is similar to common carriage. They note that many contract carriers have even adopted the uniform rules. In support of uniform rules, several parties also cite 49 U.S.C. § 10101(a)(7)(C), which encourages the most productive use of equipment and energy resources, and 49 U.S.C. § 10101(a)(7)(E), which sets the goal of providing service to small communities and small shippers. Several additionally challenge our reliance upon Sections 2 and 3 of the MCA in proposing that uniform rules be eliminated. They claim that we have failed to show that the uniform rules are "unnecessary regulations" within the meaning of Section 2. Parties also argue that Section 3 is concerned only with the regulatory structure governing entry and over-the-road operation of equipment rather than detention.

Discussion and Conclusions

Based upon the record developed in this proceeding since 1973, our experience under the rules, and the current regulatory environment, we conclude that uniform mandatory detention rules should be eliminated.

We are unpersuaded that uniform rules maximize equipment utility, given their inherent inflexibility and the innumerable and everchanging shipping circumstances which may be encountered. Even if the uniform rules have improved overall equipment use in the motor carrier industry, allowing carriers to establish individual rules to meet their special needs and those of the shippers they serve should enhance the productive use of equipment even more in the new, relaxed regulatory environment under the MCA. For example, a carrier could improve equipment utility by combining strict detention rules and higher charges while offering a lower line-haul rate. On the other hand, a carrier with excess equipment could offer favorable detention rules and charges to shippers who desire them, coupled with a higher line-haul rate.

Some parties submitted evidence indicating that the rules inhibit innovation and thereby decrease equipment utility. Similarly, they have shown that the inflexibility of the rules leads to inefficient practices (such as hand-loading a certain percentage of a shipment which could have been entirely loaded mechanically). Even if the rules could be satisfactorily amended to address the complaints

which have been expressed to date, the rules would remain inflexible and would become the subject of future complaints as the transportation industry continues to change. Furthermore, it is evident from the history of this proceeding that our rulemaking process cannot be as responsive as the marketplace. Congress realized this by including in the MCA the primary mechanism of more competition and less regulation to achieve the goal of promoting efficient transportation service. As stated by Congress, competition and efficiency are normally reinforcing concepts,⁴ and we are unconvinced that an exception is presented in this situation.

A proponent of retaining the uniform rules, with modifications, has submitted cost comparisons in support of increasing detention charges. This party states that the charges which became effective on August 20, 1978, were first announced by the Commission in 1975 based upon carrier cost data for 1973. Since that time (mid-year 1973), the price index for motor vehicle equipment has risen 59 percent. The Producer Price Index for Industrial Commodities has increased by 74.3 percent and the Consumer Price Index has increased by 64.5 percent. Teamster wages have increased by more than 89 percent from mid-1975 to the present. Some shippers may conclude that it is now economically beneficial to utilize carrier equipment as warehouse space due to their relatively lower cost of detention. Conversely, based upon these data, the uniform detention charges appear to fall substantially below current carrier costs associated with detained equipment. Therefore, a reasonable deduction from these data is that, given the discrepancy between actual cost of detention to the carrier (which has risen considerably) and detention charged to the shipper (which has remained constant), inefficient use of equipment may have actually been encouraged under the uniform rules.

We also are not convinced by proponents of uniform rules that their elimination will result in the return of widespread discriminatory practices. Unlawful discrimination will still be prohibited under 49 U.S.C. § 10741. Those parties in favor of elimination and those in favor of retaining the uniform rules both commented that carriers currently are negotiating various adjustments with shippers to reflect, among other things, shipper loading and unloading practices which are more effective in freeing equipment. These rate adjustments have been

facilitated by and are consistent with the MCA, and preventing a carrier from doing directly what can be done indirectly does not deter unreasonable discrimination.

Additionally, because of the relaxed entry requirements and increased competition under the MCA, shippers and carriers, both small and large, have considerably more flexibility in dealing with any discriminatory situations which may arise. Under the MCA, carriers do not face the entry barriers which previously existed and may expand far more easily into new markets to avoid pressure to engage in unreasonable discrimination. Similarly, carriers that do engage in unlawful discrimination risk losing customers to other common carriers which may now quickly enter the market as competitors and to contract and private carriers which are not subject to the detention rules.

We reiterate that detention practices which unreasonably discriminate violate 49 U.S.C. § 10741(b). Our office of Compliance and Consumer Assistance will be responsive to complaints regarding such violations. To demonstrate unlawful discrimination, a complaining party must show disparity of rates, competitive injury, and common control by the carrier over the rates charged to both the preferred and prejudiced shipper. The defending carrier may rebut the showing by demonstrating that the difference in rates is justified by differing transportation conditions. See, for example, *Harborlite Corp. v. Southern Pacific Transp. Co.*, 364 I.C.C. 585 (1981).

As stated above, our proposal to eliminate uniform mandatory rules must be considered in light of the new regulatory environment under the MCA. The purpose of this legislation was to establish a new Federal policy promoting a competitive and efficient motor carrier industry by relaxing entry standards and providing carriers with greater freedom to adjust their rates and practices in response to market demands.⁵ Section 2 of the Act states that the legislation is part of the continuing effort by Congress to reduce unnecessary regulation.

The uniform detention rules were formulated and adopted in an era of strict regulation of the motor carrier industry. There were substantial barriers to entry and rate flexibility. Competition was accomplished by reducing detention charges, providing extra services, or by other indirect means. Thus, the choice was between higher or lower detention charges

coupled with the same basic rate. However, in today's regulatory environment, most shippers can realistically expect lawfully responsive flexible rates. Therefore, any shipper who has enough leverage to secure a reduced detention charge could alternatively ask for lower line-haul rates. In such an environment, direct rate competition should reduce pressure to eliminate detention charges and remove the incentive not to comply with applicable detention rules. Accordingly, it would be highly unlikely that prior abuses would return if the uniform rules were eliminated, but their elimination would afford carriers the flexibility envisioned by the MCA to adapt their detention rules to individual transportation circumstances.

Additionally, the uniform rules encompass only about 20 percent of interstate traffic. Among others, private and contract carriers are not required to operate under these rules. We recognize that there are significant and fundamental differences between common carriage and both contract and private carriage, and that many contract carriers chose to adopt the uniform rules. Nevertheless, we conclude that it is contrary to the pro-competitive philosophy of the MCA to require the common carrier segment of the industry to use these rules where it has not been demonstrated that such action is necessary to accomplish other goals of the MCA.

Final Regulatory Flexibility Analysis

Under 5 U.S.C. 601, *et seq.*, we are required to analyze the impact of deletion of the uniform detention rules on small entities. In the notice proposing the elimination of the uniform rules, we stated that we anticipated no significant adverse economic impact on small entities, but we sought comments on the issue and served a copy of the notice on the Administrator of the Small Business Administration. In recognition of the nationwide applicability of the detention rules and the fact that small shippers, carriers, and owner-operators will be affected by our action here, we will perform a final regulatory flexibility analysis.

As noted, the objective of eliminating the mandatory uniform detention rules is to allow motor common carriers to adopt individual detention rules tailored to meet their needs and the needs of the shipping public in a more competitive environment.

In response to our request for comments on the impact of our proposed action on small entities, numerous parties have made generalized

⁴H. Rep. No. 96-1069, 96th Cong., 2d Sess. 12 (1980).

⁵H. Rep. 96-1069, 96th Cong., 2d Sess. 3-4 (1980).

allegations that small shippers and carriers would be harmed by the return of discriminatory and preferential practices and that owner-operators might not be compensated for detention. The issue of unlawful discrimination has been addressed in this decision.

Some administrative problems may be created by elimination of uniform rules. However, shippers should be familiar with tariffs of carriers which serve them and should be able to become familiar with their carriers' individual detention rules without a great deal of difficulty. This is especially true where specific rules are adopted to meet the needs of particular industries.

Our tariff filing procedures, which contain clarity requirements, also provide a means of relief to shippers. We therefore urge each carrier to make its rules, if it chooses to have rules, as clear and unambiguous as possible. For example, if a carrier decides to allow free time for loading and unloading, the carrier should make clear how the time is to be computed. Likewise, the carrier should set forth explicitly which party is responsible for detention charges. Based on the experience derived from operating under the uniform rules, we are convinced that carriers can formulate clear individual rules which can be reasonably administered, monitored, and enforced. Finally, we observe that, by eliminating mandatory rules, compliance should be enhanced, since carriers will be publishing only those rules they wish to have enforced. As a result, fewer conflicts should arise with shippers and receivers, and the need for enforcement actions should diminish greatly.

We also remain concerned about the potential for injury to owner-operators if the uniform rules are abolished. Although the Commission has never required that detention charges be passed through to owner-operators, 49 CFR 1057.12(f) of the leasing rules mandates that the responsibility for costs incurred due to detention be specified in the written lease. Under 49 CFR 1057.12(h), owner-operators are specifically given the right to examine a copy of the carrier's tariff. These safeguards will be continued.

Furthermore, we do not think that owner-operators will be significantly harmed by elimination of uniform detention rules. The labor action in 1967 discussed in several comments was settled according to the head of an owner-operator organization when carriers agreed to insert provisions into their leasing contracts compensating owner-operators for detention time. Owner-operators and carriers should again be able to agree upon similar

provisions concerning detention in their contracts. Carriers who depend upon owner-operators have the incentive to help maintain their economic viability. Additionally, these carriers should have as much incentive to minimize detention time as those who use their own equipment. Finally, the evidence indicates that carriers are currently adjusting line-haul rates in some cases to circumvent the rigidity of the uniform rules. Since many, if not most, owner-operators are paid based on a percentage of the revenue, they might realize as much or more total compensation if the uniform rules were eliminated.

Finally, we have received comments from both small shippers and carriers in support of eliminating the rules. They cite the onerous recordkeeping requirements of the present rules.

The three alternatives to deletion of mandatory rules were listed earlier in this decision. Our reasons for rejecting uniform rules set forth previously in this decision also apply to the option of retaining uniform rules, with needed modifications. Additionally, the necessary modifications and exceptions to the current rules would be so extensive as to undermine the mandatory uniform nature of the rules and negate much of the potential benefits in having such rules.

The "minimum standards" option and the proposal for prescribed Commission rules if carriers do not develop individual rules received almost no public support. These approaches suffer from defects similar to those associated with uniform rules. Any standard or rule developed by the Commission whether minimum or optional, would tend to limit flexibility and would be contrary to the pro-competitive mandate of the MCA, without having the benefits associated with mandatory, uniform rules.

In summary, we conclude that under the current regulatory environment, the public interest will be better served by eliminating the uniform rules and allowing all carriers to issue their own, non-discriminatory detention rules in their respective tariffs.

A copy of the Final Regulatory Flexibility Analysis may be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

We find:

The present uniform detention rules should be deleted. This decision does not significantly affect the quality of the human environment or energy conservation.

It is ordered:

The rules set forth at 49 CFR 1310.15(f) and 1307.35(e) are removed. This decision will become effective 60 days after publication in the Federal Register.

List of Subjects

49 CFR Part 1307

Freight, Motor carriers and moving of household goods, Reports.

49 CFR Part 1310

Freight, Imports, Intermodel transportation, Maritime carriers, and Motor carriers.

[49 U.S.C. 10101, 10321, 10741, and 10762, and 5 U.S.C. 553]

Decided: October 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-30812 Filed 11-8-82; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Determination of *Stephanomeria malheurensis* (Malheur Wire-Lettuce) To Be an Endangered Species, With Determination of its Critical Habitat

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines the plant Malheur wire-lettuce (*Stephanomeria malheurensis*) to be an Endangered species and designates its Critical Habitat, under the authority contained in the Endangered Species Act of 1973, as amended. This plant is known only from one small population located in Harney County in southeastern Oregon. The lone population of this species is vulnerable to any substantial habitat alteration and faces the potential threat of surface mining for zeolites on and near the site where it occurs. It is immediately threatened by competition from an exotic grass and grazing by native herbivores (probably black-tailed jackrabbits), which stress the small population. A determination that *Stephanomeria malheurensis* is an Endangered species and designation of its Critical Habitat implement the full protection provided by the Endangered Species Act of 1973, as amended.

DATE: This rule becomes effective on December 10, 1982.

ADDRESS: The complete file for this rulemaking is available for inspection during normal hours by appointment at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia. An active file on this species is maintained at the Regional Office of the U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, Senior Staff Biologist, Endangered Species Program, Region 1, U.S. Fish and Wildlife Service, Department of the Interior, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (501/231-6131).

SUPPLEMENTARY INFORMATION: The first discovery of *Stephanomeria malheurensis* was made in 1966 when seeds of this species were collected along with those from a population of the ancestral plant, *Stephanomeria exigua* ssp. *coronaria*. The locality where these two taxa are found together is at the northern end of the range of the ancestral taxon. Further studies by Dr. Leslie Gottlieb of the University of California, Davis, demonstrated consistently distinguishable field characteristics and reproductive isolation between these two taxa, thus recognizing *stephanomeria malheurensis* as a species new to science (Gottlieb 1973, 1977, 1978, 1979). This plant is a member of the aster family (Asteraceae) and grows to 5 dm. tall, with a basal rosette of leaves, a much branched stem with scale-like leaves, and numerous pink to white (rarely yellow-orange) flower heads. *Stephanomeria malheurensis* is known only from one locality near Malheur National Wildlife Refuge in Harney County, Oregon. [The report in Gottlieb, 1979, p. 268 of a second nearby site is in error (Gottlieb, 1982)]. The species' habitat is situated on top of a dry, broad hill on a soil derived from volcanic tuff layered with some limestone. This is an annual species and the numbers of individual plants vary greatly from year to year depending on the amount of precipitation prior to and during the spring growing season. This plant flowers in July and August.

The extremely restricted range and numbers of this plant make the species vulnerable to even small land disturbances in and around its habitat. Such a potential threat exists in the form of some recently established mining claims which include the habitat of *Stephanomeria malheurensis*. Potential zeolite mining in the area endangers the continued existence of this species

(Griffith and Hohn, 1979), although recent communications with the company involved indicate mining is not imminent and that it wishes to cooperate with the U.S. Fish and Wildlife Service to conserve the species.

A much more immediate threat is the competition from introduced exotic plants, especially cheat grass (*Bromus tectorum*), and grazing by small herbivores (presumed to be black-tailed jackrabbits (*Lepus californicus*)), which are apparently severely stressing the small existing population (Franklin, 1981). These factors and their potential long term impacts are not well understood at present.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the *Federal Register* (40 FR 27823-27924) of his acceptance of this report as a petition within the context of section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523-24572) to determine approximately 1,700 vascular plant taxa to be Endangered species. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975 *Federal Register* publication. *Stephanomeria malheurensis* was included in the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal are summarized in an April 26, 1978, *Federal Register* publication (43 FR 17909-17916).

The Endangered Species Act Amendments of 1978 (Pub. L. 95-632) required that all proposals over two years old be withdrawn. On December 10, 1979, the Service published a notice of the withdrawal of the still applicable portions of the June 16, 1976, proposal along with other proposals which had expired (44 FR 70796-70797).

In August 1980 new field work was carried out at the site of the wire-lettuce. It was discovered that exotic cheat grass (*Bromus tectorum*) had heavily invaded the area, apparently as a consequence of a 1972 controlled burn which had thrown the natural vegetation out of balance. Only fewer than several dozen *Stephanomeria* plants could be found after diligent search. Previously as

many as 750 individuals of *S. malheurensis* were estimated to have grown at the site in any one year. On October 31, 1980, the Service published a proposed rule in the *Federal Register* (45 FR 72234-72237), advising that sufficient new information was on file to repropose *Stephanomeria malheurensis* as an Endangered species pursuant to the Endangered Species Act of 1973, as amended. Critical Habitat also was proposed on October 31, 1980, for the first time.

This proposal summarized the factors thought to be contributing to the likelihood that *Stephanomeria malheurensis* soon could go extinct. It also specified the prohibitions which would be applicable if such a determination of the species and its habitat were made.

According to section 2(b)(1) of the Endangered Species Act Amendments of 1982 (Pub. L. 97-364), the proposal of *Stephanomeria malheurensis* shall be treated as having been proposed on the date of enactment of these amendments, October 13, 1982. This has the effect of extending the deadline for a final rule for this species to October 13, 1983. All procedural requirements for the proposal had been complied with, as specified in section 2(b)(1).

Summary of Comments and Recommendations

In the October 31, 1980, *Federal Register* proposed rule and associated press releases, all interested parties were invited to submit factual reports or information and comments or suggestions which might contribute to the formulation of a final rule. A letter was sent to Governor Atiyeh of Oregon on November 12, 1980, notifying him of the proposed rule for *Stephanomeria malheurensis*. In November 1980, letters or memoranda were sent to appropriate Federal agencies, local governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions. The proposed rule also announced that a public meeting would be held on the proposal on November 13, 1980, and a public hearing on December 2, 1980, since Critical Habitat was being proposed for the species. The meeting and hearing were held in Burns, Oregon as scheduled. All comments received during the period October 31, 1980, through January 29, 1981, are discussed below.

Official comments were received from the Governor of Oregon, the Director, Bureau of Land Management (BLM), and the Harney County Chamber of Commerce. Comments also were

received from 11 additional individuals or representatives of various organizations. Several comments were made regarding the proposal at the public meeting or hearing. However, all of these comments were restated in writing. These are included below.

A total of 14 written responses thus was received by the Service relating to this proposal. Twelve of these responses favored the proposed action. One response expressed no firm position with regard to the proposed action, although it recommended additional studies to further determine the natural adaptability of this species. One response was opposed to the proposed action. Most of the supportive responses pointed to the fact that this species is apparently restricted to one small area making the species especially vulnerable to extinction. Many respondents also stated that mining for zeolite should not be given precedence over conservation of the essential habitat of the species. Several other comments also supported the proposal on the basis of this plant species' scientific importance.

The Governor of Oregon offered full support to the proposal and referred the Service to separate comments submitted to the Service by Dr. Kenton L. Chambers, Professor of Botany, Oregon State University, Corvallis. Dr. Chambers is thoroughly familiar with *Stephanomeria malheurensis* and the research conducted on this species. He fully acknowledged the findings and conclusions of Dr. Leslie Gottlieb, the scientist most involved in that research. Dr. Chambers further stated that the recent information (1980 field season) indicated that the species is very much depleted in numbers of individuals compared with numbers present at the site in prior years. He suggested a correlation with the increased abundance of weedy, competitive grasses such as cheat grass. Dr. Chambers concluded that because of the scientific values and the current status of the species, conservation of the plant should be given first priority.

Dr. Leslie Gottlieb, Professor of Genetics at the University of California at Davis, provided supportive comments as well. Dr. Gottlieb and his students have spent many years researching this species in the field and in the laboratory and he has provided ample evidence to support the proposal. In his comments he also pointed out that recent evidence appears to show significant declines of this plant, correlated with an abundance of cheat grass. Dr. Gottlieb believes the rulemaking is essential to conserve *Stephanomeria malheurensis* and

especially important because of the scientific significance of the species.

The Bureau of Land Management acknowledged the proposal to list this species and restated its commitment to protect the habitat of the plant, which it had declared a Scientific Study Area in 1974. It said they intend to continue monitoring the status of the species.

The Harney County Chamber of Commerce suggested that further research be conducted to search for other colonies which it believes may exist or to determine whether this species can maintain itself under natural conditions. Though it did not specifically recommend for or against the proposal, it stated that the 160 acre Scientific Study Area is ample habitat for the plant and mineral exploration should proceed without further restrictions. They also believed that if the species proves to be "non-adaptive," Endangered status and Critical Habitat designation should be promptly removed. It should be pointed out that the research of Dr. Gottlieb on the species (1973, 1977, 1978, 1979) strongly suggests that it recently evolved at the site where it now exists and that it is unlikely to occur elsewhere, as he has made non-productive searches for it elsewhere since discovering it in 1966.

One private individual submitted comments opposing the proposal. He believed that land would be much more valuable in mineral production. It should be noted that the Endangered Species Act of 1973, as amended, requires the Service to list those species found to be in danger of extinction now or in the foreseeable future. Section 2(a)(3) of the Act states some of the values Congress found in such species. *Stephanomeria malheurensis* has been considered of significant scientific value in understanding a process of speciation, and considerable research on it has been funded by the National Science Foundation as well as the John Simon Guggenheim Memorial Foundation.

Conclusion

After a thorough review and consideration of all the available information, the Secretary has determined that *Stephanomeria malheurensis* Gottlieb is in danger of extinction throughout all or a significant portion of its range due to one or more factors described in Section 4(a)(1) of the Act. The factors and their application to *Stephanomeria malheurensis* are as follows:

A. *Present or threatened destruction, modification, or curtailment of its habitat or range.* *Stephanomeria malheurensis* has been known from only one 70-acre location south of Burns in

Harney County, Oregon, since its discovery in 1966. The restricted range of the species makes it vulnerable to many types of habitat alteration. Zeolite mining in the area is possible in the future, as mining claims cover the entire area of this species' habitat as well as all adjacent areas. Protection of the habitat of *Stephanomeria malheurensis* and its immediate surroundings is imperative to the conservation of the species. The Anaconda Minerals Company has recently indicated that it is willing to cooperate with the Service to conserve the species, and that mining is not imminent.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation* (including grazing). A 160-acre tract of land including the entire population of *Stephanomeria malheurensis* has been fenced, which prevents grazing of the species by livestock. Larvae of an unidentified insect have been found foraging on the species, but their effect is unknown. Grazing by mammalian herbivores (suspected to be jackrabbits) has been noted on some individual plants. This grazing caused severe stress to the few plants of this species that grew in 1981 (Franklin, 1981).

D. *The inadequacy of existing regulatory mechanisms.* The Bureau of Land Management (BLM) administers all of the land supporting this species, and in August 1974 it gave notice of the closure of the 160 acres necessary for the species' survival (40 FR 39536-39537). However, zeolite was determined to be a locatable mineral in June 1977 under mining law. In consequence, access to the zeolite ore is regulated by the Mining Law of 1872, as amended. The adequacy of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), often called the BLM Organic Act, to protect *Stephanomeria malheurensis* should zeolite mining become active is unclear in these circumstances.

E. *Other natural or man-made factors affecting its continued existence.* The small size of the only known population causes this species to be in significant danger of extinction due to natural fluctuations. Since this species is an annual, its numbers vary greatly from year to year, depending largely on the amount of precipitation prior to and during the spring growing season. In 1974 and 1975, juvenile populations of all *Stephanomeria* at the site numbered 12,000 and 35,000, respectively (Gottlieb, 1977). New fieldwork showed only a few dozen individuals in August 1980 (Gottlieb, 1980). In addition, Gottlieb

(1980) discussed the effects of a 1972 controlled burn which swept much of the colony area by accident. Cheat grass (*Bromus tectorum*) has invaded the burnt area, much to the detriment of *Stephanomeria*. The 1981 field reports indicate the species is still very low in numbers (about 50 individuals), and the exotic cheat grass invasion still a severe problem.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species at the time it is listed on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat for *Stephanomeria malheurensis* is being designated to include the 160-acre Scientific Study Area on public land of the Bureau of Land Management located 27 miles south of Burns in Harney County, Oregon. This includes the entire, lone population of *Stephanomeria malheurensis*. This area is located on the lands west of State Highway 205 within the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, and the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 11; and the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 12, T27S, R30E, Willamette Meridian. Natural expansion of the population within this Scientific Study Area will likely be a desired management goal in the future, through the recovery process under Section 4(f) of the Act. The designated Critical Habitat includes land within the Scientific Study Area which presently does not support the species but provides a buffer against adverse indirect impacts and which is considered essential for the conservation of the species.

Section 4(b)(8) of the Act requires, to the maximum extent practicable, that any final rule to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect all of the activities mentioned below, as Critical Habitat designation

only affects Federal agency activities through Section 7 of the Act.

Any activity which would significantly disturb the soil, topography or other physical and biological components of the area where *Stephanomeria malheurensis* occurs would adversely modify its Critical Habitat. Land uses in the immediate locality of the population and in its surroundings would need to be carefully regulated to prevent such modifications. To the extent allowed by the mining laws of this country, this might require restricting mining activities within and perhaps near the area in order to prevent adverse direct and indirect impacts. Since access to zeolite on BLM land is regulated by the Mining Law of 1872, the effect of this species' listing and Critical Habitat designation on any future mining activity is uncertain (cf. BLM, n.d.; Noble 1980; Sheridan 1977). The cooperative efforts between the Anaconda Minerals Company, the BLM, the Service, and any others so as to avoid damage to the species and its habitat will certainly continue to be needed.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a final impact analysis and believes that economic and other impacts of this action are not significant for the foreseeable future. The area designated as Critical Habitat for *Stephanomeria malheurensis* is already being protected by the BLM, and represents only about 5 percent of the 3,000 acres with mining claims of the Anaconda Minerals Company. The exact distribution of the subsurface deposits of zeolite are unknown, so that their relationship to the habitat requirements of the species cannot be determined. Furthermore, according to the company, it is not known whether the zeolite will ever be commercially exploitable in this area. If it is, it is not known whether Section 7 would provide protective regulation for the species and its Critical Habitat. In addition, the company has indicated to the Service that it has no plans for mining at the site at present and that it is interested in cooperating with the Service to conserve this wire-lettuce.

The Service has contacted the Bureau of Land Management, which has jurisdiction over the land under consideration in this action, as well as the Anaconda Minerals Company, which has the Federal mining claims on the land where the species occurs. Based on the findings of the Service, no

significant economic impacts are anticipated as a result of this action.

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Effects of This Rule

In addition to the effects discussed above, the effects of this rule include, but are not necessarily limited to, those mentioned below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered, and any designated Critical Habitat. Provisions for Interagency Cooperation implementing this are codified at 50 CFR Part 402. Federal agencies are required to consult with the Service to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of *Stephanomeria malheurensis* or adversely modify its Critical Habitat.

The only known action which possibly could be affected by the Endangered Species Act is the possible zeolite mining by private interests based on mining claims on the Federal land in the immediate area which includes the

species and its Critical Habitat. As the Federal land management agency, the Bureau of Land Management is responsible for carrying out the intentions of the Endangered Species Act on this land. The Mining Law of 1872, however, may restrict the authority of the BLM to regulate mining activities on locatable minerals, including zeolite.

Voluntary or mandatory protection of this species and its habitat will require continuing cooperation between the BLM, the private mining interests, and the U.S. Fish and Wildlife Service. The company has no timetable or plans for exploratory mining.

The Act and implementing regulations published in the June 24, 1977, Federal Register (42 FR 32372-32381) set forth a series of general trade prohibitions and exceptions which apply to all Endangered plant species. The regulations are found at § 17.61 of 50 CFR and are summarized below. With respect to *Stephanomeria malheurensis* all trade prohibitions of Section 9(a)(2) of the Act, as implemented by § 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions could apply to agents of the Service and State conservation agencies. The Act and 50 CFR § 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species, under certain circumstances. No such trade in this species is known or anticipated. It is anticipated that few trade permits involving the species will ever be requested.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This new taking prohibition applies to *Stephanomeria malheurensis*. Permits for exceptions to this prohibition are

available through Section 10(a) of the Act, following the general approach of 50 CFR § 17.62 and 17.63 until revised regulations are promulgated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703/235-1903. It is anticipated that few taking permits for the species will ever be requested.

This plant is now listed as an Endangered species and its Critical Habitat designated, so certain conservation authorities become available and protective measures may be undertaken for it. These could include increased management of the species and its habitat, and the development of a recovery plan for the species as specified in Section 4(f) of the Act.

The Service will review this species to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Portland, Oregon, Regional Office, and Washington, D.C., Office of Endangered Species, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (Implemented at 40 CFR Parts 1500-1508).

Note.—The Department of the Interior has determined that this rule is not a major rule under Executive Order 12291. Significant commercial trade in *Stephanomeria malheurensis* would not be impacted by this rule because none is known to exist at present nor is any anticipated. Federal zeolite

mining claims staked on and around the Critical Habitat on BLM land are presently inactive with no immediate plans for development. The area represents only about 5 percent of the 3,000 acre area with mining claims by the Anaconda Minerals Company. The exact distribution of the subsurface deposits of zeolite are unknown, so that their relationship to the habitat requirements of the species cannot be determined. It is not known at this time whether these claims are commercially exploitable, according to a recent communication from the company which has also indicated that the company is willing to cooperate with the Service to conserve the species. Since this rule was proposed before January 1, 1981, a Determination of Effects on Small Entities is not required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not contain information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Authority and Authors

This rule is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, 92 Stat. 3751, 93 Stat. 1225, 96 Stat. 1411). The primary author of the rule is Peter A. Stine, Endangered Species Staff, U.S. Fish and Wildlife Service, Portland, Oregon (503/231-6179). Dr. Bruce MacBryde of the Service's Washington Office served as editor.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Plants (agriculture), Fish, Marine mammals.

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations is amended as set forth below:

1. Section 17.12(h) is amended by adding, in alphabetical order under Asteraceae, the following plant:

§ 17.12(h) Endangered and threatened plants.

* * * * *

PLANTS

Species	Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name				
Asteraceae—Aster family:					
<i>Stephanomeria malheurensis</i>	Malheur wire-lettuce	U.S.A. (OR)	E	125 17.96(a)	N/A

2. Section 17.96 is amended by adding the critical habitat of *Stephanomeria malheurensis* as the first entry as follows:

§ 17.96(a) Flowering plants.

Family Asteraceae: Malheur wire-lettuce (*Stephanomeria malheurensis*). Oregon, Harney County; the lands west

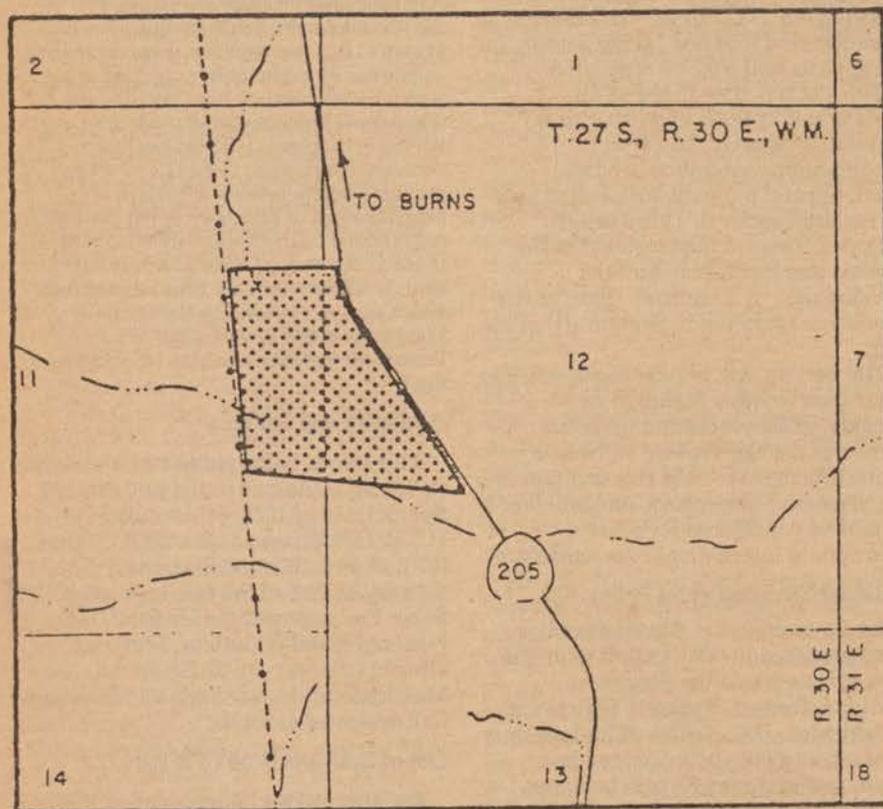
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Section 12, T27S, R30E, Willamette
Meridian.

MALHEUR WIRE-LETTUCE

Harney County, OREGON



Dated: October 17, 1982.

J. Craig Potter,

Deputy Assistant Secretary for Fish and
Wildlife and Parks.

[FR Doc. 82-30681 Filed 11-9-82; 6:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration
50 CFR Part 285

[Docket No. 21102-221]

Atlantic Bluefin Tuna Provisions;
Technical Change and Notice of
Regulatory Area Extension

AGENCY: National Oceanic and

Atmospheric Administration (NOAA),
Commerce.

ACTION: Final rule; technical change and
notice of regulatory area extension.

SUMMARY: NOAA issues notice to the public that the Federal regulatory area for Atlantic bluefin tuna has been extended to include waters within the boundaries of the States of Texas, Louisiana, and Alabama, and within the adjacent territorial sea of the United States. This extension is necessary to make measures carrying out U. S. international obligations under the International Convention for the Conservation of Atlantic Tunas applicable within waters where Atlantic bluefin tuna may be found. The effect of the technical amendment published

today is to make Federal regulations governing Atlantic tuna apply within the waters of these States, in addition to those of other States already covered by previous extensions of the Federal regulatory area.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT:

David Allan Fitch, 202-634-4224; or
William C. Jerome, Jr., 281-3600, ext. 325.

SUPPLEMENTARY INFORMATION:

On June 11, 1982, NOAA published regulations governing fishing for Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction (47 FR 25350). The regulations carried out a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT). Technical changes to these regulations were published in the *Federal Register* on September 13, 1982 (47 FR 25350).

Section 9(d) of the Atlantic Tunas Convention Act (the Act) provides that the Secretary of Commerce (Secretary) may apply these Federal regulations to waters within the boundaries of a State if, within a reasonable period after their adoption, a State has not adopted equally restrictive regulations to implement the ICCAT recommendation. In 1977 the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), to whom the Secretary's authority has been delegated, determined that such application was appropriate for several States, and published notice that the Federal regulatory area was extended to include waters within the boundaries of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire, Puerto Rico, and the Virgin Islands. These extensions of the regulatory area were recorded in the regulations at 50 CFR 285.1(d).

Under the provisions of section 9(d) of the Act and of 50 CFR 285.7, the Assistant Administrator has determined that the States of Texas, Louisiana, and Alabama have not enacted laws or regulations implementing the ICCAT recommendation. After consultation, these States have indicated that they have no objection to extension of the Federal regulatory area for Atlantic bluefin tuna to include waters within their boundaries and the adjacent territorial sea of the United States. Therefore, the Federal regulations

contained at 50 CFR Part 285 governing fishing for Atlantic bluefin tuna will apply within the boundaries of such States and within the adjacent territorial sea of the United States. 50 CFR 285.1(d) is hereby amended to reflect this extension of the "regulatory area" to apply within the territorial sea of the United States adjacent to, and within the boundaries of, these additional States.

This action is taken under authority of 16 U.S.C. 971g and 50 CFR 285.7, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations,

Penalties, Reporting and recordkeeping requirements.

Dated: November 4, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries

50 CFR Part 285 is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for Part 285 reads as follows:

Authority: 16 U.S.C. 971-971th.

2. Section 285.1(d) is amended by adding "Texas, Louisiana, Alabama" to the text. The text is revised to read as follows:

§ 285.1 Purpose and scope.

(d) Under section 9(d) of the Act and § 285.7, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of the States of Texas, Louisiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 285.30(a), 285.30(d) (2) and (3), 285.31(a), and 285.32(c), within the territorial sea of the United States adjacent to, and within the boundaries of the State of Maine, continue in effect.

[FR Doc. 82-30841 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 47, No. 218

Wednesday, November 10, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1011, 1046, and 1098

[Docket Nos. AO-251-A23, AO-123-A48, and AO-184-A43]

Milk in the Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tennessee, Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a proposed amendment to the Louisville-Lexington-Evansville Federal milk order to permit operators of country supply plants to count shipments directly from farms to pool city distributing plants toward meeting up to one-half of the shipments required to maintain pool plant status for the country plant. Also adopted are amendments of the Nashville order to allow diversions of milk between pool plants and to provide a procedure whereby a proprietary handler can make payments to independent producers rather than having such payments be made by the market administrator.

This decision does not adopt a variety of proposals considered at the public hearing held October 21-23, 1981, in Louisville, Kentucky, that would have amended other sections of the Tennessee Valley, Louisville, and Nashville orders. One other proposal dealing with pooling standards for distributing plants regulated under the Nashville order was adopted in a previous emergency final decision, issued January 21, 1982 (47 FR 2999).

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of

Agriculture, Washington, D.C. 202/447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding: Notice of Hearing: Issued September 4, 1981; published September 11, 1981 (46 FR 45354).

Correction: Published September 22, 1981 (46 FR 46813).

Notice of Rescheduled Hearing: Issued September 24, 1981; published September 29, 1981 (46 FR 47588).

Suspension of Rule: Issued November 24, 1981; published November 30, 1981 (46 FR 58064).

Emergency Partial Final Decision: Issued January 15, 1982; published January 21, 1982 (47 FR 2999).

Final Order: Issued January 26, 1982, published January 29, 1982 (47 FR 4228).

Recommended Decision: Issued June 14, 1982; published June 21, 1982 (47 FR 26656).

Extension of Time: Issued July 6, 1982; published July 12, 1982 (47 FR 30080).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tennessee, marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Louisville, Kentucky, on October 21-23, 1981. Notice of such hearing was issued on September 4, 1981 (46 FR 45354) and a notice of a rescheduled hearing was issued on September 24, 1981 (46 FR 47588).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Marketing Program Operations, on June 14, 1982, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision

are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under issue number 1. "Diversion of limited amounts of Class I milk from the Nashville and Tennessee Valley markets to the Louisville market," three new paragraphs are added at the end of the discussion.

2. Under issue number 3. "Location adjustments applicable to producer milk under the Nashville and Louisville orders," a new paragraph is added at the end of the discussion.

3. Under issue number 4. "Producer delivery requirements and diversion limits of the Nashville and Louisville orders," five new paragraphs are added at the end of the discussion.

4. Under issue number 5. "Provisions of the Nashville order relating to the procedure for paying producers," three new paragraphs are added at the end of the discussion.

5. Under issue number 6. "Diversions between pool plants under the Nashville order," four new paragraphs are added at the end of the discussion.

The material issues on the record of the hearing relate to:

1. Diversion of limited amounts of Class I milk from the Nashville and Tennessee Valley markets to the Louisville market. A corollary issue involves changing the out-of-area location adjustments of the Nashville order.

2. Location adjustments applicable to producer milk under the Nashville and Louisville orders.

3. Pooling standards for "country" plants under the Louisville order.

4. Producer delivery requirements and diversion limits of the Nashville and Louisville orders.

5. The provisions of the Nashville order relating to the mechanism for paying producers.

6. Diversions between pool plants under the Nashville order.

7. Pooling standards for distributing plants under the Nashville order.

8. Whether an emergency exists to warrant the omission of a recommended decision on issue No. 7.

Issues Nos. 7 and 8 were dealt with in an earlier decision. The remaining issues, Nos. 1-6, are considered in this decision.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of limited amounts of Class I milk from the Nashville and Tennessee Valley markets to the Louisville market.*

The Nashville and Tennessee Valley orders should not be amended to accommodate diversions of producer milk for Class I use to plants fully regulated under another Federal order. Also, the Louisville order should not be amended to allow milk received at pool city (distributing) plants directly from farms to be excluded from the definition of producer milk if the milk is considered producer milk under another Federal order. Each of these orders now provides that milk received at a pool plant directly from a farm be considered producer milk under the order which regulates the plant where the milk is first received, unless the milk is received as a diversion from an other order plant for Class II or Class III use.

Kraft, Inc., which operates pool-plants in all three markets, including pool distributing plants in the Nashville and Louisville markets (Kraft's fluid milk operations also are known by the name Sealtest), initiated several related proposals relative to this issue. Specifically, one of Kraft's proposals would allow a Nashville handler to divert milk to an other order distributing plant for Class I use. Such diversions would be limited to 25 percent of the handler's receipts for the previous month. Milk of an individual producer would not be eligible for such diversion unless at least 50 percent of the producer's milk was received at a Nashville order pool plant. A related proposal would allow milk to be received at pool city plants under the Louisville order directly from the farm without becoming producer milk under that order if such milk was considered producer milk under another Federal order. Another Kraft proposal would change the out-of-area location adjustments of the Nashville order for locations in Kentucky and Indiana so that any milk diverted from Nashville to Louisville for Class I uses would be priced under the Nashville order at the same Class I price that is applicable at those locations under the Louisville order. These proposals were designed to allow milk from producers who regularly ship to Kraft's plant in Nashville to be diverted to Kraft's bottling plant in Louisville for Class I use and remain producer milk under the Nashville order.

Kraft claimed that the need for order changes to accommodate Class I diversions is a product of two circumstances: (1) Kraft's failure to reach an agreement with Dairymen, Inc., the major cooperative association in these markets, for a supply of milk for its Louisville plant, coupled with the lack of economical alternative milk supplies in the Louisville market, and (2) differences between the seasonal production incentive plans under the Nashville and Louisville orders that make it difficult to switch producers between the orders on a seasonal basis without reducing their minimum Federal order payments.

Kraft's witness testified that since September 1980, when negotiations with Dairymen, Inc., failed to result in an agreement acceptable to Kraft, the handler has been unable to obtain an adequate milk supply for its Louisville plant from local producers. The spokesman stated that from September 1980 through August 1981, Kraft purchased milk from producers in Wisconsin to meet the Louisville plant's needs. Since September 1981, the Louisville plant has attempted to meet its demand for bulk milk from local producers. The witness indicated that Kraft's independent producers on the Louisville order produce enough milk to meet the needs of its Louisville plant. Nevertheless, he claimed, many of these producers' farms are located so far away from Louisville that regular shipment of their milk to the Louisville plant is not economically feasible. He further stated that many of Kraft's producers regularly ship their milk to another city plant in Lexington, Kentucky, under a contractual arrangement Kraft has with the operator of that plant.

Kraft's witness testified that Kraft currently transfers significant quantities of milk from its Nashville plant to the Louisville plant to remedy the deficit supply situation. He maintained that adoption of the proposals would, within limits, allow much of the milk now being transferred to Louisville to move directly from the farm to the Louisville plant without becoming producer milk under the Louisville order.

The Kraft spokesman indicated that about 50 producers who historically have been associated with Kraft's Nashville plant are located in South Central Kentucky about halfway between Louisville and Nashville. He stated that Kraft would like to ship some of the milk produced by these farmers directly to its plant in Louisville. However, the witness testified that these producers have been associated

with the Nashville market for many years and prefer to be paid on the basis of the Nashville order's base-excess payment plan rather than the Louisville (take out-pay back) payment plan of the Louisville order. He also pointed out that if these producers are shifted between the Nashville and Louisville orders on a month-to-month basis the difference between the base-excess plan and the Louisville plan could significantly reduce the minimum Federal order prices for their milk.

Kraft's witness stated that the company has accommodated these 50 producers by continuing to pool their milk on the Nashville order by first receiving the milk at its Nashville plant and then transferring it to its Louisville plant. The spokesman presented data to indicate that for the past several months Kraft had transferred as much as 1.5 million pounds of milk per month from Nashville to Louisville. He testified that such movements cost Kraft approximately 75 cents per hundredweight but that this cost is still less than the alternative of delivering directly to the Louisville plant the milk of other producers currently pooled on the Louisville order.

Kraft's witness characterized the differences between the producer payment plans of the Nashville and Louisville orders as an impediment to the efficient movement of milk. He stated that this impediment is especially strong for proprietary handlers because they do not have the privilege of reblending that the Act extends to cooperative associations.

According to Kraft's witness, Kraft's proposals would allow up to half of the milk of the 50 producers to be delivered directly from farms to the Louisville plant but remain pooled on the Nashville order. Thus, Kraft could accommodate its producers who wish to be paid on a base-excess plan while saving Kraft the expense of the Nashville-to-Louisville haul now needed to keep the milk pooled under the Nashville order.

Dairymen, Inc. (DI), opposed the adoption of Kraft's proposals. DI's witness stated that the diversion provisions of Federal orders are intended to provide for the orderly disposal of surplus milk supplies. The witness asserted that allowing diversions for Class I use would provide an opportunity for the reserve supplies of one market to displace local supplies in another market, thus allowing the producers of the diverting market to obtain the benefit of the other market's Class I sales. The witness stated that the cooperative supports the usual

procedure of pooling a producer's milk on the order that regulates the plant that first receives the milk when some of the milk in the shipment is classified as Class I.

Although DI's spokesman stated that the cooperative opposed any accommodation of Class I diversions, DI proposed that if the Louisville and Nashville orders are amended to allow such movements, then the Tennessee Valley order also should be amended to accommodate Class I diversions to other order plants. The witness indicated that certain DI producers are located such that their milk could be diverted easily from the Tennessee Valley market to the Louisville market for fluid use.

The pool plant qualification and producer milk sections of Federal orders generally have been structured to assure that producers who provide a regular supply of milk for a market share in the market's higher-valued Class I sales by having their milk pooled under the order for that market. One aspect of these provisions in most orders is to pool a producer's milk under the order which regulates the plant that first receives the milk from the farm. If a producer should ship milk during a month to plants regulated by different orders, that farmer is a producer on each such market. The only general exception to this rule has been where a producer's milk is diverted for surplus disposition from a pool plant under one order to a plant regulated by a different order. It has long been held under the order program that milk which is diverted for surplus disposition should remain producer milk on the diverting market since such milk represents the reserve supply for that market. If the milk were moved to another market for surplus disposal and pooled there, the returns to producers regularly supplying this other market would be adversely affected because of the lower-valued use of the milk.

By contrast, most orders provide that if any milk diverted to another market is classified as Class I in the receiving market, it becomes producer milk on that market and is pooled there. The rationale for pooling diverted milk on the receiving market when any of it is classified as Class I is that such classification shows that the milk is serving the fluid needs of that market and, thus, should be treated like any other regular source of supply.

Any departure from this regulatory approach regarding diversions of milk between Federal order markets should be based on a demonstration that this is essentially the only means of dealing with the problems of a particular market situation and that the change is

necessary to maintain orderly marketing conditions for producers and handlers. This was not demonstrated in the record for this proceeding.

If Kraft's proposals were adopted, and the volume of diversions remained no greater than current transfers, the significant effects would be (1) the elimination of Kraft's cost of transferring milk from the Nashville plant to the Louisville plant, and (2) lower returns to the producers whose milk is diverted because of the minus location adjustment that would be applicable for deliveries to Louisville. There would be no substantial change in transportation costs to producers because the producers are almost centrally located between Nashville and Louisville. There also would be no change in the classification of the milk delivered to Louisville, because the Louisville order classifies receipts of transfers and diversions on the same basis. If volumes remain unchanged, the substitution of diversions for transfers would have no perceptible impact on the producer blend prices of either market.

The record shows that Kraft could save as much as \$10,000 per month if it eliminated the transfer of milk from Nashville to Louisville. At the same time, producers who would have production diverted to Louisville would receive a lower return under the order because their Louisville deliveries would be subject to a minus location adjustment of 15 cents per hundredweight. However, Kraft probably could more than compensate those producers from the savings generated by its reduced transportation expenses if it wished to do so.

The above discussion is premised on the assumption that the volume of milk to be diverted to Louisville for Class I would not be significantly different from present transfers. However, the record shows (although the figures are not precise) that Kraft's proposed limit on Class I diversions of 25 percent of a handler's supply in the previous month would, under present operating conditions, allow Kraft to divert over twice the present volume of transfers. If such an increase were to occur, and this increase represented a reduction of Class I sales for producers on the Louisville market, the Louisville blend price could be lowered. In addition, the adoption of DI's proposal with respect to the Tennessee Valley order could put even more downward pressure on the Louisville blend price, which would adversely affect producers who regularly supply the Louisville market.

Furthermore, the adoption of Kraft's proposals could result in false production signals to producers in the

region. The milk that Kraft would divert to Louisville could be considered surplus to the usual fluid needs of the Nashville market. Normally, such surplus milk supplies would go into manufacturing uses and would be priced below the Class I price. The downward impact on the Nashville blend price would discourage excess production of reserve supplies. However, to the extent that this milk would be used to supply the fluid needs of the Louisville market, the blend price of the Nashville order would be enhanced. Any such increase in the Nashville blend price would give producers a signal that additional milk supplies are needed to meet the demand of the fluid market when in fact the Nashville market's regular fluid sales are not increasing. Since Kraft's proposals would make it easier to use Nashville reserve supplies for fluid use in Louisville, they would help foster a price level that would not reflect actual demand for milk in the Nashville market.

It is recognized that in the absence of the diversion provisions proposed by Kraft the different producer payment plans in the Nashville and Louisville markets can result in independent producers being reluctant to switch from one order to the other during the course of a year to accommodate Kraft's supply arrangements. If Nashville producers switch to the Louisville market in the spring, they become subject to the Louisville plan deductions in computing the uniform price. If they switch to the Louisville market in the fall, they receive the Louisville plan pay-back money, but they fail to earn a base under the provisions of the Nashville order. If they switch from the Louisville market to the Nashville market without a base, their minimum payment under the Nashville order during the base-paying months would reflect only the excess price for all of their deliveries.

It is noted, however, that the supply problem at Kraft's Louisville plant is not a seasonal problem. Rather, it is a continuing situation that likely will require supplemental milk supplies each month for the next two or three years. Under these circumstances, there appears to be little reason to shift a producer back and forth between markets on a month-to-month basis. Instead, producers should be shifted to the Louisville market on a more or less permanent basis in view of the continuing need for additional milk at the Kraft plant.

Kraft indicated that it does not want to take this action because the producers wish to remain pooled on the Nashville market so that their returns

will not be jeopardized. The market statistics included in the record indicate that an average Nashville producer would have his or her minimum Federal order return altered by less than one percent up or down if switched to the Louisville market for an entire 12-month period. In fact, during the period of October 1980 through September 1981, the average Nashville producer would have received a slightly higher return for milk if it had been pooled under the Louisville order. Unless marketing conditions change dramatically in either market during the next two to three years, Kraft could eliminate the cost of current milk transfers by shifting some producers to the Louisville market without significantly altering the producers' returns. In fact, the producers could be better off on the Louisville market than if they stayed in the Nashville market and operated under Kraft's proposal. Under Kraft's proposal, the producers would be subject to a minus 15-cent location adjustment for all deliveries to Louisville, which could apply to as much as 50 percent of a producer's production. Unless marketing conditions change, the Nashville blend price (or weighted average price) minus 15 cents probably will average less over the course of a year than the Louisville blend price. If the producer remained pooled on the Louisville order for a complete year, gross returns could be higher than under Kraft's proposal.

Under these circumstances, the problems outlined by Kraft could be solved by shifting some or all of the approximately 50 producers mentioned earlier to the Louisville market for an indefinite period. This action would not alter producers' returns significantly and would reduce Kraft's transportation costs. Although this alternative would not accommodate the producers' desire to remain pooled on the Nashville market, producers should be responsive to changes in the location of demand for their production. At present that demand is in Louisville, not in Nashville. Thus, it is not necessary to depart from the usual procedure of pooling milk under the order which regulates the plant where the milk is first received when some of the milk is assigned to Class I. Therefore, the proposals dealing with interorder diversions of producer milk for Class I use and the related proposal to restructure the out-of-area location adjustments of the Nashville order to accommodate such interorder diversions are denied.

In response to the recommended decision, Kraft, Inc., filed certain exceptions to the findings in the preceding paragraphs as set forth in that

decision. In particular Kraft asserted that the decision was based on three conclusions not supported by the record. The conclusions excepted to are: (1) The proposals would result in lower returns to the producers whose milk is diverted; (2) Adoption of the proposals could result in a lowering of the Louisville blend price; and (3) Adoption of the proposals could result in false production signals to producers in the region.

These conclusions are part of a discussion of the possible ramifications of the proposed changes. Although the statements excepted to are pertinent and supported by the record, they are not the main elements of the decision to deny Kraft's proposals. As Kraft points out, these problems could be mitigated by other regulatory safeguards. The decision not to adopt Kraft's proposals is based on substantial evidence in the record which indicated that the problems to which the proposals were directed were problems that could be solved without amendments to the orders. The discussion to which Kraft directs its exceptions only supplements the general finding by pointing out the possible effects of Kraft's proposals on other interested parties.

Kraft's exceptions do not provide a basis for reaching a different conclusion on this issue. The exceptions are therefore denied.

2. Location adjustment applicable to producer milk under the Nashville and Louisville orders.

Three proposals, Nos. 6, 12 and 13, included in the notice of hearing for this proceeding concerned the location adjustments applicable to producer milk under the Nashville and Louisville orders. However, at the hearing representatives of DI (proponent of Nos. 6 and 12) and National Farmers' Organization (proponent of No. 13) withdrew their respective proposals and no other interested party offered testimony relating to these proposals. Since the record contains no evidence concerning these proposals, further discussion of this issue is not necessary.

3. Pooling standards for "country" plants under the Louisville order.

The pool plant definition of the Louisville order should be amended to allow operators of country (supply) plants to count their deliveries of milk directly from farms to pool city (distributing) plants toward meeting up to one-half of the shipments required to qualify the country plant as a pool plant. Current order language recognizes only actual transfers of milk from the country plant to city plants as shipments that count to qualify a country plant for

pool plant status. This change was proposed by Kraft, Inc., and supported by the Armour Food Company. DI opposed adoption of this change and in the alternative proposed that country plants be eliminated from the pool plant definition.

Kraft's witness states that the purpose of their proposal was to allow country plants to operate in a more efficient manner. The witness stated that Kraft operated a country plant at Lawrenceburg, Kentucky, that qualified as pool plant under the Louisville order from September 1979 to September 1981. The witness testified that while this plant was in operation the milk on three farm pick-up routes could have been delivered directly to a city plant in Lexington, Kentucky, rather than being hauled to the country plant, unloaded, reloaded, and delivered to Lexington. Testimony was offered showing that while the plant was in operation the proposed change could have saved 495 miles of transportation per day over the actual hauling that took place.

A witness for the Armour Food Company voiced strong support for Kraft's proposal. He stated that Armour operates a country plant regulated by the Louisville order. The witness contended that order provisions should be changed to allow country plants to operate more efficiently because these plants serve the fluid market by providing supplemental shipments to city plants, by giving producers a market alternative, and by helping maintain the economic viability of manufacturing plants in the market that provide an outlet for the market's reserve supplies. The witness indicated that producers representing about 60 percent of the Armour plant's Grade A supplies were located such that their production could be shipped directly to city plants at considerable transportation savings.

DI's witness took the position that there is no need for country plants in the Louisville market. The witness stated that all milk in the market could be shipped directly from farms to city plants and that the only reason for maintaining country plants is to associate with the market milk to be used in manufacturing plants. The witness testified that DI believes that marketing orders should be structured to pool only those milk supplies that are closely associated with the needs of the fluid market, including necessary reserve supplies. He asserted that most supplies associated with supply plants are not readily available for the fluid market, and that the order should not be amended to make it easier for country plants to meet the pooling standards.

Instead, the witness contended, the order should be amended to remove country plants from the pool plant definition.

DI further contended that the existence of supply plants creates disorderly marketing conditions because the purpose of maintaining a supply plant in today's dairy industry is to obtain milk supplies for manufacturing purposes, not for bottling. DI cited the fact that all supply plants operated in the Louisville market in recent years have been operated in conjunction with a manufacturing facility.

Federal milk orders have accommodated the pooling of milk supplies through country plants because these plants historically have served as a means of getting milk supplies to bottling plants. Before bulk transport for raw milk became generally available, supply plants served as country assembly points for milk supplies for over-the-road shipment to bottling plants in metropolitan areas. Although transportation technology has reduced the need for country assembly points, supply plants have continued to be a source of milk for bottling plants in many markets.

The record contains no rebuttal to DI's claim that the Louisville market can be supplied entirely by direct shipments. However, the feasibility of supplying all distributing plants in a market by direct shipments is not a sufficient reason to deny handlers an alternative means of obtaining supplies. Handlers may choose to obtain a portion of their milk supply through a country plant for any number of reasons. Even though the procurement of milk supplies directly from farms may be the most economically efficient method of obtaining raw milk for bottling, this may be overshadowed by other considerations in the handler's decision-making process. In addition, Federal milk orders are not designed to dictate that handlers use the method of milk procurement that the Department may consider the most efficient. Rather, as long as a procurement method does not result in disorderly marketing conditions, Federal orders should not foreclose an alternative supply option.

DI's contention that the existence of supply plants creates disorderly marketing conditions because they are primarily a vehicle for pooling unneeded milk supplies is not supported by the record. The record does show that Armour (and Kraft when it operated a supply plant) utilizes Grade A milk not shipped to distributing plants in its adjacent manufacturing facility. In addition, Armour's witness acknowledged that Armour needs a

supply of Grade A milk for its manufacturing plant and the operation of a country pool plant is the method the company has chosen to obtain that supply. However, the use of a country plant's surplus Grade A milk in a manufacturing plant does not by itself indicate that the country plant is not serving the fluid market. Under the Louisville order, country plants are determined to be serving the fluid market if they meet the shipping requirements that have been established through the hearing procedure. The record shows that the country plant operated by Armour and the country plant recently operated by Kraft have consistently met the shipping requirements of the order. In fact, the Armour plant generally ships milk to city plants every month of the year, even during the heavy production months when shipments are not required. The record also contains statements by representatives of Kraft and Armour that their country plants placed the highest priority on meeting the needs of city plants for shipments of milk. Accordingly, it is not possible to conclude from this record that a plant that is more than meeting the shipping requirements is causing disorderly marketing conditions. In the absence of disorderly marketing conditions, there is no reason to eliminate country plants from the pool plant definition of the Louisville order.

The proposal to recognize direct farm-to-city plant shipments for qualification of country plants should be adopted because it would allow country plants to operate in a more efficient manner without altering the basic standard use to determine whether the plant is serving the fluid market to a degree that warrants pool status for the plant. Although Kraft has closed its country plant, and thus appears unlikely to utilize the changes adopted herein, the Armour country plant regulated by the Louisville order could benefit from the proposed change. The record indicates that producers representing approximately 60 percent of Armour's Grade A milk supply are located such that their production could be delivered directly to city plants rather than by transfer from the country plant at considerable savings to Armour.

DI opposes the change because it believes that the purpose of the proposal is to make it easier to associate with the Louisville pool milk which is intended primarily for Class III use at manufacturing plants. Although this proposal would reduce Armour's cost of operation, it would not change the percent of a country plant's receipts and diversions that must be shipped to city

plants to qualify the country plant for pool status. If a country plant operator wishes to increase the quantity of Grade A milk moving to a manufacturing plant, shipments to city plants must increase by a like amount (in the months when the 50 percent shipping requirement applies). The proportion of the country plant's total receipts and diversions that would be free to move to a manufacturing plant would not change under this proposal.

At the hearing and in its brief, DI expressed concern that adoption of this proposal would create an incentive for the operator of a country plant located a considerable distance from the market to associate the plant with the Louisville pool. The adopted pooling change would reduce the proportion of a country plant's milk supply that must actually be transferred to pool city plants to qualify the country plant for pool status during the months of September through February, but it would not change the requirement that at least 50 percent of the plant's milk supply must be made available to city plants by transfer or diversions. By reducing the amount of milk that must be moved to city plants by interplant transfers, the pooling change may reduce the cost of associating a distant country plant with the Louisville market, assuming the country plant has milk supplies conveniently located for delivery directly to city plants. However, there is no indication that this change would alter the operating costs of any country plant in the region to the point that it would be unusually profitable to engage in the extensive hauling of milk that would be necessary to obtain pool status for a distant plant. Kraft and Armour offered information on how the proposed change would benefit their specific operations. The record contains no specific information about other country plants that would benefit from or take advantage of the change. Therefore, DI's concern does not provide sufficient grounds to deny the proposal.

In its exceptions to the recommended decision, DI repeated its contentions that supply plants are not an efficient method of procuring milk for bottling and that under present conditions these plants are merely a mechanism that allows operators of nonpool manufacturing plants to associate with the fluid market a supply of Grade A milk to be used primarily for manufacturing purposes. DI further stated that the Secretary is required to address these facts in his decision. The recommended decision did consider all of the points raised by DI's exceptions. Therefore, the exceptions provide no

basis to reach a conclusion on this issue different from that set forth in the recommended decision. The exceptions are denied.

4. Producer delivery requirements and diversion limits of the Nashville and Louisville orders.

The producer milk definitions of the Louisville and Nashville orders should not be amended to change the producer delivery ("touch-base") requirements and diversion limits of the orders.

Kraft proposed the elimination of the provision in the Louisville order that limits diversions of milk from pool plants to nonpool plants to 22 days' production during each month of September through February. With respect to the Nashville order, DI proposed an increase in the number of days that a producer must deliver milk to a pool plant (commonly referred to as touching base) if the producer's milk is to be eligible for diversion from pool plants to nonpool plants. Under the proposal, the delivery requirement would be increased from two days' production each month of the year to four days' production in each month of March through July and ten days' production in each month of August through February. DI also proposed that diversions from pool plants regulated under the Nashville order be limited to an amount equal to one-third of the producer milk physically received at the pool plants. The order does not now contain a percentage limitation on diversions to nonpool plants.

Kraft's witness stated that the diversion provisions of the Louisville order, which require touch-base deliveries on as many as nine days during the short production months, result in inefficient handling of milk. The witness asserted that handlers should be given the greatest flexibility possible in determining which milk is to be delivered to pool plants and which is to be diverted to nonpool plants. Although Kraft proposed no overall diversion limits in conjunction with its proposal to lower the touch-base requirements, Kraft's witness indicated that the company would not object to such a limit as long as it was not overly restrictive. In its post-hearing brief, Kraft suggested that a total diversion limit of 50 percent of receipts combined with the existing two-day touch-base delivery requirement would be an adequate limit and would allow for the efficient movement of milk.

Kraft's witness stated that the touch-base requirements are the most burdensome on those producers who have converted from manufacturing grade to Grade A production. The witness indicated that the Kraft

organization has some milk pick-up routes for manufacturing grade producers that include one or two Grade A producers. He noted that the touch-base provisions require these Grade A producers to ship their milk separately from the other producers on certain days of the month. The witness stated that the resulting dual-route system, one for manufacturing grade producers and one for Grade A producers to meet the touch-base requirement, is an inefficient method of moving milk. The witness said that Kraft's proposal would allow a handler to select producers for diversion in a way that would result in the most efficient movement of milk.

The witness for DI stated that higher touch-base requirements are necessary in these markets to assure the availability of supplies for the fluid market. He maintained that the touch-base provisions of an order require a producer to show at least a limited association with the market before the producer's milk that is diverted to nonpool plants is allowed to participate in the marketwide pool. The witness asserted that the current requirements of the Louisville order have not placed a burden on the pooling of milk which historically has been associated with the market. The witness also expressed the association's view that producers who convert to Grade A production must be willing to ship a certain part of their production to pool plants before all of their milk is allowed to participate in the pool.

In response to the general invitation in the hearing notice for testimony concerning the desirability of an overall diversion limit for the Louisville order, DI's witness suggested that the pool plant definition of the order be amended so that diversions from city plants would be counted as receipts when calculating whether the plant meets the Class I requirement for pool plant status. The spokesman pointed out that diversions to pool and nonpool plants currently are not included in the base used to compute the Class I percentages. He maintained that the DI proposal would be an appropriate method for placing an overall limit on diversions in the Louisville market.

DI's witness contended that market conditions are changing in the Nashville and Louisville areas. He stated that the opening of large distributing plants in Murfreesboro, Tennessee, (in August 1981) and Winchester, Kentucky, (expected in October 1982) and the promulgation of a Federal milk order for the State of Alabama will have a dramatic effect on these markets. The witness predicted that these events would produce a significant increase in

the Class I utilization under both the Nashville and Louisville orders. These perceived market changes provide the basic rationale for DI's proposal to increase the touch-base requirements of the Nashville order and to provide for an overall diversion limit of one-third of a handler's receipts. The witness further asserted that markets with high Class I utilization need high touch-base requirements and limited diversions to assure the availability of supplies for fluid use.

Kraft's case for reduced touch-base requirements for the Louisville order stems from the claim that there is a general need for handlers to be given greater flexibility to determine which producers should have their milk diverted and which ones should have their milk delivered to pool plants, and a specific need to accommodate manufacturing grade producers who wish to convert to Grade A production. In this regard, Kraft contended that an overall diversion limit would accomplish the objective of touch-base requirements without producing hauling inefficiencies. There is little evidence in the record, however, to indicate that handlers or producers find the current touch-base requirement burdensome. Kraft indicated that it has producers on the Louisville market that are located in areas that make it more convenient to ship their production to nonpool manufacturing plants on a regular basis rather than deliver the milk to pool plants. At the same time, Kraft is asking the Department to make substantial changes in the order to accommodate its need for additional supplies at its Louisville plant. At least some of this demand could be met by delivering the production of the inconveniently located producers to Louisville for the number of days necessary to meet the touch-base requirement. If there is a need for milk at Louisville, it is reasonable to expect producers associated with the market to respond in some minimum way.

Armour supported Kraft's proposal to eliminate the 22-day diversion limit that applies during September through February and indicated that the change would be beneficial to its operation. However, there is little indication that the current provisions are overly burdensome to Armour's operations. Armour operates a country plant and a manufacturing facility on the same premises at Springfield, Kentucky, and a small manufacturing plant at Elizabethtown, Kentucky. During September through February, Armour must receive half of its Grade A milk supply at its country plant and then deliver it to pool city plants when it

wishes to have the country plant qualify as a pool plant. When the country plant is a pool plant, this procedure assures that at least half of the milk meets the touch-base requirement. It should be noted here that this decision also adopts changes in the Louisville order that would allow Armour to meet up to half of its shipping requirements by deliveries of milk directly from farms to city plants. These plants are also pool plants, so these direct shipments would also meet the touch-base requirement.

The advantage that could accrue to Armour from the adoption of this proposal is that the milk of certain producers could be moved directly to its manufacturing facilities on a regular basis, rather than being moved part of the time through the country plant for purposes of qualifying the plant as a pool plant. However, since Armour's largest manufacturing facility is located adjacent to the country plant, milk may be easily delivered to either facility. Thus, loads of milk may be rotated between the country plant and the manufacturing facility in a way that would allow all of Armour's producers to meet the touch-base requirement. From a practical standpoint the proposed change apparently would be of little real benefit to Armour's operation.

The record does not support a conclusion that the 22 days' production diversion limit of the Louisville order should be changed. Moreover, since this proposed change is not adopted, there is no reason to consider DI's suggestion to amend the pool plant definition to include diversions from city plants when calculating the plant's Class I percentage.

Likewise, it cannot be concluded that DI's proposal to raise the touch-base requirement of the Nashville order and impose an overall diversion limit on pool plants should be adopted. DI bases its case for this proposal on the assumption that a series of events, some of which would occur in the future, will dramatically increase the Class I utilization of the Nashville market, and on the contention that in a high utilization market there is a need to assure that milk is closely associated with the market. The record does show that changes in marketing conditions have occurred over the past two years in the Nashville market. Production has increased but Class I sales have not grown. It is also clear that the implementation of a Federal order in Alabama¹ may result in additional

market changes. However, it is not clear that the events discussed by DI will change the market in the manner or to the extent envisioned by the cooperative. The new bottling plant at Murfreesboro, Tennessee, began operation in August 1981, and was a pool plant on the Nashville order for the months of August and September 1981. In October 1981, the plant became regulated by the Georgia Federal order. The apparent overall impact of this plant on the Nashville market thus far has been minimal. Class I utilization has not changed significantly. In fact, Class I utilization was below year earlier levels in October and November 1981 and only slightly above year earlier levels during the months of December 1981 through March 1982.² With this result from one of the events cited by DI as foreshadowing a dramatic change in market conditions, it is premature to base a significant change in the touch-base requirement and diversion limits on speculation as to the effects of future events on the Nashville market. Therefore, these proposed changes to the Nashville order are denied.

In its exceptions to the recommended decision, Kraft objected to the conclusion that the current touch-base provision of the Louisville order was not shown to be overly burdensome and, therefore, should not be changed. Kraft also stated that the recommended decision was unreasonable and arbitrary by its failure to establish that the present touch-base requirement serves a "valid purpose" or to explain why the so-called "valid purpose" standard should not be applied.

Producer touch-base requirements are included in Federal milk orders as a means of determining that individual dairy farmers are associated with the fluid market and that their milk is, in fact, milk which is qualified for fluid use. The number of producer deliveries that may be necessary to satisfy these objectives varies from market to market and is determined by the marketing conditions that are revealed on the rulemaking record for each market. Any change from the present requirement should be based on a finding that either (1) the criteria upon which the requirement rests are no longer valid or (2) these criteria can be satisfied by a less burdensome requirement. Kraft essentially takes the position that the criteria can be met by a less burdensome requirement. Their

West Florida order became fully effective May 1, 1982.

² Official notice is hereby taken of the Statistical Summaries for the months of October 1981 through March 1982, issued by the Market Administrator of the Nashville, Tennessee, order.

testimony centers on the transportation cost the present requirement places on proprietary handlers and manufacturing grade producers who wish to convert to Grade A.

As stated earlier, it is concluded that the savings that likely could accrue to Kraft and Armour would not be substantial. In addition, the record does show that Kraft has experienced some difficulties in obtaining a supply of milk for its fluid milk operation in Louisville. This evidence bears directly on a principal reason for producer delivery requirements, i.e., the demand for milk for fluid use in the market. If producers wish to have all of their production included in the marketwide pool, they should be willing to demonstrate their association with the market by shipping milk to pool plants and thereby making it available to meet the market demand. In a situation where the proponents' own testimony demonstrates an existing demand for milk and the savings that could result from a change are not substantial, the requirement should not be changed.

DI's exception to the recommended decision on this issue repeats the cooperative's contention that the Class I utilization of the Nashville market will be dramatically increased by a series of forthcoming events. In addition, DI asserts that markets that have high Class I utilization should have high touch-base requirements.

The probability of a significant increase in the Nashville market's Class I utilization is discussed at length in this decision. Furthermore, the absolute level of a market's Class I utilization is only one aspect of the market's supply-demand situation. As has been stated above, touch-base requirements should help insure that milk supplies are available to the fluid market. With respect to the Louisville market, the record of this proceeding includes some evidence that at least one distributing plant has experienced some difficulty obtaining an adequate supply of milk from local producers. As a result, this decision does not lower the touch-base requirement of the Louisville order. However, the record contains no evidence that any distributing plant regulated by the Nashville order has been unable to obtain an adequate supply of milk. Absent any demonstration that additional producer deliveries are necessary to assure an adequate supply of milk for the fluid market, there is no reason to increase the touch-base requirement of the Nashville order.

¹ Official notice is hereby taken of the Assistant Secretary's decision adopting a Federal milk order for the Alabama-West Florida marketing area, issued January 28, 1982 (47 FR 5124). The Alabama-

5. Provisions of the Nashville order relating to the procedure for paying producers.

The Nashville order should be amended to allow handlers to pay those producers for whom a cooperative association is not collecting payments.

The order now provides that handlers shall pay the total classified use value of milk to the market administrator, who in turn pays individual producers and cooperative associations the uniform (or base and excess) price for their milk. Both the partial and final payment requirements of the order are handled this way. Under the change adopted herein a handler could request that the market administrator return to the handler an amount equal to the sum of the individual payments otherwise due the handler's producers for partial and final payments in the same manner that lump-sum payments currently are made to cooperative associations. The handler in turn would pay individual producers on or before the dates they otherwise would be paid by the market administrator. Any handler who is determined to be delinquent with respect to any payment obligation under the order would forfeit the opportunity of making such payments to producers.

Kraft, Inc., proposed that handlers be given the option of paying nonmember producers on or before the dates payment would otherwise be made by the market administrator. The witness for Kraft stated that the proposed change would benefit the market by (1) giving proprietary handlers the ability to generate "goodwill" from paying their independent producers with company checks, and (2) reducing the cash-flow burden on handlers that results from the time needed to channel all producer payments through the market administrator.

The witness indicated that Kraft currently pays its independent producers a premium which is made on a company check. Since Kraft maintains a payroll system to process these over-order payments, the witness contended that assuming the entire producer payroll would not significantly affect Kraft's cost of operation, but it would relieve the market administrator of a substantial part of the burden of making payments to each independent producer twice each month.

The Kraft spokesman also emphasized the cost to handlers of the current payment plan, and introduced evidence that the market administrator was able to earn over \$63,000 in 1980 from short-term investments of payroll funds. Although the money was distributed to producers in the form of an increased uniform price, Kraft's witness

introduced the figure as an estimate of the cost to handlers of the present payment system.

The Kraft witness emphasized the importance Kraft places on paying its producers with a company check. He indicated it was one of the few ways a proprietary handler has of establishing and maintaining a good business relationship with the supplier. The witness stated that as long as producers are assured of receiving prompt and full payment, there is no justification for denying a proprietary handler the opportunity to generate goodwill by paying producers with a company check.

The spokesman for DI indicated that the cooperative association opposed the Kraft proposal because it would reduce the price paid to producers by approximately 2 cents per hundredweight and because it would result in handlers who purchase their supplies from cooperative associations being placed at a competitive disadvantage because they would be forced to make their payments two days earlier than other handlers. The witness stated that the current payment provisions of the Nashville order are appropriate and should not be amended as proposed.

The provisions of the order that specify the procedure for payments to producers are designed to assure that producers are paid promptly and properly for their milk. Although the current provisions are adequately serving this purpose, it is concluded that certain modifications can be made in the payment procedure that will accommodate Kraft's basic desire and at the same time recognize certain concerns of DI. Kraft's basic interest appears to be that of making payments on its own checks to the independent producers supplying it with milk. A concern of DI is that any changes in the payment procedure not depart from the current requirement that all handlers in the market make their payments for milk at the same time.

These varying interests can be met by continuing to require that all handlers transfer their partial and final payments for milk to the market administrator. Handlers then should be permitted to request that the market administrator transfer to the handler an amount equal to the sum of the payments due the handler's independent producers at the same time and in the same manner that lump-sum payments are made to cooperative associations. Such handler would then be responsible for paying producers the amounts they otherwise would receive from the market administrator on or before the dates specified for the market administrator to

make partial and final payments to producers. To assure prompt payment by handlers, the order should specify that a handler would forfeit the privilege of making payments to producers if the market administrator determines that the handler is delinquent with respect to any payment obligation under the order. A handler could regain the payment privilege by meeting all prescribed payment obligations for three consecutive months.

If payments to the market administrator were not required, as Kraft proposed, handlers that purchase milk from cooperatives would have to make payments two days before payments would be required of handlers that have independent supplies. Therefore, due dates for payments to the market administrator, payments to cooperative associations and payments to individual producers should not change. All handlers thus would continue to be required to make payments to the market administrator at the same time. This places them on an equal footing in terms of the time that they must have money available for their milk purchases. There would be no monetary advantage to handlers based on whether they obtain their supplies from independent producers or from cooperative associations. Handlers who purchase milk from independent producers could receive lump-sum payments representing the sum of the payments due their producers but they would be obligated to pay producers within two days. Since all handlers would continue to pay the market administrator, as is now required, handlers who choose to utilize this payment procedure will not obtain a competitive advantage over other handlers.

It should be recognized that the payment procedure in the order is not designed to enhance producer returns. Any income generated by the market administrator from short-term investments of monies that ultimately will be paid to producers represents only an incidental benefit of the payment plan. The payment plan, however, is not intended to serve as a method of increasing the blend price. Accordingly, loss of interest income should not be a determining factor when changes in the payment plan are considered.

Both DI and Kraft filed exceptions to the payment procedure outlined above. DI merely repeated its contention that any change in the payment plan would lower returns to producers and place handlers who purchase their milk supply from cooperatives at a competitive

disadvantage. The points raised in DI's exceptions were carefully considered in reaching the recommended decision. Further consideration of the issue in light of the exceptions does not compel a different conclusion now. DI's exceptions are denied.

Kraft's exceptions stated that the proposed payment plan would not provide proprietary handlers with any cash-flow relief and maintained that the movement of funds constituted "**** an awkward trail of paper exchange resulting in additional burdens to handlers and the market administrator." In addition, Kraft stated that the recommended plan, because of its requirement that payments continue to be made through the market administrator, would place Nashville handlers at a competitive disadvantage vis-a-vis handlers regulated by surrounding Federal orders. The record of this proceeding contains no discussion of the effect of the payment procedure of this order on inter-order competition among handlers. Consequently, Kraft's exception on this point cannot be addressed in this decision.

With respect to Kraft's other objections, the Department is aware that the recommended payment plan would not give proprietary handlers as much payroll flexibility as they may desire. However, it would allow handlers to pay producers directly. Moreover, handlers who chose to utilize this procedure would gain some cash flow relief since the money for producer payments would be in their accounts, rather than the market administrator's account, until the producers cashed their checks. Also, the payment system preserves intra-order handler equity in that it requires all handlers to release funds to the market administrator at the same time. As the recommended decision indicated, this approach does address the primary concerns stated by Kraft and DI, and it is based on evidence contained in the record. Accordingly, Kraft's exceptions are denied.

6. Diversions between pool plants under the Nashville order.

The Nashville order should be amended to permit milk to be diverted from one pool plant to another, with the diverting handler retaining the responsibility for reporting and paying for the milk.

Kraft, Inc., proposed this change to eliminate unnecessary hauling and pumping of milk which it claims is presently required to accommodate movements of milk between pool plants. Kraft's witness stated that the current order provisions discourage handlers

from providing supplemental supplies to other pool plants. He indicated that on at least four occasions over the past three years other pool plants have requested supplemental supplies from Kraft's plant at Nashville. These transactions were complicated, he said, because Kraft could not divert milk directly to the purchasing plant and still consider the producers as Kraft's producers. On one occasion, the witness noted, Kraft "loaned" producers to another plant. The buying handler then became the reporting handler for the milk but paid Kraft an over-order premium. Kraft in turn paid the premium to the producers. The witness indicated that on other occasions Kraft received milk at the Nashville plant, reloaded the milk and transferred it to the other plant. The witness stated that allowing diversions between pool plants would eliminate the paperwork involved in "loaning" producers and the unnecessary pumping and hauling required for transfers.

DI opposed the proposal. Its witness stated that diversion of producer milk between Nashville order pool plants is not required under the marketing conditions that prevail in the Nashville order marketing area. The witness explained that the structure of the Nashville market makes it unlikely that milk will be transferred between pool distributing plants. Only five distributing plants are regularly pooled under the Nashville order. Of these, three are fully supplied by DI, one receives all its milk from independent producers and one (Kraft) receives some milk from NFO and the remainder from independent producers. The witness indicated that in such a market interplant shipments would be rare. In its post-hearing brief, DI further stated that any pool handler who wishes to obtain a supply of milk from independent producers should be willing to be the responsible handler for such producer's milk.

The order should promote the efficient handling of milk by permitting a pool plant operator to divert milk to another pool plant and still retain the producer milk status and payroll responsibility for the milk. This will permit a handler to avoid unnecessary and costly milk movements and handling arrangements merely for the purpose of retaining his status as a handler on the milk. The record indicates that as recently as September 1981, Kraft transferred several loads of milk to a pool distributing plant at Murfreesboro, Tennessee, that could have been shipped directly to Murfreesboro if diversions between pool plants had been recognized by the order.

This change would have no direct effect on the amount of milk pooled, the classification of milk, or the uniform price. It would simply allow shipments between pool plants to be made in a more efficient manner. The fact that in the past the number of shipments that would be affected by this change has been minimal carries little weight. The record shows that the current provisions have caused some inconvenience that can be remedied by the change and that there are no adverse effects on other interested parties in the market.

DI states in its exceptions that diversion provisions of Federal milk orders are designed to facilitate the orderly disposition of a market's reserve supplies. Therefore, in DI's view, diversions essentially should be limited to movements of producer milk to nonpool plants when supplies are not needed for Class I use. Also, DI implies that permitting proprietary handlers to divert milk to other pool plants makes it more difficult for cooperatives to function within the framework of a Federal order.

Diversions provisions were first introduced into Federal milk orders as a way to efficiently accommodate the pooling of a market's reserve milk supplies. When these provisions were written, transfers of milk between plants were a more common marketing practice than diversions of milk from farms to a plant other than the usual plant of receipt. As a result, diversions were sometimes limited to movements of milk to nonpool manufacturing plants. However, as marketing techniques have changed, diversions have become a mechanism which allows handlers to sell bulk milk that is not needed at the handler's plant to a variety of outlets without being forced to engage in uneconomic movements of milk that would otherwise be necessary if the plant operator wishes to remain the reporting handler under the order.

Under current marketing conditions, no purpose is served by limiting diversions to movements of surplus milk to nonpool plants. Limits of this nature do not control the amount of diverted milk that may be attached to the marketwide pool. Rather, they only affect the costs that may be associated with pooling milk supplies. Allowing diversions between pool plants will eliminate the potential for certain uneconomic movements of milk.

For these reasons, the exceptions are denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. The briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Determination

The findings and conclusions of this decision do not require any change in the regulatory provisions of the order regulating the handling of milk in the Tennessee Valley marketing area. It is hereby determined that this proceeding shall have no further applicability to this order.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the Louisville-Lexington-Evansville and Nashville, Tennessee, orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid tentative marketing agreements and orders that are hereby proposed to be amended:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a **MARKETING AGREEMENT** regulating the handling of milk, and an **ORDER** amending the orders regulating the handling of milk in the Louisville-Lexington-Evansville, and Nashville, Tennessee, marketing areas which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Nashville, Tennessee, marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or

before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be May 1982.

The agent of the Secretary to conduct such referendum is hereby designated to be Arnold Stallings.

List of Subjects in 7 CFR Parts 1011, 1046, and 1098

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on November 5, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order³ amending the orders, regulating the handling of milk in the Louisville-Lexington-Evansville and Nashville, Tennessee, marketing areas.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings*. A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Louisville-Lexington-Evansville and Nashville, Tennessee, marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et*

³This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas, and the minimum prices specified in the orders as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreements upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date thereof the handling of milk in the Louisville-Lexington-Evansville and Nashville, Tennessee, marketing areas shall be conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending the orders contained in the recommended decision issued by the Acting Deputy Administrator, Marketing Program Operations, on June 14, 1982, and published in the *Federal Register* on June 21, 1982 (47 FR 26656), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.7(b) is revised to read as follows:

§ 1046.7 Pool plant.

(b) A country plant during any of the months of September through February from which not less than 50 percent, and during other months not less than 40 percent, of milk from persons described in § 1046.12(a)(1) and from handlers described in § 1046.9(c) that is physically received at such plant (except by diversion from other plants), or diverted therefrom pursuant to

§ 1046.13, is shipped to and received at a city plant(s) in the form of milk or skim milk. The operator of a country plant may include milk diverted pursuant to § 1046.13(b) from such plant to a city plant as qualifying shipments in meeting up to one-half of the shipping percentage(s) specified in this paragraph.

§ 1046.13 [Amended]

2. In paragraph (b) of § 1046.13, the section reference "1046.7(a)" is changed to "1046.7(a), (b), or (c)".

PART 1098—MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

§ 1098.7 [Amended]

1. In § 1098.7(a), add the words "pool or" before the word "nonpool."

2. In § 1098.7(b), add the words "pool or" before the words "nonpool plant pursuant to § 1098.12."

§ 1098.13 [Amended]

3. In § 1098.13(a), insert the parenthetical phrase "(excluding such milk that is diverted from another pool plant)" after the words "dairy farmer".

4. In § 1098.13, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§ 1098.13 Producer milk.

(b) Diverted by the operator of a pool plant or a cooperative association from a pool plant to another pool plant without limit during the month, or to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted;

5. In § 1098.31, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 1098.31 Payroll reports.

(c) On or before the 21st day after the end of each month, each handler who elects pursuant to § 1098.73(d) to pay producers shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during the month:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

§ 1098.41 [Amended]

6. In § 1098.41(b)(2), insert the words "and in milk diverted to such plant from another pool plant" after the phrase "a handler described in § 1098.9(c)".

7. Section 1098.42(a) is revised to read as follows:

§ 1098.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divantee-plant after the computations pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b);

(2) If the transferor-plant or divortor-plant received during the month other source milk to be allocated pursuant to § 1098.44(a)(7) or the corresponding step of § 1098.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divortor-handler received during the month other source milk to be allocated pursuant to § 1098.44(a)(11) or (12) or the corresponding steps of § 1098.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divantee-plant.

8. In § 1098.73, paragraph (d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 1098.73 Payments to producers and to cooperative associations.

(d) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator,

on or before the second day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and the average butterfat content of milk for which payment is being made, including for the months in which base and excess prices apply, the pounds of base and excess milk;

(3) The minimum rate(s) at which payment to the producer is required by the order and the rate(s) of payment used if such rate(s) is other than the applicable minimum rate(s);

(4) The amount and nature of any deductions from the amount otherwise due to the producer, including the amount and rate per hundredweight of deductions made pursuant to § 1098.88; and

(5) The net amount of payment to the producer.

* * * * *
[FR Doc. 82-30913 Filed 11-9-82; 8:45 am]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 82-011]

Viruses, Serums, Toxins, and Analogous Products; Revision of Avian Mycoplasma Antigen Standard Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Standard Requirements for Avian Mycoplasma Antigen. As proposed, the amendment would delete the requirements for Mycoplasma Gallisepticum Tube Antigen, a product which is no longer licensed, and would add standards for Mycoplasma Meleagridis Antigen, a product which one firm has been licensed to produce since the last revision of these standards. The purpose of this proposed action is to remove standards which are no longer used and to add standards which have been recently developed. Standard Requirements for the other Avian Mycoplasma Antigens remain unchanged.

DATE: Comments must be received on or before January 10, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, MD 20782.

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "non-major" rule. This proposed revision would not change any product requirement. It would simply delete an obsolete standard and add a standard for one product which is consistent with the producer's current Outline of Production filed with Veterinary Services (VS) in accordance with 9 CFR 114.8.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not result in a significant economic impact on a substantial number of small entities. There is currently only one USDA-licensed establishment producing Mycoplasma Meleagridis Antigen. This establishment is not considered a small entity; i.e., a business which is independently owned and operated and

which is not dominant in the field of veterinary biologics manufacturing.

Standard requirements consist of test methods, procedures, and criteria established by VS for evaluating biological products for purity, safety, potency, and efficacy. Until standard requirements are developed by VS and are codified in the regulations (9 CFR Part 113), test methods, procedures, and criteria in the evaluation of a product are developed by the licensee and are written into an Outline of Production, which is required to be filed with VS in accordance with 9 CFR 114.8.

When standard requirements have been developed by VS through experience with a number of firms' products, as specified in Outlines of Production and/or through the development of scientific knowledge at National Veterinary Services Laboratories or elsewhere, such requirements are codified in the regulations. Codification assures uniformity and general applicability of the requirements to all licensees. Until now standard requirements for Mycoplasma Meleagridis Antigen were found only in the firm's Outline of Production. This amendment would make uniform requirements available to the general public and applicable to all licensees. All references to Mycoplasma Gallisepticum Tube Antigen found in § 113.202 of the Standard Requirements would be deleted since the product is no longer licensed by USDA.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Section 113.202 would be revised to read:

§ 113.202 Avian Mycoplasma antigen.

Mycoplasma antigens shall be prepared from organisms, grown in broth cultures, that are inactivated and standardized. Plate antigens shall be stained with a dye acceptable to Veterinary Services (VS). Final container samples of completed product from each serial shall be tested for density, preservative content, homogeneity, hydrogen ion concentration, purity, sensitivity, and specificity in accordance with the conditions prescribed for each test. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Density requirements.* A 2.5 ml sample of completed antigen shall be diluted with 2.5 ml of buffer solution formulated in the same manner as the vehicle of the antigen being tested in a

modified Hopkins tube and then sedimented at 1,000 x g in a refrigerated centrifuge at 20° C for 90 minutes. If the packed cell volume of the completed antigen is not 1.2 percent (± 0.4 percent), the serial is unsatisfactory.

(b) *Preservative requirements.* Preservatives shall be as specified in the Outline of Production filed with VS in accordance with 9 CFR 114.8. If phenol is used, a direct titration with a standardized bromide-bromate solution shall be made. If the final concentration of phenol is not 0.25 percent (± 0.05 percent), the serial is unsatisfactory.

(c) *Homogeneity requirements.* (1) Plate antigen shall be checked on a plate for homogeneity and autoagglutination. If plate antigen is not homogeneous and free of large visible particles (strands or clumps) or if it autoagglutinates, the serial is unsatisfactory.

(2) Stereo-microscopic examination shall be used when necessary to evaluate a granular appearing antigen.

(d) *Hydrogen ion concentration.* The hydrogen concentration shall be determined with a pH meter which has been standardized with a pH buffer just prior to use. The pH of *Mycoplasma Gallisepticum* Antigen shall be 6.0 ± 0.2 . The pH of *Mycoplasma Synoviae* Antigen and *Mycoplasma Meleagridis* Antigen shall be 7.0 ± 0.2 .

(e) *Purity requirements.* The antigen shall be tested for viable bacteria and fungi as prescribed in §113.26.

(f) *Sensitivity requirements.* The reactivity of each antigen shall be tested by comparing the agglutination reactions of each serial of antigen with the agglutination reactions of a standard reference antigen which is supplied by or acceptable to VS. A set consisting of five known positive and five known negative serums shall be used. The negative serums shall be tested against the antigens undiluted and the positive serums shall be tested against the antigens diluted 1:4 in buffer solution formulated in the same manner as the vehicle of the antigen being tested. If negative serums do not have negative reactions in this test, the serial is unsatisfactory. If the test antigen and the reference antigen do not have the same agglutination reactions with at least four of the five positive serums used, the serial is unsatisfactory.

(1) The sensitivity of *Mycoplasma Gallisepticum* Antigen shall be tested using a set of chicken and a set of turkey serums (the positive serums shall have varying degrees of reactivity from weakly positive to strongly positive).

(2) The sensitivity of *Mycoplasma Synoviae* Antigen shall be tested using chicken serums.

(3) The sensitivity of *Mycoplasma Meleagridis* Antigen shall be tested using turkey serums.

(g) *Specificity requirements.* *Mycoplasma Synoviae* Antigen shall be examined for cross-agglutination with five *Mycoplasma gallisepticum* antisera (chicken origin); *Mycoplasma Meleagridis* Antigen shall be examined for cross-agglutination with five *Mycoplasma gallisepticum* antisera (turkey origin) and five *Mycoplasma synoviae* antisera (turkey origin). Tests shall be conducted with undiluted antigen. If cross-agglutination occurs, the serial is unsatisfactory.

(37 Stat. 832-833); 21 U.S.C. 151-156)

Done at Washington, D.C., this 3rd day of November 1982.

John W. Walker,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-30643 Filed 11-9-82; 8:35 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 317, 318 and 319

[Docket No. 79-714P]

Control of Added Substances and Labeling Requirements for Cured Pork Products; Updating of Provisions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would modernize the Department's regulatory program to assure that cured pork products are accurately labeled at all stages of commerce. Labeling statements would be based on the style and type of the product (e.g., boneless ham). Current standards which limit the amount of added water and other substances contained in cured pork products would be replaced with standards specifying a minimum meat protein content on a fat free basis (PFF) present in the various finished cured pork products. The products would still be subject to the limitations for ingredients in Part 318 of the Federal meat inspection regulations. In addition, unnecessary restrictions on optional ingredients in the standard for "chopped ham" would be eliminated. This revision would permit a broader range of cured pork products to be marketed, provided they meet the applicable standard and are accurately labeled. Compliance procedures to assure conformance with the proposed standards would be based on contemporary statistical science applied to current processing

capabilities and would provide inspectors with additional support in carrying out their inspection responsibilities. Lastly, the proposal provides for relabeling and/or processing requirements for products not in conformance with regulatory standards.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See Also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator, Food Safety and Inspection Service, has made an initial determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Under the proposal, industry would have greater assurance that unfair competition would be prevented, and the new sampling system would reduce sampling costs. Consumers would benefit from improved assurance that cured pork products are accurately labeled and in compliance with the Department's standards for those products. The proposal would also allow a wider range of products to be marketed.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, P.L. 96-354 (5 U.S.C. 601). Under the proposal, industry would have greater assurance that unfair competition would be

prevented, and the new sampling system would reduce sampling costs. An estimated 1,023 small plants produce about 10 percent of the industry's cured pork products. The proportion of small plant production that is cured pork products averages an estimated 8 percent. Only 15 percent of these small plants are primarily producers of cured pork products, by virtue of having more than 50 percent of their output devoted to such products. About 60 percent of the small plants have less than 10 percent of their production in cured pork products. For about 40 percent of these plants, the contribution is less than 2 percent.

Although the number of small plants that would be affected by this proposal is large, the projected economic impact on them is not. The new standards and Department compliance procedures would simply provide a new way of assessing existing products. They would require nothing new of the regulated industry, and, in fact, would be deregulatory in that they would permit a wider range of cured pork products to be marketed.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Office. Comments should reference the docket number located in the heading of this document. All comments submitted pursuant to this notice will be made available for public inspection in the FSIS Hearing Clerk's office, at the address above, between 9:00 a.m. and 4:00 p.m., Monday through Friday.

The Proposal

The Food Safety and Inspection Service (FSIS) of the Department of Agriculture is proposing to amend its current regulations which specify the amounts of added water or other substances allowed in cured hams, pork shoulder picnics, pork shoulder butts, and pork loins and chopped or ground products made therefrom, and prescribe procedures for determining compliance with these requirements. The proposal would establish standards and labeling requirements for cured pork products based on the minimum percentage of meat protein on a fat free basis (PFF) present in the finished cured pork product.

There are several reasons for proposing these changes. First, the Department has been severely criticized in a report issued by the Department's

Inspector General.¹ The report criticized the current procedures used by the Department to enforce the standards for cured pork products in section 319.104 of the Federal meat inspection regulations (9 CFR 319.104). The Inspector General has strongly recommended that these methods and procedures be revised in order to provide better regulatory control of these products.

After carefully reviewing present methods for enforcing standards for cured pork products, the Department has determined the best solution to the problems raised by the Inspector General should encompass a general reform of the present system. One of the principal changes being proposed calls for standards based on the amount of meat protein that a particular cured pork product must contain, rather than the amount of added water or added substances in that product. This decision rests on the fact that current methods used to evaluate the amount of "added water" and added substances in cured pork products are outmoded due to significant technological advances over the last 10 years in the processing of cured pork products.

Second, the industry has requested the department to allow the preparation of a broader variety of cured pork products containing "added water" than currently allowed. The Department determined that a revision to allow the industry to produce a wider variety of cured pork products would be advantageous to consumers, as well as industry, since consumers have shown a strong preference for many cured pork products that contain "added water." Therefore, this proposal would permit the industry to produce a wider variety of cured pork products, as long as these products are accurately and descriptively labeled.

Individual establishments would retain responsibility for producing cured pork products which are wholesome and not otherwise adulterated or misbranded. However, the Department recognizes that its present compliance program may not be providing full protection to consumers and industry. Therefore, the Department is proposing to implement strengthened regulatory controls by providing inspectors with additional support in carrying out their inspection responsibilities through a centrally administered sampling and evaluation program. Regulatory controls placed upon an establishment would vary inversely with the degree of the establishment's compliance with

published labeling and PFF standards. The decision to strengthen regulatory controls is also in response to the specific recommendation by the Inspector General that the Department sample cured pork products either more often or in a sufficient amount to reasonably ascertain that laboratory results are representative of a lot or of the overall production. This proposal would address that recommendation. In addition, this proposal would set forth the administrative actions to be taken when the Department discovers, in the plant or in the marketplace, that a particular cured pork product is adulterated or misbranded, or plant processes are not controlled adequately to assure that regulatory requirements are being met.

The following is a more detailed description of the historical aspects of curing pork products, past and present labeling requirements for cured pork products, a description of the term Protein Fat Free, the development of Protein Fat Free values and proposed compliance procedures.

1. *Development of Curing Processes for Cured Pork Products.* In the early days of our Nation, settlers cured pork by applying a dry mixture of salt, and later nitrate, directly to the meat during the winter months. The meat hung outside in a protective shelter, but in the cold temperature to prevent spoilage, giving the salt or salt and nitrate mixture time to be absorbed. After the meat was cured, it could withstand spoilage temperatures in the warmer months and provided a year round supply of pork to early Americans. After Congress enacted meat inspection laws early in the 20th century, regulatory concern focused mainly on sanitation and proper handling of the meat, making sure that no more than the maximum permitted amount of curing ingredients was being applied. This type of dry cured product is still being produced, although it represents only a small percentage of the pork being marketed today.

Another method of curing was developed that used a mixture containing salt, nitrite and/or nitrate dissolved in water—commonly called a curing solution or pickle. Large vats or barrels were filled with a pork product and then covered with the pickle. The pork absorbed much of the pickle and new "cover pickle" was added from time to time during the process to keep all product covered. Utilizing this process, pork products could contain added water since the product might absorb more water than would be later lost during smoking or cooking. Therefore, in addition to being

¹ A copy of the Inspector General's Audit Report No. 38605-3-Hq is available for public inspection in the office of the FSIS Hearing Clerk.

responsible for assuring the dry curing process produces safe and wholesome product, the Department had the added responsibility to prevent economic adulteration which might occur when excessive water is retained in the finished product. The Department's inspector fulfilled this responsibility by performing a number of inspection tasks, such as weighing cured products in bulk, both before and after the cure was added, measuring the amount of pickle used, and calculating the amount of water lost during further processing.

However, the demand for commercially cured products continued to grow and faster curing methods were needed to increase production. Processors developed a new curing method in which the pickle was pumped through a needle into the arterial system of certain pork cuts, such as hams and shoulders. This method became known as artery pumping. By injecting the pickle solution into the main artery of each ham or shoulder, it was quickly distributed throughout the natural vascular system, thus drastically hastening the curing process. In addition, the curing materials (salt, nitrate and/or nitrite) were distributed more evenly resulting in fewer pockets of internal spoilage caused by bacterial growth in those areas which were not properly cured. This method of curing pork products is still used.

A further refinement, called stitch pumping, resulted from the development of equipment with needles which injected pickle directly into the product at a number of points simultaneously. This method dispensed with the need of locating an artery into which the solution was injected. This method is still widely used by industry in the preparation of cured pork products.

The most recent innovation in the curing of pork products consists of new equipment which tumbles (massages) cuts, especially hams. The procedure consists of mechanically tumbling the cuts in specially designed large containers, either after or at the same time as they receive or absorb the pickle solution. This process is generally known as massaging, because of the friction which occurs when the cuts rub against one another and against the equipment during the massaging (tumbling) process. Massaging appears to have the general effect of tenderizing the product and making it more uniform in appearance. It has two additional effects: (1) Most of the pickle that otherwise drained from these cuts when they were only pumped or injected remains in the meat as a result of the massaging, and (2) a considerable

amount of water soluble and highly digestible protein, which formerly was dissolved in the pickle and lost in the drainage from these cuts, remains in the meat. These are important effects and are further considered in the later discussion on improvement of enforcement techniques.

2. Current Standards and Labeling Requirements for Cured Pork Products. The various regulatory requirements surrounding cured pork products, which protect the economic interests of consumers and industry, evolved slowly over the years as innovations appeared in the industry. As new manufacturing techniques were developed, new standards were added to meet industry advances. At the same time, the Department was becoming more concerned with the increased burdens placed on its own inspection personnel, and recognized a need to develop information on compliance of inspected product through the use of less labor intensive enforcement procedures.

a. The basic standard—raw, uncured weight. The intent of early standards for cured pork products was to permit the introduction of curing pickle into the product as long as the finished product after processing was returned to its raw, uncured weight. This was the first standard for cured pork products. After injection with the pickle, the article obviously weighed more. However, with drainage and with smoking or other cooking involved in the preparation of the finished meat food product, enough moisture would be lost to permit the finished product to return to its raw, uncured weight, thus complying with the standard.

The Department's inspector checked compliance of finished product with the raw, uncured weight requirement by weighing products in bulk, both before and after the curing pickle was added, measuring the amount added, and calculating the weight lost during subsequent processing steps.

b. Exceptions to the basic standard. Because of differences in methods of processing, the producers of canned hams requested that the raw, uncured weight standard for ham cooked in a can be modified. They indicated that products which were injected with pickle and then cooked in a can could not release moisture during cooking, thereby preventing their return to the raw, uncured weight. Since there was no technologically feasible method to remove added moisture from canned pork products, the Department permitted these canned products to retain up to 8 percent additional weight above raw, uncured weight. This special exemption

continues to be allowed today and is presently codified in § 319.104(c) and (e) of the Federal meat inspection regulations (9 CFR 319.104(c) and (e)). It should be noted that no special labeling requirements were imposed to differentiate the canned cured pork product from the cured pork product returned to its raw, uncured weight. It was initially thought the different container would signify some difference in the product. However, since processors were questioned by purchasers as to the reason for the relative wetness of the canned products, the practice was established of using, in conjunction with the product name, the labeling terminology "In Natural Juices". That labeling continues to this day for cured pork product cooked and sold in closed containers.

The Federal meat inspection regulations (9 CFR 319.104(a)) contain another exception to the raw, uncured weight requirement for cured, unsmoked "Boneless Pork Shoulder," "Boneless Pork Shoulder Butts," or pieces of pork loin in casing or similar containers of consumer size. Although they have had curing pickle introduced into them, they are sold without being smoked or cooked since they will be normally cooked by the purchaser, and such cooking will cause them to lose the added weight of the curing pickle. This standard, adopted in 1966, reflected the distinction between the need to return to raw, uncured weight for the cooked pork product and a recognition that those cured pork products which had not been cooked should be allowed to retain added moisture as a practical measure. The standard permits their sale with the limitation that the product not contain more than 10 percent added substances as a result of the curing process. No special labeling restrictions are required to indicate the added substances in these products. (However, it should be noted that 9 CFR 317.2(e) does require that the usual cooked products must be labeled as "cooked.")

In adopting § 319.104(a), which covers these unsmoked products, the Department intended to create a distinction between products that had been cooked from those that had been uncooked. At that time, smoking of cured pork products also involved a certain amount of cooking because of the state of technology. Consequently, the term "smoked" was used to mean "cooked," and "unsmoked" meant "uncooked". Although most smoking still involves heating of some kind, modern technology makes it possible to apply a cold smoke (using no heat). The Department is concerned that the

labeling required may be confusing in light of the change in technology. Therefore, this proposal would change the terminology from "Cured, Unsmoked" to "Uncooked, Cured."

c. *The arrival of the "water added" cured pork product.* In 1962, the Department extended the "water added" exception to the raw, uncured weight standard. For several years (1952-60), the Department's policy was to permit hams to be marketed which had been cooked and not returned to their raw, uncured weight if they were labeled "Imitation." This was in conformity with the Department's longstanding policy, based on statutory interpretation, of requiring product labels to bear the legend "IMITATION" when the product did not conform to published USDA standards.

The meat industry petitioned for a change in this policy, and the regulations were subsequently amended on December 30, 1960, to permit cooked, cured ham products, when sold to consumers, to contain up to 10 percent added water (25 FR 13952). Following opposition by consumer groups, a series of hearings were held after which the Department decided to reinstate the prior regulations (26 FR 9772, October 18, 1961). As a consequence, hams which weighed more than their raw, uncured weight were once again required to be labeled "IMITATION". However, before the Department's action of reinstating the earlier regulation became effective, Armour and Company brought suit challenging the regulation's validity and seeking a permanent injunction. The United States Court of Appeals for the District of Columbia agreed with the Armour contention indicating that "a natural ham is not made into a manufactured or synthetic imitation of a real ham because it has been subjected to a curing process which leaves in it a residue of moisture." (*Armour and Company v. Freeman*, 304 F.2d 404, 408 (D.C. Cir.), cert. denied, 370 U.S. 920 (1962)). Thereafter, the Department amended its regulations to provide for the labeling of hams and other cured pork products containing added water not in excess of 10 percent of the weight of the fresh uncured products (27 FR 5734 (June 16, 1962), 27 FR 5979 (June 26, 1962)).

These amended regulations allow hams and other cured pork products to contain up to 10 percent added water based on the weight of the raw, uncured product, providing the labeling reflects the presence of the added water. The labeling for consumer-size packages must include as part of the product

name, in prominent lettering not less than 1/8-inch height, the term "Water Added" or "up to 10 percent water added". If the product is not placed in a consumer-size package, it is required to be marked with the term "Water Added" or "up to 10 percent water added" the full length of the product. This provision for "Water Added" product is codified in the standards for cured pork products (9 CFR 319.104(d)) and remains in effect today.

d. *Water in excess of the "Water Added" standards.* The standard concerning the addition of water to ham was reopened in July of 1978 in an administrative proceeding (*Pacific Coast Meat Association v. USDA*, (FMIA Docket No. 33, 7/11/78)). In that proceeding, some processors contended that ham should be allowed to contain water in excess of the 10 percent limit in the "water added" standard cited in 9 CFR 319.104(d), and labeled as "imitation ham" or with some other descriptive term. They contended that the Department has no authority to prevent the marketing of wholesome products which are accurately and informatively labeled. Additionally, they contended that with such labeling, some water in excess of 10 percent (e.g., 20 percent) is not an adulterant—economic or otherwise.

In connection with the settlement of that case, the Department agreed to institute rulemaking "for the purpose of determining the amount of added water to be permitted in hams, including canned hams." Additionally, in the interim, processors were permitted to produce and distribute hams containing more than 10 percent added water with the name "Ham and X percent water added," as part of the product's labeling. The "X" represents the actual percentage of added water in the product, which would be a required part of the name when the name is used with a product. Among other things, this proposed rulemaking is intended to be responsive to that agreement. Thus, this proposal does not seek to prescribe the amount of water permitted in the product, but would permit the continued marketing of cured pork products that contain any amount of water as long as they are accurately and descriptively labeled and are in conformance with such labeling declarations.

3. *Protein Fat Free.* The Department is proposing to control added substances (including water) in cured pork products by relating labeling claims to the percentage of protein in the product on a fat-free basis. As further explained later in this proposal, this method was selected since it has a more direct

relationship to consumer interests, and can be more easily enforced. Protein represents the most valuable part of the cured pork product, and the consumer would be best protected by a standard which seeks to assure a minimum amount of meat protein.

In selecting this regulatory approach, the Department is principally concerned in assuring that meat protein levels (found for the most part in lean muscle tissue) are not diluted with added water or other substances, or if so, that appropriate label declarations are made. As is currently the practice, fat content would not be regulated. Fat content in pork products varies, depending on such things as the breed of swine, the individual animal itself, the condition of the animal when marketed, and the feed the animal has eaten. Such factors are obviously beyond the processor's control. Although natural fat is removed in varying degrees during preparation, no fat may be added to these cured pork products. Fat associated with finished product is generally visible or, in the case of canned hams or similar products, controlled to conform to a brand image. This allows consumers to select the product which meets their particular quality preferences.

PFF is a precise quantifiable figure derived from a laboratory analysis that is identical to that presently used for calculating total meat protein and added substance. In calculating the PFF value for a product, the analysis for total meat protein would be employed. Once obtained, the percentage of meat protein would be used to derive the PFF value.²

$$\frac{\text{Percent of meat protein}}{100 - \text{percent of fat}} \times 100$$

4. *PFF—Status with Codex Alimentarius Commission.* As early as 1970, the Processed Meat Products Committee of the Codex Alimentarius Commission, an internationally formed organization of which the United States is a member, requested that the delegations from the Netherlands, Denmark, and the United Kingdom investigate methods of control for cured pork products that would assure conformity in product quality, consumer protection, and fair trade practices. That group reviewed various methods of control of cured pork products. In a 1974 presentation to this group, the United States recommended adoption by the Codex Alimentarius Commission of PFF "as the method of choice in controlling the composition of cooked cured hams and cooked cured product." The

²PFF is calculated using the formula:

recommendation was eventually accepted, and the principal concern became the establishment of PFF values that would be internationally acceptable. Differences of opinion remained, but in 1978 the Codex Alimentarius Commission adopted recommended standards for cooked, cured ham and for cooked, cured pork shoulder.³ Member countries were requested to notify the Codex Alimentarius Commission of their acceptance of the recommended standards. To date, the United States is aware of only one nation, Argentina, which has adopted the Codex Alimentarius Commission PFF standards for cooked, cured ham and for cooked, cured pork shoulder.

After considering the Codex standards, the Department has decided upon this proposal, which adopts the PFF concept as a method for regulatory control for cooked, cured ham and other cooked, cured pork products. However, the United States is not proposing to adopt the Codex Alimentarius Commission values for these products, but rather is adopting values based on the nature of the products currently in the U.S. marketplace. The Department decided to adopt its own PFF values for several reasons. First, the Codex Alimentarius Commission has only two PFF values for cured pork products; therefore, additional PFF values need to be developed for other cured pork products. Second, those PFF values which the Codex Alimentarius Commission had developed are lower than PFF values which this Department would propose in order to reflect the protein content in cured pork products currently being produced in America. Thus, adoption of the Codex Alimentarius Commission PFF values would lead to a lowering of the quality of cured pork products in the U.S. marketplace, and that is not the intent of this proposal.

5. *Development of PFF Values.* The PFF values contained in this proposal are based upon the Department's knowledge and experience in testing cured pork products, and are mathematically equivalent to the added substance and added water values computed by the procedures currently contained in the Department's Meat and Poultry Inspection Manual.⁴ They were obtained by mathematical computations along with an evaluation of the amount of salt, curing ingredients, and fat that

could reasonably be expected in the various cured pork products covered by the proposal. The formulae, computations, and analyses for products covered by this proposal are available from the FSIS Hearing Clerk, Regulations Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

6. *Summary of Labeling Categories.* In taking this action, the Department is proposing standards which require four labeling categories for cured pork products: (1) Common or usual name; (2) (Product) with natural juices; (3) (Product), water added; and (4) (Product) and Water Product—contains (x)% water added. These labeling categories reflect the manner in which similar products are labeled in today's marketplace. Thus, if adopted, the labeling portions of the proposed regulations should have no immediate impact on processors or consumers in terms of familiarity with labeling terminology.

7. *Other Standards and Labeling Modifications to the Present Regulations.* Since this proposal would establish standards for cured hams, pork shoulders, pork shulder picnics, pork shoulder butts and pork loins based on specified PFF values, the standards for such products which are now contained in 9 CFR 319.104 would be revised. Although the standards will be changed, the labeling requirements will, in effect, remain the same thus minimizing any economic burden.

In addition, the proposal would make several modifications to the existing regulations and the manner in which the Department's past policies have been implemented, as follows:

a. PFF values are established for "pressed ham, spiced ham, and similar products" now codified at 9 CFR 319.104(f), and for "chopped ham" codified at 9 CFR 319.105. Appropriate changes to those sections would be made. Previous references to "3 percent moisture added at the time of processing" for these products are no longer necessary as the intent of the proposal is to regulate the PFF content of the final product.

Other provisions of the "chopped ham" standard which specify a variety of optional ingredients would also be deleted under the proposal. The present standard, which is highly specific in this regard appears overly restrictive and inconsistent with the format for standards covering similar products. For example, the standard specifies "dehydrated onions" as an optional ingredient, presumably to the exclusion of a variety of other similar ingredients.

The Department sees no reason why a processor who wishes to include "dehydrated peppers" in such a product and appropriately identify them in the ingredient statement on the product label should be prohibited from doing so. Therefore, these unnecessary restrictions in the standard would be eliminated.

This proposed rule makes reference to the use of Mechanically Separated (Species) (MS(S)) in Chopped, Pressed, and Spiced Ham, based on the provisions of current regulations. A final rule on Mechanically Separated (Species) was published in the Federal Register on June 29, 1982 (47 FR 28214). The specific requirements for use of MS(S) in these cured pork products are set forth in the final rule.

b. The proposal would permit processors to market cured pork products with PFF values below those proposed for traditionally labeled product by providing a new category of product to be labeled "(Product) and Water Product—contains (X)% water added." The maximum percent of added curing solution remaining in the product would be inserted in the parenthesis. For example, the standard for cooked ham, water added would require that the ham contain a minimum PFF value of 17.0. If a processor wanted to use more water which dilutes the protein below the PFF value required by the standard, this proposal would allow the preparation of such a product if it were labeled "Ham and Water Product—contains (X)% Water Added." For labeling purposes, "water added" is equated to the added curing solution because the solution as a whole—not just water—remaining in the product will affect the PFF content. If adopted, this would mean a variety of PFF values would have to be enforced dependent upon the marketing practice of individual firms. Therefore, the Department is proposing that processors may produce such products only at plants for which a partial or total quality control program has been approved and is in effect in accordance with 9 CFR 318.4. The Department recognizes that this does prescribe additional requirements for those plants which might want to produce a product with a lowered protein content. Nevertheless, the Department does not believe that conventional inspection methods, unsupported by in-plant controls which are well designed and carefully monitored, would be sufficient to assure the product would be accurately labeled. The level of added moisture and other substances in the product would be difficult, if not impossible, for

³ A copy is on file and available for public inspection in the office of the FSIS Hearing Clerk.

⁴ A copy of the Manual is on file and available for public inspection in the office of the FSIS Hearing Clerk.

the inspector to intelligently monitor without the ability to resort to in-plant quality control data.

Consumers might believe that this aspect of the proposal would permit the marketing of inferior products, and that they would be paying pork prices for the additional "added water" in their product. However, with these products clearly labeled as to this percentage of added water, there would be an opportunity for informed choices to be made by the public.

Although there is no direct information on differential pricing of cured pork products containing various amounts of water, there has been a similar situation studied by the Department. In December 1979, USDA released an analysis to determine the economic impacts of net weight labeling.⁵ This study examined consumer prices for chicken breasts bought under various net weight systems. The situations are similar to the extent that in both the net weight case, and the "water added" cured pork product case, there is a concern that consumers would be charged product prices for excess amounts of water.

The net weight study found that although the type of net weight labeling can alter the information a consumer receives, it will not affect the real cost of the product. For example, if the weight of water is included as part of the product weight, the per pound price of the product will decrease accordingly. In the analogous situation of cured pork products, we may similarly expect that consumers will not pay pork prices for "added water."

The actual situation of "water added" cured pork products is somewhat dissimilar to the net weight issue in that other factors may enter into consumers' economic concerns. These factors, which include fat content and palatability, may result in a more desirable product with added water levels. This more desirable product may, in fact, command a higher price on the market.

In a recent study by Rhodes and Nute⁶, laboratory panels established that increasing tenderness and juiciness were associated with the higher "added water" levels. They further concluded: "These results give no support to the view that today's consumers are

dissatisfied with canned pasteurized ham of higher water content than pork meat or that they would appreciate and prefer this product if offered with no more water present than in pork."

c. In 9 CFR 319.104(c) and (e), the current regulations provide for an 8 percent "added substance" exception to the raw, uncured weight standard for the traditional canned products. As indicated earlier in this document, this Department has approved the use of the terminology "with natural juices" on the label in conjunction with the product name. Under the proposal, the maximum of 8 percent added substances in traditional canned, cured pork products would be abandoned, thus allowing such products cooked and sold in closed containers the same latitude in water content (based on the corresponding PFF value) as any other cured pork product.

Conversely, product not cooked in closed containers, but having a minimum PFF value corresponding to the PFF value analogous to that of traditional canned product would be permitted to be labeled as "(Product) with natural juices." For example, if the proposal is adopted a ham which has not been cooked in a can or other closed container but has a minimum PFF of 18.5 would be labeled "Ham, with Natural Juices."

d. The current regulations (9 CFR 319.104(d)) provide that water not in excess of 10 percent of the raw, uncured weight may be added to products provided the product is labeled as prescribed. This proposal would not affect the nature or labeling of such products now in the marketplace. It would, however, allow other products, such as canned hams, presently not permitted to be prepared and labeled as "Water Added", to be so prepared and labeled.

e. The Department's policy has been to require that bacon weigh no more after curing and smoking than the uncured belly weighed in the raw, uncured state. This is based on interpretation of the regulations and the practices of the industry. However, the standards for cured pork products (9 CFR 319.104(a)) might be interpreted to permit the manufacture of water added bacon. The Department knows of no manufacturer who has made such a product. Moreover, bacon contains only a small amount of lean and a significant increase in added water could change the nature of the product since the added water associates with the lean portion rather than the fat. Therefore, the Department will continue to require that bacon not exceed its raw, uncured

weight after curing and smoking. This policy is reflected in the proposed regulation.

f. The requirements for cured pork products are set forth in the chart in the proposed standard for these products (§ 319.104 and § 319.105).

8. *Regulatory Control. a. Background.* Standards for cured pork products were first enforced by a weight system in which the inspector compared the weight of the pork product before it was cured to the weight of the product after it was cured. Two methods were used to weigh the pork products, both of which were impractical for both the industry and the Department's inspector. In the first method, the inspector would select individual samples of pork products which would be weighed before and after the pork products were cured. In the second method, the inspector would weigh a group of the pork products (called a "lot") before and after the curing process. In both methods, the inspector would then compare the weights taken before and after the curing process to determine if the cured pork products were in compliance with the standards set for those products. Because of the obvious practical problem of weighing each piece of pork product, the normal practice was to weigh a "lot". However, the procedure of weighing a "lot" was also time consuming and, similarly, impractical.

Because of the practical problems associated with these procedures, the Department developed a compliance program based on the laboratory analysis of finished products. This compliance system, which is in effect today, utilizes regulating limits applied to individual sample results of individual products, and to the statistical averages of such results produced over certain periods of time. An individual sample result may be used to demonstrate an entire lot is not in compliance. Likewise, a running average may be used to demonstrate an entire lot is not in compliance, but will also provide information on how well an establishment is controlling its processing techniques to assure that product leaving a plant is in compliance with USDA standards. This procedure is set forth in the Department's Meat and Poultry Inspection Manual.

The current system is based on the proportion (ratio) of the average natural water content to the average amount of protein in the raw product. Samples of finished cured pork product are analyzed. The amount of natural water in the pork product is estimated by first determining the percent of protein and multiplying by the ratio. The resulting

⁵ *Assessment of Proposed Net Weight Labeling Regulations for Meat and Poultry Products*, Agricultural Economic Report No. 443, Economics, Statistics, and Cooperatives Service, USDA, 1979. A copy is on file and available for public inspection in the office of the FSIS Hearing Clerk.

⁶ "Acceptability of Canned Ham of Differing Water Content," Rhodes and Nute, 31 J. Sci. Food Agriculture 935-942 (1980).

figure is then subtracted from the total percent water found in the cured pork product by laboratory analysis to give the amount of "added water".

The water/protein ratios currently used resulted from analysis of various raw, uncured pork cuts as a part of the regulatory compliance procedure, the scientific literature and data from peer groups. They are as follows: smoked ham—3.79, smoked picnics, butts, and miscellaneous cuts—4.0, canned hams, loins, and other cuts—3.83, and canned picnics—3.93.

In order to compensate for variability in raw materials, processing, sampling, and analytic methodology, the Department set a "tolerance" for the regulatory limits to assure that packers would not be unfairly penalized for such variability as was beyond their control.

The use of this method of calculating the amount of added water in cured pork products increased as new rapid cure methods by industry were put into place. Curing processes such as artery pumping and stitch pumping resulted in cured pork products assimilating and holding larger quantities of water and curing agents than had been possible under older and more traditional curing techniques. The use of these laboratory techniques enabled the Department to improve its regulatory efforts as industry advances were made; however, more recent technology has caused a decline in the overall effectiveness of current compliance procedures, and revisions are necessary.

b. *The need for a new enforcement technique.* A principal reason that a new enforcement technique is needed rests in the fact that tolerance levels used to evaluate laboratory results for added water appear to be no longer appropriate. Some processors intentionally manufacture cured pork products which exceed the added water limits, and because of good process control, are able to stay within the limits due to the large tolerance for variability. In effect the tolerance expands the limits set in the standards to the higher limits permitted due to variability. For example, the standard for a "ham, water added" is established in section 319.104(d) of the Federal meat inspection regulations (9 CFR 319.104(d)) and allows only up to 10 percent added water in that product. However, when a sample of an individual cured pork product is analyzed, the tolerance for a single sample of this product is 5.8 percent above the 10 percent limit. Therefore, a single sample of a "ham, water added" product can have up to 15.8 percent added water before the "lot" of that product is considered out of compliance. These tolerances were valid

years ago when first established, but today's technology is much more sophisticated and permits a packer to reduce uncontrolled variability to much narrower limits.

In this regard, the Office of Inspector General's report states that " * * * we found that because of improved technology and control over the production process, the plants can and do operate at the upper levels of the established tolerance levels. Current tolerance levels only identify flagrant violations of the added water limits and allow continued production in excess of the limits." The report also states:

"Although * * * (the agency) * * * had been aware of deficiencies in its inspection procedures, it had not revised its procedures to control the amount of water added to hams during the curing process and to assure that the amount of water in the finished product was within regulated limits. We found that current processing procedures allowed plants to exceed the allowable limits for added water without * * * (the Agency) * * * detecting the excessive water because laboratory procedures were out-of-date."

Because of the physical nature of pork products, the current calculations used to determine the amount of "added water" in a cured pork product are not exact. As noted above, the department uses an "average" number for calculating the amount of water and an "average" number for calculating the amount of protein which is naturally occurring in the pork product. Thus, the results of the equation are also an average or estimate.

In addition to these concerns, the present system lacks efficiency and effectiveness since the frequency and necessity for sampling and laboratory analysis is not structured to concentrate on high risk problem areas, where there is a greater chance for violations to occur. This is also an area in which the Inspector General recommended that the program be improved, and the Department is attempting to do so in this proposal.

Because of this, it is difficult to identify specific products in the marketplace as being in violation of the limits imposed by the standards. The use of statistical averages is based on sample results, some lower and some higher than the average. Therefore, some product is passed which is higher than the average. If the average approaches the regulatory limit for added water, some part of the product passed and within the tolerance may also be above the regulatory limits.

c. *Alternatives.* In recognizing and considering the need to revise the

standards and regulatory controls for cured pork products, the Department has considered various options in addition to those changes being proposed in the document. The first two options were modifications to the present system. The first option considered was to codify the present inspection procedures for determining added substances or added water as set forth in the Meat and Poultry Inspection Manual. These provisions worked well when first applied. However, changes in the processing of cured pork products, the increased use of advanced processing technologies, and changing consumer demands for greater varieties of products have caused the cured pork products now being produced to be very different from those which were produced at the time of the development of the current inspection procedures. Thus, this option was rejected as not being viable.

The second option was to substantially increase inplant observations by the Department's inspectors, including weighing of components and the pork products throughout the production process. That would assure that the cured pork products are produced in accordance with the current weight-gain requirements of the regulations. An intensified inspection effort would be in addition to the present control system, and could provide greater assurance that the cured pork products were being produced in compliance with existing standards. However, intensified inspection would result in a substantial, unacceptable increase in inspection costs.

A third option would have required extensive market basket testing by selecting cured pork products from grocery shelves for laboratory analysis, with results published for public review. This option was found unacceptable since the Department cannot permit product to leave an official establishment if it is in violation of the requirements of the Federal Meat Inspection Act and regulations. Since a cured pork product leaving an official establishment carries an official mark of inspection which attests to its wholesomeness and truthful labeling, any control method must be primarily directed at the plant level.

These three options attempt to address the changes recommended by the Inspector General's report. However, they would not resolve the previously discussed major problems in the present system. The regulatory approach selected by the Department for proposal at this time is explained in the following

paragraphs. It includes a laboratory analysis, and subsequent evaluation, of the meat protein percentage on a fat-free basis in the finished cured pork products, utilizing FSIS data processing facilities in Washington, D.C.

9. *Proposed Compliance Procedures.* The Department is proposing compliance procedures which would permit it to obtain maximum benefit from limited laboratory capacity while (1) providing greater assurance that established product standards are being met, and (2) allowing statistically determined tolerances consistent with good manufacturing practices and necessary for economical production by the cured meats industry.

The proposed procedures include centrally directed sampling, laboratory analysis, and decisions based on a statistical treatment of laboratory results which would assure adherence within reasonable bounds to the proposed PFF standards. Generally, PFF shortages in some lots that might result from the variability inherent in good manufacturing practices would be balanced by PFF overages in other lots.

Since the statistical treatment of laboratory results is the least expensive element of the proposed program, this element would be used to the fullest extent possible to assure with a high level of confidence that required PFF levels are consistently maintained while expensive sample collection and analysis are kept at levels as moderate as the data permit. Thus, such statistical treatment would determine frequency of sampling for certain products or groups of products within individual plants. If, for example, laboratory results should indicate that the future likelihood of adulteration and/or misbranding of a given product in a given plant is small, the rate of sampling would be reduced, and the Department's resources would be utilized more productively elsewhere.

The Department recognizes that the proposed compliance program is complex, even though steps have been taken to reduce such complexity without sacrificing its statistical validity. As a practical matter, in a compliance program designed to meet concerns for such interrelated factors as the nature of the product, the interests of the consuming public, production and marketing characteristics of the industry, economy in government, and equity among processors, the maximum value of statistics and computerization cannot be realized in a simple procedure. The Department has carefully considered the complexity of the proposed compliance program, and believes it is the most viable alternative available to regulate the cured meats

industry fairly, effectively, and efficiently; and at the same time maintain the confidence of the public regarding the wholesomeness and truthful labeling of the products being marketed by that industry.

The Department's intent to fully apply statistical procedures to improve its utilization of resources is responsible for product grouping, a salient feature of the proposed compliance program. Substantial cross-utilization of data is possible when such data are generated from products upon which similar processing techniques are employed. Similarities in processing permit the establishment of four groups, while a fifth group would consist of the remaining cured pork products. The five cured pork product groups would be: (1) bone-in smokehouse heated cured pork products, (2) boneless smokehouse heated cured pork products, (3) cured pork products which have been cooked while imperviously encased, (4) cured pork products which have been water-cooked, and (5) all other cured pork products. Product grouping is intended to contribute only to the efficiency of the compliance program. There would never be an enforcement action taken against a group. Regulatory actions would be taken, however, if justified by analytical results, against individual products within the groups. Further, analytical results with respect to product groups will influence sampling frequency, pursuant to authorities expressed in the existing regulations.

With product groups as the basic entities to be sampled, the proposal would establish two general compliance phases: a normal or periodic sampling phase, and a daily sampling phase. A third phase, the retention phase, would also be established but would apply only to individual products rather than to product groups.

In the *normal or periodic sampling* phase, samples would be collected periodically, principally from within official establishments, but with provisions for collection in the distribution chain such as in storage warehouses and retail outlets. Initially, all establishments would be subject to sampling in this stage. A statistical analysis of laboratory findings could result, with respect to a given cured pork product processor, in (1) continuation of the normal phase at the same or varying sampling frequency, (2) identification of one or more product groups to undergo daily sampling, and/or (3) retention or detention⁷ of one or more individual

products, based upon respective single sample demonstrations of gross PFF shortages. When any single lot of a product was retained or detained, subsequent production of like product would be likewise affected, and thus the retention phase would be entered.

In the *daily sampling* phase, analytical results could cause (1) continued daily sampling, (2) a return to periodic sampling, (3) retention or detention of one or more individual products by virtue of gross PFF shortages evidenced by single individual product samples, and/or (4) retention of one or more individual products based upon a series of lesser PFF shortages in samples of such products, not balanced by PFF overages. If a lot were retained or detained, under (3) or (4), such treatment would also be imposed upon future lots of like product, and thus the retention phase would be entered.

In the *retention* phase, no production lot of an affected product would be permitted to enter commerce until laboratory analysis demonstrated that such lot meets the PFF standards. Sampling of the affected product would be intensified further, and analytical results could cause (1) release of an individual lot into commerce, (2) an individual lot to be reprocessed, (3) an individual lot to be relabeled, (4) continuation of the retention phase as future lots of like product are prepared, and/or (5) a release of future production from the retention phase.

Within the broad framework outlined above, regulatory decisions would be reached through an number of precise and interrelated formulae. These formulae have been constructed to enhance the Department's efficiency in monitoring the production of cured pork products, and at the same time provide industry the latitude to operate within the limits of good manufacturing practice without penalty. This balanced approach should assure that only wholesome and properly labeled cured pork products will reach the consuming public. In most cases, the computations associated with these formulae will be carried out by a central computer, and the results and notice of any necessary regulatory action forwarded to the Department's inspector. However, in order to provide affected parties a

inspector to determine its disposal (9 CFR 301.2(f)). A product is "administratively detained" when found by any authorized representative of the Secretary upon any premises where it is held for the purposes of, or during or after distribution in, commerce, and there is any reason to believe that it is capable of use as human food, and is adulterated or misbranded, or that it has not been inspected, or that it is otherwise violative of the law (See, 9 CFR 329.1-329.5).

⁷ A product is "U.S. retained" when it is not passed by the inspector but rather is held in the establishment for further examination by the

foundation for comment, a more detailed discussion of these formulae and regulatory actions, follows, keyed to the (a) normal or periodic sampling phase, (b) daily sampling phase, (c) retention phase, and (d) the absolute minimum PFF value proposed for a single sample.

(a) *Normal or Periodic Sampling Phase.* This is the phase under which the compliance program for a product group would begin. It would remain in effect for that group until there is evidence that minimum PFF percentage requirements are not being met. Such evidence would be deemed to exist when, in a series of consecutive samples, the cumulation of the deviations from the product PFF requirement (termed the "group value") reaches a prescribed level, hereinafter referred to as the "group action level."

The proposed regulations would identify for each product group its standard deviation $\sigma = 0.85$ for the two product groups which are smokehouse heated, 0.62 for the groups which are water cooked or cooked in impervious casings, and 0.40 for the group comprised of all other cured pork products. They would also identify the level (1.65 standard deviations) at which a PFF shortage would not be ascribed to reasonable manufacturing variations. (This level is calculated to be reached by a single sample result with no more than a 5 percent probability, if the establishment's production meets but does not exceed minimum PFF requirements.)

Instructions would be provided for assigning values to analytical PFF findings of individual samples. One formula would describe how the analytical results from an individual sample would contribute to a group value:

(1) Subtract the minimum PFF requirement (for the product represented) from the individual PFF analysis.

(2) Divide the resulting number by the standard deviation assigned to the product group to find the standardized difference.

*In statistics, the standard deviation is used to describe the degree of variability inherent in the set of measurements generated from a process that is characterized by a normal distribution. The set of numbers will stay within one standard deviation on either side of the average value 68 percent of the time. The comparable figure for two standard deviations is 96 percent, and for three standard deviations is over 99 percent. By stating limits in units of standard deviations, one can use the same set of limits for a number of processes. Standard deviations for within lot variability of products affected by this rulemaking were calculated from a 1981 USDA survey of cured pork products. The survey material is available from the FSIS Hearing Clerk.

(3) Add 0.25 to the standardized difference to find the adjusted standardized difference.

(4) Use the lesser of 1.90 and the adjusted standardized difference as the sample value which will contribute to the group value.

(5) Cumulatively total the sample values to determine the group value.

Each step comment:

(1) *Subtract the minimum PFF requirement (for the product represented) from the individual PFF analysis.* This will result in a negative figure when the sample result does not meet minimum percentage requirements.

(2) *Divide the resulting number by the standard deviation of the product group to find the standardized difference.* The standardized difference expresses the PFF shortage (negative number) or overage (positive number) in units of standard deviations. This step is included to provide a common unit for expressing the impacts of sample results without regard to product group. It permits the establishment of a common group action level for all product groups, and is a measure for use by establishment employees and program officials who would closely monitor the production of cured pork products.

(3) *Add 0.25 to the standardized difference to find the adjusted standardized difference.* By taking this step, the Department is attempting to adopt a means of concentrating its resources on the more serious violations. Because of the relatively infrequent rate of sampling in this phase, there exists an expectation that an extended time would normally transpire before problem areas would be identified. The Department intends to reduce the probability of reaching the action level because of minor PFF violations, in return for having more resources available for concentration on gross or consistent PFF shortages. Adding this small figure to the standardized difference would have that effect. It would reduce the probability that the periodic sampling rate would increase, and add to the number of samples with like shortages that it would take to trigger daily group samplings (i.e., to reach the group action level). It would have a similar but proportionately lesser impact on gross shortages. This lesser impact would be more than balanced by the increased sampling rate attendant with greater shortages. The 0.25 adjustment amounts to about 0.1 or 0.2 percent of PFF, depending upon the product group. The Department believes this to be a level which will only marginally exceed

sampling and analytical error, and will serve the intended purpose.

(4) *Use the lesser of 1.90 and the adjusted standardized difference as the sample value which will contribute to the group value.* The Department proposes to ensure not only that PFF shortages are balanced by PFF overages, but also that the severity and number of PFF shortages be kept to a minimum. It proposes, therefore, that no single sample value be used beyond the extent of 1.90 to balance shortages, even if the true sample value exceeds that figure. Before a sample value contributes to a group value, it would be compared to 1.90. If it exceeds that figure, the sample value would become 1.90.

The figure 1.90 is related to the 1.65 standard deviation earlier noted as the level at which a PFF shortage would not be ascribed to reasonable manufacturing variations. The same applies to overages. That is, if the processor is producing at the minimum required PFF value, the probability would be no more than 5 percent that the PFF content of a sample would be greater than 1.65 standard deviations above the requirement. The Department views this as a reasonable limit, believing that it is necessary to assure that large one-time PFF overages are not used to offset a series of PFF shortages. Step (3), above, would establish an automatic addition to the standardized difference calculated in step (2). Since the automatic addition, or tolerance (0.25), has no effect on the variability of the manufacturing process, it would be added to the 1.65 in order to assure the processor the full benefit of variability within a controlled process. In this fashion, 1.90 is arrived at as a proposed maximum contribution to a group from a single sample.

(5) *Cumulatively total the sample values to determine the group value.* After the initial sample value is calculated, and becomes by itself the group value, each succeeding sample value creates a new group value by being added to the last group value. Here again, however, a limit on the PFF overage that may be credited is imposed. The statistics of the proposal are aimed at assuring that the manufacturing process remains in control; i.e., that within reasonable and expected variation, minimum required PFF levels will consistently be met. If unlimited credits were to be accepted for overages (which could be due to poor control) it would become necessary, in order to assure within reason that required PFF values are consistently met, to have a moving action level—one that moved up and

down with the group value. This would make it difficult for establishment personnel and in-plant program officials to accurately assess the effects of PFF levels on the probability of compliance. Further, maintaining a level above which overages cannot be credited effectively minimizes the impact that varying lot sizes might have on a group PFF average. Thus, it would be that the group value would never exceed 1.00. That is, as sample values are cumulatively totalled, should the value exceed 1.00, it would be recorded as 1.00, and the next sample would be added to 1.00 to find the new group value.

The action level for group values would be -1.40; i.e., once the group value becomes -1.40 or less (e.g., -1.40, -1.45, -1.47, etc.) daily sampling for the group would be initiated. This figure is consistent with the rationale that when a PFF shortage is as large as 1.65 standard deviations (there is a total standardized difference of -1.65) it would not be ascribed to reasonable manufacturing variations. Step (3), above, provides that an adjustment of 0.25 be added to the standardized difference. The resulting figure of -1.40 is that level which is calculated to be reached by a single sample with no more than 5 percent probability, with the same assumptions earlier associated with the -1.65 figure. A further characteristic is that, assuming the process average meets but does not exceed the minimum required PFF, on the average a series of 20 samples would be collected before a cumulative shortage would reach this figure.

The proposal would further provide that, concurrent with group values, "product values" also be cumulatively maintained. While a group value alone would affect only sampling frequency, a product value (supported by a group value) could signal a much more serious event—product retention. Instructions for determining a product value would be as follows:

- (1) Subtract the minimum PFF requirement (for the product represented) from the individual PFF analysis.
- (2) Divide the resulting number by the standard deviation assigned to the product group to find the standardized difference.
- (3) Use the lesser of 1.65 and the standardized difference as the sample value which will contribute to the product value.
- (4) Cumulatively total the sample values to determine the product value.

There are significant departures from the proposed group value formula. While the first two steps are identical,

the entire third group step is omitted in that there is no provision for the addition of a tolerance of 0.25 to the standardized difference. The Department recognizes that this omission creates the possibility that a product value might indicate a PFF shortage while the concurrent group value, because of the allowed tolerance, might not show a process control difficulty.⁹ Nevertheless, the Department believes the elimination of a tolerance in determining the product value to have sound foundation for the following reasons: (i) the 0.25 tolerance is proposed as a means of overcoming in large part the principal disadvantage of infrequent sampling by permitting a concentration of resources on problem areas. With possible rare exception, the overwhelming significance of sample values contributing to a product value which breaches the action level will be in samples collected during a daily sampling phase. Therefore, the reasons for the tolerance do not exist; (ii) the consumer's interest would not be served by permitting a constant 0.25 tolerance to accumulate over a series of samples for a product value, particularly since much of the sampling would be on a daily basis; and (iii) the proposal, as will be noted later, would protect processors against unreasonable jeopardy by requiring that the action levels of both group value and the product value be reached in order that a retention phase be entered.

Another difference is proposing 1.65 as the maximum credit that can be contributed by a single sample, as opposed to 1.90 which is used in establishing a contribution to a group value. As can be seen, this results from the 1.65 standard deviations occurring with no more than 5 percent probability, and being unaffected by a tolerance.

In step (4) (comparable to step (5) in the group calculation), sample values are totalled cumulatively to maintain the product value. After the initial sample value is calculated, and becomes by itself the product value, each succeeding sample value creates a new product value by being added to the last product

⁹ A simplistic example of such a possibility is: First, assume that one of an establishment's product groups consists entirely of one smokehouse heated product (standard deviation = .85); second, assume that each of the first three samples collected indicate a PFF shortage of .60 percentage points; and third, note (as will later be revealed and discussed) that the product action level is proposed to be -1.65 as opposed to the group action level of -1.40. The three samples would result in a group value of -1.38 (-.60 ÷ .85 = -.71; -.71 + .25 = -.46; -.46 - .46 = -.92; which has not yet reached the group action level of -1.40. At the same time they would result in a product value of -2.13 (-.60 ÷ .85 = -.71; -.71 - .71 = -1.42; which breaches the action level of -1.65.

value. Reaching the action level with a product value has more serious consequences than reaching it with a group value; i.e., provided the group action level has been reached by the group value, reaching the product action level with the product value causes product to be retained and like product to be retained as it is produced. In keeping with earlier discussion, the product action level is -1.65.

While the maximum group value that would ever be recorded is 1.00, a product value could be recorded as high as 1.15. In a series of simulations, the Department found that a significant discrepancy between group performance and product performance existed because of the 0.25 tolerance for sample values contributing to groups values. The discrepancy could be reduced by allowing this slightly larger credit to be built into the maximum product value. This nominal increase in permitted credit, which must be earned, would reduce the probability of a well-controlled process reaching the product action level, while continuing to assure that required PFF levels would on the average be met. At the same time, it would afford better synchronization of group values and product values. The outcome is that, if a process average equalled but did not exceed PFF requirements, on the average 12 samples would be collected before the product action level is reached.

In proposing PFF standards, it is not the Department's intent that they represent a long-range average content, but rather a minimum content. Processors can avoid retention to targeting at a process average that moderately exceeds the minimum PFF requirement (a company's ability to control variation will determine the targeted process average). This is intended to avoid entry in the commerce of production lots not meeting the PFF standard.

(b) *Daily Sampling Phase.* During this phase, group values and product values are monitored in the same manner as in the periodic sampling phase, except for the higher sampling frequency. However, the group value will have already reached its action level. As a group enters the daily sampling phase, it is very likely that one or more products in the group will immediately enter the retention phase by having reached the product action level. However, in this respect the proposal would require two events to trigger a retention phase for a product: (1) group entry into the daily sampling phase, and (2) the product value reaching its action level.

If there is more than one product in the group, it is also likely that one or more products will be monitored only as part of the daily sampling phase. Since there would be no provisions for retaining a group per se, the group would continue to be monitored in the daily sampling phase until it qualifies for a return to periodic sampling. It is proposed that this happen when (1) the group value reaches or exceeds 0.00, (2) when each of the last seven sample values is -1.65 or greater (i.e., -1.63 , -1.50 , 0.50 , etc.), (3) when none of the products in the group is in the retention phase. All three conditions would be required to be met in order to return to periodic sampling.

If, as would be likely, one or more products were in the retention phase, the daily sampling scheme would be altered. As explained below, in the retention phase product sampling would take on a new character and become very intense. The imbalance between group sampling and retained product sampling would make retained product sampling data inappropriate for maintaining the group value. Therefore, the retained product samples used to make lot dispositions and determine the product value would not contribute to the group value. However, some sampling of retained product would be necessary to properly monitor the group. These samples would be collected separately, and would not contribute to the product value of the retained product.

(c) *Retention Phase.* The retention phase would be entered on a product-by-product basis. During this phase, each lot of the affected product would be withheld from commerce until it is demonstrated to be in compliance with minimum PFF requirements. A product could enter retention in two ways. One has been described above. It is conditioned upon the product's being in daily sampling, and its own product value reaching a -1.65 product action level (i.e., a series of shortages not compensated by overages adding up to 1.65 standard deviations). The second way a product can enter the retention phase will be described later under "absolute minimum PFF value proposed for a single sample."

When a product enters the retention phase, sampling would be strongly intensified. Three samples would be randomly selected from each of all available affected lots. Further, subsequently produced lots would be retained and sampled in like manner as they are prepared. Analytical results from a lot would be used to dispose of that lot, and to calculate a sample value

contributing to the cumulatively maintained product value. With respect to those lots from which four samples had been drawn (an original and three later), the original sample would be used to calculate the sample value and the later three would be used only in determining disposition of the individual lot. With respect to subsequently produced lots, from which only three samples would be collected, the average PFF content of the three samples would be used for both—disposition of the individual lot and calculation of the sample value contributing to the product value.

An individual lot would be released if:

(1) The average PFF content of the three samples equals or exceeds the minimum percentage required by the proposed regulation. Alternatively, for purposes of single lot disposition, but not to establish a new sample value which will contribute to the product value, further processing of the lot would be permitted. Processing to reduce moisture would elevate relative PFF content of the lot. However, the lot would no longer be representative of the product. In reprocessing, the Department proposes to provide for a reduction in lag time by offering processors an option. That is, in lieu of processing and then analyzing samples for results, the firm would be permitted to credit 0.1 percent PFF for each 0.37 percent weight loss due to moisture lost in reprocessing. The time and/or resources necessary for resampling, sample submittal, analysis, and reporting of results would thus be avoided;

(2) The lot of product is relabeled to conform to one of the proposed product descriptions, or

(3) An earlier prepared lot had resulted in a product value that would remove the product from the retention phase. There is a time lag between the collection of samples and the reporting of results. During this lag, additional samples would have been collected unless the product is prepared only periodically. The Department proposes to accept the earliest evidence that a process is back in control and the product complies with regulatory requirements, and once this evidence is in hand, subsequently prepared product would be released even though other analytical results are being awaited. However, the awaited results would not be ignored. Each of the three samples from each lot would be compared to the absolute minimum PFF requirement (explained below) and the three-sample average would also be used to continue maintenance of the product value. Therefore, there is the possibility

(though not a likelihood) that the awaited sample results would return the product to the retention phase.

Since the use of three-sample PFF averages would ordinarily result in significantly less perceived variability than would single sample results, there would be an alteration in determining sample values of retained product as follows:

(1) Determine the average PFF content of the three samples.

(2) Subtract the minimum PFF requirement for the product represented from the average found in (1), above.

(3) Convert the difference found in (2), above, to a "standardized difference" through dividing it by the standard deviation assigned to the product group. (Through this step, the only difference from earlier described calculations is that a three-sample average is used, rather than a single sample result.)

(4) Use the lesser of 1.30 and the standardized difference obtained in (3), above, as the sample value which will contribute to the product value. The difference between 1.30 and the 1.65 used in earlier calculations acknowledges that variability among three-sample averages would be less than variability among single samples. The Department recognizes that processors would likely prepare product with average PFF values greater than those required by the proposal in order to ensure that product will get out of the retention phase in the shortest possible time. The maximum allowable credit of 1.30 is that which would be reached about 8 percent of the time if the lot average PFF value exceeded the requirement by 0.5 percentage points.

(5) Cumulatively total sample values calculated in the above manner to determine the product value. The greatest product value that could be recorded remains at 1.15, as described earlier.

The retention phase would end when, after 5 days of production, the product value reaches 0.00 or greater, provided that no single sample (not the three-sample average) from a retained lot has a PFF content less than the absolute minimum PFF requirement. Should a single sample have a PFF content less than the absolute minimum, the 5-day count would begin again. Ending of the retention phase would reinstitute periodic or daily sampling, dependent upon the group value and other product values in the group.

As long as a product was in the retention phase, its group would remain in the daily sampling phase. Under normal circumstances, this would be a reasonable condition of process control.

However, if a product were prepared infrequently, its presence in the retention phase could easily keep its group in daily sampling well beyond any legitimate purpose. The Department proposes to afford processors an option in this respect. If, when a product enters the retention phase, it can be demonstrated that its production rate for the previous 8 weeks was not more than 20 percent of the production rate of its group, the proposal would permit a processor (at the option of the processor) to temporarily remove the product from its group. This removal, however, could be in effect only while the product is in retention. If the option were exercised, during that time the product and the group would be treated separately and analytical results of the product would not cause daily sampling of the group. It should be noted that production rate by proposed definition is not synonymous to volume of production, but is rather proposed to be production frequency, expressed in days per week.

(d) *Absolute Minimum PFF Requirements.* The Department proposes to establish for individual samples an absolute minimum PFF requirement for every cured pork product with a PFF standard. Should a single sample fail to meet this minimum, the represented lot would be U.S. retained if in an official establishment and, unless voluntarily recalled, would be subject to administrative detention if located upon any premises where it is held for purposes of, or during or after distribution in, commerce. Any subsequently produced lots of like product and any lots of like product for which production dates cannot be established shall be U.S. retained or subject to administrative detention. Further, future production would be prepared in the retention phase.

The absolute minimum PFF requirement for a single sample of a smokehouse heated product would be 2.5 percentage points below the standard for the represented product. The comparable figure would be 1.8 percentage points for water-cooked products and products cooked while imperviously incased, and 1.2 percentage points for other cured pork products. Each of these figures represents approximately three standard deviations, and there is less than a 1-percent chance that a properly controlled process would result in such failure.

For various reasons, the Department has in the past and will in the future conduct inspection of meat and meat food products, including sampling and

laboratory analysis, at various points in commerce, including the point of consumer purchase. With respect to cured pork products, it is expected that such inspection will include PFF determinations. In such cases, if absolute minimum PFF requirements are not met, it is intended to enforce the detention and under appropriate circumstances the judicial seizure provisions of the FMIA, and to institute the retention phase for future preparation of like product at the producing plant.

10. *Quality Control Plant.* Plants may institute quality control procedures covering cured pork products under § 318.4 of the Federal meat inspection regulations. Cured pork products produced in such plants would be exempt from the proposed compliance procedure, provided in-plant quality control programs show the same or higher degree of compliance.

Those cured pork products for which there is no limitation on the minimum PFF content under the proposed §§ 319.104 and 319.105 would be required to be produced under a partial or total quality control program.

All cured pork products would be subject to an "Absolute Minimum" PFF content, regardless of any quality control procedures in effect. The Absolute Minimum would be established as provided in paragraph (b)(2)(i) of the proposed compliance procedures (§ 318.19).

11. *Federal and State Jurisdiction.* The compliance procedures discussed herein would serve as working tools for in-plant inspection personnel, and are designed to assure that cured pork products will reach the consumer in compliance with USDA standards. However, it should also be noted that the Department's Food Safety and Inspection Service retains jurisdiction over meat and meat products distributed in commerce and utilizes field compliance personnel to detect violations of the Federal Meat Inspection Act and regulations.

This regulation process would continue, as it does for all other meat and meat food products under the Department's jurisdiction, if the proposal were to be adopted. The distinct nature of these standards makes a somewhat different compliance approach possible. Except for exceeding the Absolute Limit for a single sample result, compliance is first based on an assessment of the group. For example, the result of a single sample taken in the official establishment or at a retail outlet might result in the product value being below the product action level.

However, as long as the group value was not below the group action level for the group, the single sample result would not be considered a violation of the standard and no action would be taken against the lot of product from which the sample was taken. It could, however, lead to some type of followup action to review procedures at the establishment in question which might, in turn, produce evidence of a violation.

It should also be noted that under Section 408 of the FMIA (21 U.S.C. 678), marking, labeling, packaging and ingredient requirements in addition to, or different than, those required under the FMIA may not be imposed by the States. Under this same provision, however, the States may exercise concurrent jurisdiction with the Secretary on Federally inspected products to enforce the adulteration and misbranding requirements of the Act outside an official establishment. Under this proposal, products not meeting specified PFF requirements, determined in accordance with procedures set forth in the proposal, would be deemed adulterated under section 1(m)(8) of the Act (21 U.S.C. 601(m)(8)) and misbranded under section 1(n) of the Act (21 U.S.C. 601(n)). Therefore, the States would not be in a position to impose on federally inspected products such requirements and procedures, in addition to or different than those being proposed. Any State compliance procedure could not be more restrictive than that used by USDA in determining violations and subsequent enforcement decisions.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 318

Meat inspection, Preparation of product.

9 CFR Part 319

Meat inspection, Food labeling, Meat and meat food products.

The Proposed Rule

Based on the above considerations, the Department proposes to amend the Federal meat inspection regulations as follows:

1. The authority citation for Parts 317, 318 and 319 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438, (21 U.S.C. 601 et seq., 33 U.S.C. 1254).

PART 317—[AMENDED]

2. Section 317.8(9 CFR 317.8(b)) would be amended by adding a new paragraph (b)(35) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels or containers.

(b) * * *

(35) The weight of cured pork bellies ready for slicing and labeling as "Bacon" shall not exceed the weight of the fresh uncured pork bellies.

PART 318—[AMENDED]

3. Part 318 (9 CFR Part 318) would be amended by adding a new § 318.19 as follows:

§ 318.19 Compliance procedure for cured pork products.

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

(1) A *product* is that cured pork article which is contained within one group as defined in paragraph (a)(2) of this section and which purports to meet the criteria for a single product designated under the heading "Product Name and Qualifying Statements" in the chart in § 319.104 or the chart in § 319.105.

(2) A *product group* or a *group* means one of the following:

Group I, consisting of bone-in smokehouse heated cured pork products;

Group II, consisting of boneless smokehouse heated cured pork products;

Group III, consisting of cured pork products which have been cooked while imperviously encased;

Group IV, consisting of cured pork products which have been water cooked; or

Group V, consisting of all cured pork products not contained in Group I, II, III, or IV.

(3) A *lot* is that product from one production shift.

(4) A *production rate* is frequency of production, expressed in days per week.

(5) *Protein fat-free percentage, protein fat-free content, PFF percentage, or PFF content* of a product means the meat protein content expressed as a percent of the non-fat portion of the product.

(b) *Normal Compliance Procedures.* The Department shall collect samples of cured pork products and analyze them for their PFF content.¹ Each analytical

result shall be recorded and evaluated to determine whether future sampling of product groups within an official establishment shall be periodic or daily under the provisions of paragraph (b)(1) of this section, and if the affected lot and subsequent production of like product shall be U.S. retained, or administratively detained, as appropriate, as provided in paragraph (b)(2) of this section.

(1) *Criteria to determine sampling frequency of product groups.* For each official plant preparing cured pork products, product groups shall be sampled periodically or daily. Analytical results shall be evaluated and the sampling frequency determined as follows:

(i) Determine the difference between the individual PFF analysis and the applicable minimum PFF percentage requirement of § 319.104 or § 319.105. The resulting figure shall be negative when the individual sample result is less than the applicable minimum PFF percentage requirement and shall be positive when the individual sample result is greater than the applicable minimum PFF percentage requirement.

(ii) Divide the resulting number by the standard deviation assigned to the product group represented by the sample, to find the standardized difference. The standard deviation assigned to Groups I and II is 0.85, to Groups III and IV is 0.62, and to Group V is 0.40.

(iii) Add 0.25 to the standardized difference to find the adjusted standardized difference.

(iv) Use the lesser of 1.90 and the adjusted standardized difference as the sample value.

(v) Cumulatively total sample values to determine the group value. The first sample value in a group shall be the group value, and each succeeding group value shall be determined by adding the most recent sample value to the existing group value; provided, however, that in no event shall the group value exceed 1.00. When calculation of a group value results in a figure greater than 1.00, the group value shall be 1.00 and all previous sample values shall be ignored in determining future group values.

(vi) The frequency of sampling of a group shall be periodic when the group value is greater than -1.40 (e.g., -1.39, -1.14, 0, 0.50, etc.) and shall be daily when the group value is -1.40 or less (e.g., -1.40, -1.45, -1.50, etc.); provided, however, that once daily sampling has been initiated, it shall continue until the group value is 0.00 or greater, and each of the last seven sample values is -1.65 or greater (e.g., -1.63, -1.50, etc.), and there is no other

product within the affected group being U.S. retained as produced, under provisions of paragraph (b)(2) or (c).

(2) *Criteria for U.S. retention or administrative detention of cured pork products for further analysis.* Cured pork products shall be U.S. retained, or administratively detained, as appropriate, when prescribed by (i) or (ii), below:

(i) *Absolute Minimum PFF Requirement.* In the event that an analysis of an individual sample indicates a PFF content below the applicable minimum requirement of § 319.104 or § 319.105 by 2.5 or more percentage points for a Group I or II product, 1.8 or more percentage points for a Group III or IV product, or 1.2 or more percentage points for a Group V product, the lot from which the sample was collected shall be U.S. retained if in an official establishment and shall be subject to administrative detention if not in an official establishment unless returned to an official establishment and there U.S. retained. Any subsequently produced lots of like product and any lots of like product for which production dates cannot be established shall be U.S. retained or subject to administrative detention. Such administratively detained product shall be handled in accordance with Part 329 of this subchapter, or shall be returned to an official establishment and subjected to the provisions of paragraph (c)(1)(i) or (ii) of this section, or shall be relabeled in compliance with the applicable standard, under the supervision of a program employee, at the expense of the product owner. Disposition of such U.S. retained product shall be in accordance with paragraph (c) of this section.

(ii) *Product value requirement.* The Department shall maintain, for each product prepared in an official establishment, a product value. Except as provided in paragraph (c)(2) of this section, calculation of the product value and its use to determine if a product shall be U.S. retained shall be as follows:

(A) Determine the difference between the individual PFF analysis and the applicable minimum PFF percentage requirement of § 319.104 and § 319.105. The resulting figure shall be negative when the individual sample result is less than the applicable minimum PFF percentage requirement and shall be positive when the individual sample result is greater than the applicable minimum PFF percentage requirement.

(B) Divide the difference determined in (A), above, by the standard deviation assigned to the product's group in

¹ Analyses shall be conducted in accordance with "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)", 13th ed., 1980, §§ 24.002 (page 376), 24.027 (page 379), which are incorporated by reference.

paragraph (b)(1)(ii) of this section to find the standardized difference.

(C) Use the lesser of 1.65 and the standardized difference as the sample value.

(D) Cumulatively total sample values to determine the product value. The first sample value of a product shall be the product value, and each succeeding product value shall be determined by adding the most recent sample value to the existing product value; provided, however, that in no event shall the product value exceed 1.15. When calculation of a product value results in a figure greater than 1.15, the product value shall be 1.15 and all previous sample values shall be ignored in determining future product values.

(E) Provided daily group sampling is in effect pursuant to the provisions of paragraph (b)(1) of this section, and provided further the product value is -1.65 or less (e.g., -1.66), the affected lot (if within the official establishment) and all subsequent lots of like product prepared by and still within the official establishment shall be U.S. retained and further evaluated under paragraph (c). Except for release of individual lots pursuant to paragraph (c)(1), subsequently produced lots of like product shall continue to be U.S. retained until discontinued pursuant to paragraph (c)(2).

(c) *Compliance procedure during product retention.* When a product lot is U.S. retained under the provisions of paragraph (b)(2) of this section, the Department shall collect three randomly selected samples from each such lot and analyze them individually for PFF content. The PFF content of the three samples shall be evaluated to determine disposition of the lot as provided in paragraph (c)(1) of this section and the action to be taken on subsequently produced lots of like product as provided in paragraph (c)(2) of this section.

(1) A product lot which is U.S. retained under the provisions of paragraph (b)(2) of this section may be released for entry into commerce provided one of the following conditions is met:

(i) The average PFF content of the three samples randomly selected from the lot is equal to or greater than the applicable minimum PFF percentage required by § 319.104 or § 319.105. Further processing to remove moisture for the purpose of meeting this provision is permissible. In lieu of further analysis to determine the effects of such processing, each 0.37 percent weight reduction due to moisture loss resulting from the processing, may be considered the equivalent of a 0.1 percent PFF gain.

(ii) The lot of the product is relabeled to conform to the provisions of § 319.104 or § 319.105. Such labeling must be applied in an official establishment under the supervision of a program employee.

(iii) The lot is one that has been prepared subsequent to preparation of the lot which, under the provisions of paragraph (c)(2) of this section, resulted in discontinuance of U.S. retention of new lots of like product. Such lot may be released for entry into commerce prior to receipt of analytical results for which sampling has been conducted. Upon receipt of such results, they shall be subjected to the provisions of paragraphs (b)(2)(i) and (c)(2) of this section.

(2) The PFF content of three randomly selected samples from each U.S. retained lot shall be used to maintain the product value described in paragraph (b)(2)(ii). The manner and effect of such maintenance shall be as follows:

(i) Find the average PFF content of the three samples.

(ii) Determine the difference between that average and the applicable minimum PFF percentage requirement of § 319.104 or § 319.105. The resulting figure shall be negative when the average of the sample results is less than the applicable minimum PFF percentage requirement and shall be positive when the average of the sample results is greater than the applicable minimum PFF requirement.

(iii) Divide the resulting figure by the standard deviation assigned to the products' group in paragraph (b)(1)(ii) of this section, to find the standardized difference.

(iv) Use the lesser of 1.30 and the standardized difference as the sample value.

(v) Add the first sample value thus calculated to the latest product value calculated under the provisions of paragraph (b)(2)(ii) of this section to find the new product value. To find each succeeding product value, add the most recent sample value to the existing product value; provided, however, that in no event shall the product value exceed 1.15. When the addition of a sample value to an existing product value results in a figure greater than 1.15, the product value shall be 1.15 and all previous sample values shall be ignored in determining future product values.

(iv) New lots of like product shall continue to be retained pending disposition in accordance with paragraph (c)(1) of this section until, after 5 days of production, the product value is 0.00 or greater, and the PFF

content of no individual sample from a U.S. retained lot is less than the absolute minimum PFF requirement specified in paragraph (b)(2)(i) of this section. Should an individual sample fail to meet its absolute minimum PFF requirement, the 5-day count shall begin anew.

(vii) When U.S. retention of new lots is discontinued under the above provisions, maintenance of the product value shall revert to the provisions of paragraph (b)(2)(ii) of this section.

(3) For purposes of this section, the plant owner or operator shall have the option of temporarily removing a product from its product group, provided product lots are being U.S. retained, as produced, and provided further that the average production rate of the product, over the 8-week period preceding the week in which the first U.S. retained lot was prepared, is not greater than 20 percent of the production rate of its group. When a product is thus removed from its group, analytical results of product samples shall not cause daily sampling of the group. When, pursuant to paragraph (c)(2)(vi) of this section, new lots of the product are not longer being U.S. retained, the product shall again be considered with its group.

(d) *Adulterated and misbranded products.* Products not meeting specified PFF requirements, determined according to procedures set forth in this section, may be deemed adulterated under section 1(m)(8) of the Act (21 U.S.C. 601(m)(8)) and misbranded under section 1(n) (921 U.S.C. 601(n)).

(e) *Quality control.* Establishments may institute quality control procedures under § 318.4 of this subchapter. Cured pork products produced in such establishments may be exempt from the requirements of this section, provided inplant quality control procedures are shown to attain the same or higher degree of compliance as the procedures set forth in this section; provided, however, that all cured pork products produced shall be subject to the applicable Absolute Minimum PFF content requirement, regardless of any quality control procedures in effect.

PART 319—[AMENDED]

4. Section 319.104 (9 CFR 319.104) would be revised to read as follows:

§ 319.104 Cured pork products.

(a) Cured pork products, including hams, shoulders, picnics, butts and loins, or patties made therefrom, shall comply with the minimum meat Protein Fat Free (PFF) percentage requirements set forth in the following chart:

Type of cured pork product and patties made therefrom	Minimum meat PFF percentage ¹	Product name and qualifying statements
Cooked ham, loin	20.5.....	(Common and usual).
	18.5.....	(Common and usual) with natural juices.
	17.0.....	(Common and usual) water added.
	Less than 17.0.	(Common and usual) and water product—contains (X)% water added. ²
Cooked shoulder butt, picnic.	20.0.....	(Common and usual).
	18.0.....	(Common and usual) with natural juices.
	16.5.....	(Common and usual) water added.
	Less than 16.5.	(Common and usual) and water product—contains (X)% water added. ²
Uncooked cured ham, loin.	18.0.....	Uncooked (Common and usual).
	Less than 18.0.	Uncooked (common and usual) and water product—contains (X)% water added. ²
Uncooked cured shoulder.	17.5.....	Uncooked (common and usual).
	Less than 17.5.	Uncooked (common and usual) and water product—contains (X)% water added. ²

¹ Compliance to be determined under section 318.19 of this subchapter.

² The maximum percent of added curing solution would be inserted as the amount of water added in the parenthesis; e.g., Ham and Water Product—Contains 20% Water Added. A prerequisite for label approval of these products is a quality control program approved by the Administrator under § 318.4 of this subchapter.

(b) Cured pork products for which there is a qualifying statement required in paragraph (a) of this section shall bear that statement as part of the product name in lettering not less than $\frac{1}{8}$ inch in height. However, the Administrator may approve smaller lettering for labeling of packages of 1 pound or less, provided such lettering is at least one-third the size and of the same color and style as the product name. If the cured pork product is not placed in a consumer-size package and labeled in accordance with all other provisions of this part, such product shall be marked with the qualifying statement the full length of the product.

(c) Cured pork product prepared pursuant to this section shall be subject to the compliance procedures in § 318.19 of this subchapter.

5. Section 319.105 (9 CFR 319.105) would be revised to read as follows:

§ 319.105 Chopped ham, pressed ham, spiced ham, and similar products.

(a) Finely divided (chopped, ground, flaked, chipped) cured ham products such as Chopped ham, Pressed ham, and Spiced ham shall comply with minimum meat Protein Fat Free (PFF) percentage requirements set forth in the following chart:

Type of product	Minimum meat PFF percentage ¹	Product name and qualifying statements
"Chopped Ham", "Pressed Ham," and "Spiced Ham".	20.0.....	(Common and usual).
	18.0.....	(Common and usual) with natural juices.
"Chopped Ham", "Pressed Ham," and "Spiced Ham".	16.5.....	(Common and usual) water added.
	Less than 16.5.	(Common and usual) and water product—contains (X)% water added. ²

¹ Compliance to be determined under § 318.19 of this subchapter.

² The maximum percent of added curing solution would be inserted as the amount of water added in the parenthesis; e.g., Ham and Water Product—Contains 20% Water Added. A prerequisite for label approval of these products is a quality control program approved by the Administrator under § 318.4 of this subchapter.

(b) Cured pork products prepared under this section may contain finely chopped ham shunk meat to the extent of 25 percent over that normally present in boneless ham. Mechanically Separated (Species) Product may be used in accordance with § 319.6.

(c) Cured pork product prepared pursuant to this section shall be subject to the compliance procedures in § 318.19 of this subchapter, and those cured pork products prepared under this section for which there is a qualifying statement required shall comply with the requirements of § 319.104(b) of this subchapter.

(d) In addition to the other requirements of this section, "Chopped Ham" may contain up to 2 percent, on a dry basis, of sweetener solid or liquid, such as corn syrup solids or corn syrup.

* * * * *

Done at Washington, D.C., on November 5, 1982.

Donald L. Houston,
Administrator, Food Safety and Inspection Service.

[FR Doc. 82-30813 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-DM-M

9 CFR Parts 317, 320 and 381

[Docket No. 82-018P]

Clarification of Policy Governing Inspection of Packaging Materials

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Federal meat and poultry products inspection regulations to clarify the Food Safety and Inspection Service (FSIS) policy regarding the use by federally inspected establishments of

various packaging materials for meat and poultry products. Inspectors are authorized to prevent the use of any packaging materials that might lead to the adulteration of product. The current FSIS policy of providing gratuitous evaluation of packaging materials prior to use, to ensure they will be permitted to be used in the establishment, has been misinterpreted to be a mandatory premarket approval procedure. The policy therefore requires clarification and revision. FSIS is proposing that official establishments receive from the manufacturers of their packaging materials, and retain in their files, written guarantees that the materials are in compliance with all applicable food additive regulations; that inspectors view such guarantees as establishing that the described packaging materials are in compliance with all applicable food additive regulations unless the inspector has specific reason to believe otherwise; that FSIS continue to evaluate packaging materials upon request; and that FSIS institute a monitoring program to ensure written guarantees can be substantiated.

DATE: Comments must be received on or before January 10, 1983.

ADDRESSES: Written comments to: Regulations Office, Attn.: Annie Johnson, FSIS Hearing Clerk, Food Safety and Inspection Service, Room 2637, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry products inspection regulations to: Charles Edwards, (202) 447-7680. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Chief, Product Safety Branch, Food Ingredient Assessment Division, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Bldg. 306, BARC East, Beltsville, MD 20705, (301) 344-2566.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action is issued in conformance with Executive Order 12291 and has been determined not to be a "major" rule. It would not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export

markets. This proposed regulation would provide that federally inspected meat and poultry establishments obtain and keep on file a written guaranty from packaging manufacturers that packaging is in compliance with all applicable food additive regulations. This would result in a simple, timely, and economical way for official establishments to demonstrate to inspectors that packaging materials comply with the food additive laws.

Effect on Small Entities

The Administrator, FSIS, has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). If adopted, it could have an impact on costs to those official establishments where no records of packaging materials used are currently kept. The increased cost to small entities within this class is not expected to be significant. Otherwise, no increased cost to official establishments is expected.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be submitted in duplicate to the Regulations Office and should reference the docket number located in the heading of this document. Any person desiring opportunity for oral presentation of views with respect to the effect of this proposal on the poultry products inspection regulations must make such request to Charles Edwards so that arrangements may be made for such views to be orally presented. A transcript will be made of all views orally presented. All comments submitted pursuant to this proposal will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Since the late 1960's, FSIS has provided a voluntary prior evaluation service for packaging materials as a service to industry. Over the years, there has been a growing misconception among industry and some FSIS inspectors that all meat and poultry packaging material must be approved by FSIS before it can be used, and a belief that regulatory procedures in this area were unduly burdensome. This proposed regulation would institute a simple procedure whereby packaging manufacturers provide establishments with written guaranties that all packaging materials comply with all

applicable food additive regulations, such guaranties to be viewed by inspectors as demonstrating compliance with those regulations. In addition, this proposal clarifies the fact that prior approval of such packaging material is not required by FSIS.

1. *Authority.* The Department has authority to prohibit packaging used in an official establishment for meat and poultry products which consists of any material that could adulterate the product. Both the Poultry Products Inspection Act (PPIA) and the Federal Meat Inspection Act (FMIA) authorize Federal inspectors in establishments subject to either Act to prevent product which may be adulterated from entering into commerce (21 U.S.C. 451 *et seq.* and 601 *et seq.*). Product may become adulterated in a number of ways, including by migration to substances from containers.

A meat or poultry product is adulterated if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 453(g)(2)(c) and 601(m)(2)(c)). Section 409 of the FFDCA provides that all food additives are unsafe unless found by the Food and Drug Administration (FDA) to be safe for their intended use (21 U.S.C. 438). FDA lists approved food additives and other substances that might become components of food, together with conditions of use for such products, in its regulations (21 CFR Parts 170-189). These listings include indirect food additives such as packaging materials which may become components of the foods due to their contact with the foods. Therefore, packaging or other food contact materials that might become components of food and that are intended for use in federally inspected establishments must comply with all applicable regulations promulgated under the FFDCA or be deemed "unsafe."

Furthermore, a meat or poultry product may be adulterated "if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health" (21 U.S.C. 453(g)(6) and 601(m)(6)).

Thus, program inspectors in the establishments are authorized to inspect packaging materials intended for use with food products subject to the FMIA and the PPIA. Although there are currently no regulations in Title 9 of the Code of Federal Regulations that deal specifically with packaging materials for meat and poultry products, section 17.16 of the Meat and Poultry Inspection

Manual amplifies this authority by stating: "Generally, packages and packaging materials need not be sampled; however, if the inspector has reason to doubt their acceptability, he requires the plant or supplier to show letter of acceptance, and permits use of materials on the basis of such letter."

2. *Current Procedures.* Under current policy, if an inspector questions the safety of a packaging material, it is the responsibility of the Food Ingredient Assessment Division (FIAD), Science, FSIS, to evaluate the material's chemical acceptability and advise the inspector and establishment of its findings. There is no regulatory requirement for prior review and approval of packaging materials, and packaging materials may be sold to and used by official establishments without any prior approval by any central USDA authority. However, a Federal inspector may inspect and disallow the use of a packaging material, and may retain any product contained in it if he/she has reason to doubt the chemical acceptability of the packaging material.

Since 1972, FSIS has provided as a free service to industry a prior evaluation of packaging materials and other resinous or polymeric materials which may be used in a food contract setting. This service resulted from discussions in the late 1960's with the packaging industry concerning ways to confirm acceptance of materials when inspectors question their acceptability. Prior evaluation (not approval) of those materials in that context can be advantageous to all involved. FIAD's written evaluation serves as proof to the inspector that the material is in compliance with all food additive regulations. This can help to prevent unnecessary confrontations and costly delays for the food industry that may result when an inspector questions the acceptability of a packaging material.

The purpose of this prior evaluation is a narrow one. It is to determine if materials proposed for use in federally inspected meat and poultry establishments conform to all applicable food additive regulations (21 CFR Parts 170-189). If not, the materials may become indirect food additives that are unsafe within the meaning of the FFDCA, the use of which will result in an adulterated product.

To obtain the service, the supplier of the material must advise FIAD of the intended use and provide a statement of composition for the material to be evaluated. The evaluation process requires approximately 6 weeks at the end of which FIAD provides a written response indicating whether or not it

can confirm that the material meets the appropriate regulatory criteria. These responses can then be provided to Federal inspection officials as proof of acceptance.

3. *Criticisms of Current Procedures.* During 1981, the American Paper Institute (API) expressed their belief that the FSIS system for prior evaluation of packaging materials is excessive and undesirably limits competition and innovation to the detriment of the packaging industry and consumers. This position was adopted early in 1982 by the American Meat Institute and the National Broiler Council.

On May 18, 1982, FSIS received a petition from the API, the Paperboard Packaging Council (PPC), and the Fibre Box Association (FBA) requesting that FSIS amend its policy governing the evaluation of packaging materials.

The petitioners assert that "for many years a letter from FSIS confirming regulatory compliance has been necessary, as a practical matter, to market packaging products for use with meat and poultry" because "USDA inspectors have often made continued plant operation conditional on the availability of USDA letters of acceptance for such packaging." The petitioners stated that the current FSIS system of voluntary prior evaluation of packaging materials imposes unnecessary delays and inefficiencies on the marketing process. They contend that the delays caused by the system often result in the loss of commercial opportunities.

The petitioners made two requests. First, they requested that FSIS "adopt a packaging program that does not require premarket review for packaging." They note that FDA imposes only "generally applicable technical specifications for the individual components of food packaging" and that, to ensure food safety, FDA does not require premarket review of specific packaging but rather relies on self-policing by manufacturers coupled with "firm agency enforcement against adulterated products introduced into interstate commerce." They suggest a system whereby inspected plants have on file, for inspectors' review, letters from the packaging suppliers guarantying the material conforms to FDA requirements, and whereby the packaging manufacturer has an opportunity to correct problems with a packaging material before any "enforcement action" is taken.

Second, the petitioners requested that USDA issue a statement of policy discontinuing the issuance of letters of acceptability and indicating that USDA inspectors "may not prohibit the entry of packaging from USDA inspected plants

merely because such packaging is not accompanied by such a letter."

Proposal

After considering the petition, the Department has concluded that although it may be based on the misconception that the current assessment program is mandatory, it is for the most part meritorious.

Obviously, despite the Department's contrary intent, the perception exists that it requires a premarket review of packaging material. Further, the current system does foster over reliance by inspectors on acceptance letters. This FSIS voluntary evaluation service was initiated to assist industry rather than impede it. To the extent it can be changed to accommodate legitimate industry concerns without making more difficult the duties of the inspectors serving in the establishments, it should be changed. Therefore, the Department is proposing a regulation that will clarify the Department's intent that any premarket assessment of packaging material is strictly voluntary, and that will preclude the inspectors from prohibiting the entry of packaging solely on the basis that the packaging is not accompanied by a USDA-issued letter of acceptance.

The proposed regulation also adopts the petitioners' suggested procedure whereby the supplier of the packaging shall provide an accompanying written guaranty that the materials used in the packaging comply with FDA regulations. This guaranty will be kept on file by the establishments and will be accepted by Federal inspectors to establish that the materials are in compliance with the applicable food additive regulations. Furthermore, the Department will undertake a monitoring program which will involve a series of limited surveys, conducted on a random basis, to determine what packaging materials are being used by official establishments, followed by controlled volume selection of materials on a random basis to assure compliance with applicable food additive regulations.

The letter of guaranty will be a simple statement that the manufacturer guarantees that the specified packaging material (described sufficiently to identify it) complies with all applicable regulations (see, for example, 21 CFR Parts 170-189). The guaranty may be limited to a specific shipment or it may be general and of continuing applicability to a number of shipments of the same material. There is no required format, but examples of acceptable formats for similar guaranties may be found in section 18.20(b) of the Meat and Poultry

Inspection Manual and § 7.13 of FDA's regulations (21 CFR 7.13). The manufacturer will be obliged to provide more detailed information on packaging materials identified in the letters of guaranty to USDA upon request or risk disapproval of the named material.

Of course, this proposed regulation would not otherwise limit the inspectors' authority to question the safety or sanitation of a packaging material if by direct observation the inspector determines cause exists for suspecting it is out of compliance, nor would it preclude any appropriate action under the FMIA or PPIA in the event of possible adulteration or misbranding of product.

List of Subjects

9 CFR Part 317

Meat inspection, Containers, Packaging materials.

9 CFR Part 320

Records.

9 CFR Part 381

Poultry inspection, Containers, Packaging materials, Records.

Accordingly, FSIS is proposing to amend the Federal meat and poultry products inspection regulations as follows:

1. The authority citation for Parts 317 and 320 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

PART 317—[AMENDED]

2. A new § 317.20 (9 CFR 317.20) would be added to the Federal meat inspection regulations to read as follows:

§ 317.20 Packaging materials.

(a) Edible products may not be packaged in a container which is composed in whole or in part of any poisonous or deleterious substances which may render the contents adulterated or injurious to health. All packaging materials must be safe for the intended use within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act.

(b) Packaging materials entering the official establishment must be accompanied or covered by a letter of guaranty from the packaging manufacturer stating that the material conforms to all applicable food additive regulations. The letter must identify the material, e.g., by the distinguishing brand name or code designation appearing on the packaging material

shipping container, and must be signed by an authorized official of the manufacturing firm. The letter of guaranty may be limited to a specific shipment of an article, in which case it may be part of or attached to the invoice covering such shipment, or it may be general and continuing, in which case, in its application to any article or other shipment of an article, it shall be considered to have been given at the date such article was shipped by the person who gives the guaranty. The management of the establishment must maintain a file containing letters of guaranty for all food contact packaging materials in the establishment. The file shall be made available to Program inspectors or other Department officials upon request. While in the official establishment, the identity of all packaging materials must be traceable to the applicable letter of guaranty.

(c) The letter of guaranty by the packaging material manufacturer will be accepted by Program inspectors to establish that the material conforms with all applicable food additive regulations.

(d) The Department will monitor the use of packaging material in official establishments to assure that the requirements of paragraph (a) of this section are met, and may question the basis for any letter of guaranty described under paragraph (b) of this section. Official establishments and packaging manufacturers providing written guaranties to those official establishments will be permitted an opportunity to provide information to designated Department officials as needed to verify the basis for any such guaranty. The required information will include, but is not limited to, manufacturing firm's name, trade name or code designation of the material, complete chemical composition, and use. Selection of a material for review does not in itself affect a material's acceptability. Materials may continue to be used during the review period. However, if information requested from the manufacturer is not supplied within the time indicated in the request—a minimum of 30 days—any applicable letter of guaranty shall cease to be effective and approval to continue using the specified packaging material in official establishments may be denied. The Administrator may extend this time where reasonable grounds for extension are shown, as, for example, where data must be obtained from suppliers.

(e) The Administrator may disapprove for use in official establishments packaging materials which cannot be confirmed as conforming to applicable

food additive regulations. Before approval to use a packaging material is finally denied by the Administrator, the affected official establishment and the manufacturer of the material shall be given notice and the opportunity to present their views to the Administrator. Approval to use the materials pending the outcome of the presentation of views shall be denied if the Administrator determines such use may present an imminent hazard to public health.

(f) Periodically, the Administrator will issue a listing, by distinguishing brand name or code designation, of packaging materials that have been reviewed and fail to meet the requirements of paragraph (a) of this section. Listed materials will not be permitted for use in official establishments. If a subsequent review indicates that the requirements of paragraph (a) are met, the material will be deleted from the listing.

(g) Nothing in this section shall affect the authority of Program inspectors to refuse a specific material if he/she by direct observation determines the material may render products adulterated or injurious to health.

PART 320—[AMENDED]

3. Section 320.1(b) of the Federal meat inspection regulations (9 CFR 320.1(b)) would be amended by adding a new subparagraph (5) to read as follows:

§ 320.1 Records required to be kept.

* * * * *

(b) * * *
(5) Letters of guaranty provided by manufacturers of packaging materials under § 317.20

4. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 441, as amended, 76 Stat. 663, 86 Stat. 819, as amended; 21 U.S.C. 451 *et seq.*, 7 U.S.C. 450, 33 U.S.C. 1254.

PART 381—[AMENDED]

5. A new § 381.144 would be added to Subpart N of the poultry products inspection regulations to read as follows:

§ 381.144 Packaging materials.

(a) Edible products may not be packaged in a container which is composed in whole or in part of any poisonous or deleterious substances which may render the contents adulterated or injurious to health. All packaging materials must be safe for the intended use within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act.

(b) Packaging material entering the official establishment must be accompanied or covered by a letter of

guaranty from the packaging manufacturer stating that the material conforms to all applicable food additive regulations. The letter must identify the material, e.g., by the distinguishing brand name or code designation appearing on the packaging material shipping container, and must be signed by an authorized official of the manufacturing firm. The letter of guaranty may be limited to a specific shipment of an article, in which case it may be part of or attached to the invoice covering such shipment, or it may be general and continuing, in which case, in its application to any article or other shipment of an article, it shall be considered to have been given at the date such article was shipped by the person who gives the guaranty. The management of the establishment must maintain a file containing letters of guaranty for all food contact packaging materials in the establishment. The file shall be made available to Program inspectors or other Department officials upon request. While in the official establishment, the identity of all packaging materials must be traceable to the applicable letter of guaranty.

(c) The letter of guaranty by the packaging material manufacturer will be accepted by Program inspectors to establish that the material conforms with all applicable food additive regulations.

(d) The Department will monitor the use of packaging materials in official establishments to assure that the requirements of paragraph (a) of this section are met, and may question the basis for any letter of guaranty described under paragraph (b) of this section. Official establishments and packaging manufacturers providing written guaranties to those official establishments will be permitted an opportunity to provide information to designated Department officials as needed to verify the basis for any such guaranty. The required information will include, but is not limited to, manufacturing firm's name, trade name or code designation for the material, complete chemical composition, and use. Selection of a material for review does not in itself affect a material's acceptability. Materials may continue to be used during the review period. However, if information requested from the manufacturer is not supplied within the time indicated in the request—a minimum of 30 days—any applicable letter of guaranty shall cease to be effective and approval to continue using the specified packaging material in official establishments may be denied. The Administrator may extend this time

where reasonable grounds for extension are shown, as, for example, where data must be obtained from suppliers.

(e) The Administrator may disapprove for use in official establishments packaging materials which cannot be confirmed as conforming to applicable food additive regulations. Before approval to use a packaging material is finally denied by the Administrator, the affected official establishment and the manufacturer of the material shall be given notice and the opportunity to present their views to the Administrator. Approval to use the materials pending the outcome of the presentation of views shall be denied if the Administrator determines such use may present an imminent hazard to public health.

(f) Periodically, the Administrator will issue a listing, by distinguishing brand name or code designation, of packaging materials that have been reviewed and fail to meet the requirements of paragraph (a) of this section. Listed materials will not be permitted for use in official establishments. If a subsequent review indicates that the requirements of paragraph (a) are met, the material will be deleted from the listing.

(g) Nothing in this section shall affect the authority of Program inspectors to refuse a specific material if he/she by direct observation determines the material may render products adulterated or injurious to health.

6. Section 381.175(b) of the poultry products inspection regulations (9 CFR 381.175(b)) would be amended by adding a new subparagraph (2) to read as follows:

§ 381.175 Records required to be kept.

* * * * *

(b) * * *

(2) Letters of guaranty provided by manufacturers of packaging materials under § 381.144.

Done at Washington, DC, on November 1, 1982.

Donald L. Houston,
Administrator, Food Safety and Inspection Service.

[FR Doc. 82-30920 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-34]

State of South Carolina; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Receipt of Petition.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated August 27, 1982, which was filed with the Commission by the State of South Carolina. The petition was docketed by the Commission on August 30, 1982, and has been assigned Docket No. PRM-50-34. The petitioner requests that the Commission amend its regulations in 10 CFR Part 50 to reduce the frequency of nuclear power plant emergency training exercises which require the participation of local government agencies.

DATE: Comment period expires January 10, 1983.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (303) 492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner states that local governments rely heavily on trained volunteer citizens to respond to emergencies. Thus, the current NRC requirement that a local government within the plume exposure pathway EPZ participate in at least one full-scale nuclear power plant emergency training exercise per year is, according to the petitioner, an undue burden on these volunteers since they would be participating in training exercises "on their own time."

The petitioner also states that while the county in which a nuclear power reactor is located derives revenue from the reactor owner to help offset the cost of an annual full-scale exercise, other affected counties derive little or no revenue from the reactor owner and for these counties the cost of annual full-scale exercise is an additional expense. The petitioner further states that most of the affected counties have a low economic base and the requirement for

a full-scale exercise places an undue financial burden on county resources. The petitioner requests that the Commission revise Appendix E, section IV.F.1., of 10 CFR Part 50 to read as follows:

"1. Each licensee shall exercise at least annually the emergency plan for each site at which it has one or more power reactors licensed for operation. The licensee exercise shall include participation by offsite agencies at the following frequencies;

a. The State shall participate in a full-scale exercise annually. The State shall rotate its schedule of annual full-scale exercises so that the exercises are with a different facility (site) licensed in the State each year. There will be full participation by the State at least once every five years, with the ingestion exposure pathway partially or wholly within the State.

b. The local governments that are located within the 10-mile plume exposure EPZ of facility selected for the States full-scale exercise will participate along with that facility and the State in a full-scale exercise.

c. The local government agencies, when not scheduled to participate in a full-scale exercise, will exercise as a minimum its communications and warning procedures in conjunction with the nuclear facilities annual exercise."

Finally, the petitioner states that while affected local governments do not question the need for appropriate plans, exercises, and training, they have questioned the need for an annual full-scale exercise.

Dated at Washington, DC, the 2d day of November 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-30845 Filed 11-9-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 509a

[No. 82-727]

Removals, Suspensions, and Prohibitions Where a Crime Is Charged or Proven

November 4, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to revise its rules of practice and procedure concerning expedited hearings to administratively challenge a suspension notice or removal order affecting participation in the affairs of an insured institution by a director, officer, or other person charged with or convicted of certain crimes. The

proposed revisions would (1) clarify the powers and duties of the hearing officer, (2) clarify that the person subject to the order has the burden of proving that grounds exist for termination or modification of the order, (3) clarify that the nature of the publicity concerning the individual's indictment is a consideration that is relevant to the decision of whether the order should be terminated or modified, and (4) formally incorporate certain of the Board's formal adjudicative rules. The proposal is intended to improve processing and eliminate uncertainty in the conduct of these hearings.

DATE: Comments must be received by January 10, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Steven A. Rosenberg, Attorney, Office of General Counsel (202-377-6958), Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: In October 1979 (44 FR 62478), the Board adopted existing Part 509a in implementation of Section 111 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA") (Pub. L. No. 95-630, Section 111, 92 Stat. 3641, 3667 (1978)). Section 111 of FIRIRCA was enacted in response to the judicial decision in *Feinberg v. Federal Deposit Insurance Corporation*, 420 F. Supp. 109 (D.D.C. 1976), which held that the Due Process Clause of the Fifth Amendment to the United States Constitution requires that a hearing be available to a person who is the subject of a suspension notice or removal order. Accordingly, Section 111 of FIRIRCA amended Section 5(d)(5) of the HOLA and Section 407(h) of the NHA so as to provide the right to an expedited hearing, which is exempt from the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 554-557).

In connection with the appointment of hearing officers following the issuance of notices of suspension, it has come to the Board's attention that Part 509a may not in all instances provide clear rules concerning the powers and duties of the hearing officer, e.g., power to rule on motions and duty to prepare a recommended decision. Moreover, the powers and duties set forth in the Administrative Procedure Act (5 U.S.C. 557) and Part 509 are not applicable to these suspension and removal

proceedings. See 12 U.S.C. 1464(d)(7)(A) and 1730(j)(1). The Board's legal staff has reviewed Part 509a in its entirety and recommended the addition of specific rules concerning the powers and duties of the hearing officer and procedural rules concerning the conduct of the hearing. Upon consideration of these suggestions, the Board is proposing to revise Part 509a as set forth below.

A brief description of each of the amendments proposed by the Board follows. The Board solicits and encourages comments regarding the proposed regulations.

1. *Section 509a.1.* This section, which sets forth the scope of Part 509a, is substantially similar to existing Section 509a.1, with the exception of a technical correction made to the statutory citations.

2. *Section 509a.2.* This new section defines certain terms that are used frequently in Part 509a. The term "institution" is defined to include federally-chartered associations, institutions the accounts of which are insured by the FSLIC, affiliate service corporations, and savings and loan holding companies and their subsidiaries. Accordingly, it makes clear that where statutory grounds exist, the Board may issue a suspension notice or removal order to a director, officer, or other person participating in the conduct of the affairs of any of those institutions. (See 12 U.S.C. 1464(d)(2)(A), (C), 1730(E)(1), (3)).

3. *Section 509a.3.* This section sets forth the statutory grounds for the Board's issuance of suspension notices and removal orders pursuant to Section 5(d)(5) of the HOLA and Section 407(h) of the NHA.

4. *Section 509a.4.* This section is new and sets forth more specific structural requirements for suspension notices and removal orders than are currently provided in § 509a.2(a). It is similar to § 509.4 of the Board's regulations, which establishes administrative procedures for notice of hearing in formal adjudicative proceedings. It also adopts the service-of-process rule of § 509.18.

5. *Section 509a.5.* This section sets forth the procedure for obtaining a hearing, and it is similar to existing § 509a.2(b). However, it requires the petitioner to address the allegations in the notice or order and sets forth the statutory deadline for filing.

6. *Section 509a.6.* This section is substantially similar to existing § 509a.3.

7. *Section 509a.7.* This section establishes the powers of the presiding officer and sets forth rules concerning the conduct of the hearing, i.e., the manner in which evidence and argument

may be presented to the presiding officer. It provides the presiding officer with the powers furnished to officers presiding over formal hearings subject to Part 509 of this Subchapter. The rules concerning the conduct of the hearing are substantially similar to those provided by existing §§ 509a.3(d) and 509a.4.

8. *Section 509a.8.* This section concerning default is substantially similar to existing § 509a.5.

9. *Section 509a.9.* This section is new, and it clarifies that the presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. This section also provides that all matters officially noticed by the presiding officer shall appear on the record.

10. *Section 509a.10.* This new section clarifies that the petitioner has the burden of making a *prima facie* case for the termination or modification of a suspension notice or removal order. Section 407(h)(2) of the NHA and Section 5(d)(5)(C) of the HOLA provide that a person subject to a suspension notice or removal order is entitled to "an opportunity to appear before the [Corporation or the Board] to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution." 12 U.S.C. 1730(h)(2), 1464(d)(5)(C) (emphasis added). In other words, the statutes provide that the person challenging a suspension notice or removal order is "to show" that there are grounds for terminating or modifying the suspension notice or removal order. Accordingly, a person seeking such termination or modification is required to make a *prima facie* case. This section also clarifies that the burden of proof applicable in most civil proceedings, i.e., the "preponderance of the evidence" rule, applies as well to these proceedings.

11. *Section 509a.11.* This section, which is similar to existing § 509a.6, sets forth the considerations that are relevant to the Board's determination in continuing, terminating, or modifying a suspension notice or removal order. It clarifies that the Board considers publicity accorded the criminal indictment and trial to be relevant.

12. *Section 509a.12.* This section, which is similar to Section 8(b) of the Administrative Procedure Act (5 U.S.C. 557(b)), sets forth the obligation of the presiding officer to provide the Board with a recommended decision and a certified record within 30 days after oral argument or the submission of written

argument where oral argument is waived.

13. *Section 509a.13.* This section concerns the Board's final decision after receipt of the recommended decision. The Board would be required to issue its decision within 30 days after the recommended decision has been certified to it. Taking into account the 30-day period provided to the presiding officer, a final decision would be issued within 60 days of the hearing, as required by statute.

14. *Section 509a.14.* This new section is a housekeeping provision that provides for incorporation of various formal procedural rules found in Part 509. The Board expects that incorporation of these provisions, which include procedures for filing, service, and computation of time, will facilitate processing and eliminate uncertainty.

Regulatory Flexibility

The Board determines that the proposed rules will not have a significant economic impact on small entities. The rules do not have general effect, as they only apply to individuals who have been served with a suspension notice or removal order where such individuals have been charged with certain crimes. The rules therefore would not appear to be of a kind that raises regulatory flexibility considerations.

List of Subjects in 12 CFR Part 509a

Savings and loan associations.

Accordingly, the Board hereby proposes to amend Subchapter A, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER A—FEDERAL HOME LOAN BANK BOARD

Revise Part 509a as follows:

PART 509a—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

Sec.	
509a.1	Scope.
509a.2	Definitions.
509a.3	Issuance of Notice or Order.
509a.4	Contents and service of the Notice or Order.
509a.5	Petition for hearing.
509a.6	Initiation of hearing.
509a.7	Conduct of hearings.
509a.8	Default.
509a.9	Rules of evidence.
509a.10	Burden of persuasion.
509a.11	Relevant considerations.
509a.12	Proposed findings and conclusions and recommended decision.
509a.13	Decision of the Board.
509a.14	Miscellaneous.

Authority: 12 U.S.C. 1437, 1464, 1725, 1726, 1730, 1731; Reorganization Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071.

§ 509a.1 Scope.

The rules in this part apply to hearings, which are exempt from the adjudicative provisions of the Administrative Procedure Act, afforded to any officer, director, or other person participating in the conduct of the affairs of an insured institution, affiliate service corporation, savings and loan holding company, or subsidiary of such a holding company, where such person has been suspended or removed from office or prohibited from further participating in the affairs of one of the aforementioned entities by a Notice or Order served by the Board upon the grounds set forth in Section 5(d)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(5)) or Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)).

§ 509a.2 Definitions.

As used in this part—

(a) The term "Board" means the Federal Home Loan Bank Board, or, where appropriate, the Federal Savings and Loan Insurance Corporation.

(b) The term "Secretary" means the Secretary to the Federal Home Loan Bank Board and any Assistant or Acting Secretary to the Board.

(c) The term "Notice" means a Notice of Suspension or Notice of Prohibition issued by the Board pursuant to Section 5(d)(5) of the Home Owners' Loan Act or Section 407(h) of the National Housing Act.

(d) The term "Order" means an Order of Removal or Order of Prohibition issued by the Board pursuant to Section 5(d)(5) of the Home Owners' Loan Act or Section 407(h) of the National Housing Act.

(e) The term "institution" means a Federally-chartered association within the meaning of Section 2(d) of the Home Owners' Loan Act, an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institution") within the meaning of Section 401(a) of the National Housing Act, an affiliate service corporation within the meaning of Section 5(d)(2)(C) of the Home Owners' Loan Act and Section 407(e)(3) of the National Housing Act, a savings and loan holding company within the meaning of Section 408(a)(1)(D) of the National Housing Act, and a subsidiary of a savings and loan holding company (other than an insured institution) within the meaning of Section 408(a)(1)(H) of the National Housing Act.

(f) The term "subject individual" means a person served with a Notice or Order.

(g) The term "petitioner" means a subject individual who has filed a petition for informal hearing under this Part.

§ 509a.3 Issuance of Notice or Order.

(a) The Board may issue and serve a Notice upon an officer, director, or other person participating in the affairs of an institution, where the individual is charged in any information, indictment, or complaint authorized by a United States Attorney with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, if the Board is of the opinion that continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution.

(b) The Board may issue and serve an Order upon a subject individual against whom a judgment of conviction, with respect to the aforementioned crime, has been rendered, where such judgment is not subject to further appellate review, and the Board is of the opinion that continued service or participation by the subject individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution.

§ 509a.4 Contents and service of the Notice or Order.

(a) The Notice or Order shall set forth the basis and facts in support of the Board's issuance of such Notice or Order, and shall inform the subject individual of his right to a hearing, in accordance with this Part, for the purpose of determining whether the Notice or Order should be continued, terminated, or otherwise modified.

(b) The Secretary shall serve a copy of the Notice or Order upon the subject individual and the related institution in the manner set forth in § 509.18 of this subchapter.

(c) Upon receipt of the Notice or Order, the subject individual shall immediately comply with the requirements thereof.

§ 509a.5 Petition for hearing.

(a) To obtain a hearing, the subject individual must file two copies of a petition with the Secretary within 30 days of being served with the Notice.

(b) The petition filed under this section shall admit or deny specifically

each allegation in the Notice or Order, unless the petitioner is without knowledge or information, in which case the petition shall so state and the statement shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a petitioner intends in good faith to deny only a part of or to qualify an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) The petition shall state whether the petitioner is requesting termination or modification of the Notice or Order, and shall state with particularity how the petitioner intends to show that his continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's depositors or to impair public confidence in the institution.

§ 509a.6 Initiation of hearing.

(a) Within 10 days of the filing of a petition for hearing, the Board shall notify the petitioner of the time and place fixed for hearing, and it shall designate one or more agency employees to serve as presiding officer.

(b) The hearing shall be scheduled to be held no later than 30 days from the date the petition was filed, unless the time is extended at the request of the petitioner.

(c) A petitioner may appear personally or through counsel, but if represented by counsel, said counsel is required to comply with § 509.3 of this subchapter.

(d) A representative(s) of the Board's Office of General Counsel also may attend the hearing and participate therein as a party.

§ 509a.7 Conduct of hearings.

(a) Hearings provided by this section are not subject to the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 554-557). The presiding officer is, however, authorized to exercise all of the powers enumerated in § 509.6 of this subchapter.

(b) Witnesses may be presented, within time limits specified by the presiding officer, provided that at least 10 days prior to the hearing date, the party presenting the witnesses furnishes the presiding officer and the opposing party with a list of such witnesses and a summary of the proposed testimony. However, the requirement for furnishing such a witness list and summary of testimony shall not apply to the presentation of rebuttal witnesses. The presiding officer may ask questions of any witness, and each party shall have an opportunity to cross-examine any witness presented by an opposing party.

(c) Upon the request of either the petitioner or a representative of the Office of General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time the parties may make any additional submissions for the record. Thereafter, the record shall be closed.

(d) Following the introduction of all evidence, the petitioner and the representative of the Office of General Counsel shall have an opportunity for oral argument; however, the parties may jointly waive the right to oral argument, and, in lieu thereof, elect to submit written argument.

(e) All oral testimony and oral argument shall be recorded, and transcripts made available to the petitioner upon payment of the cost thereof. A copy of the transcript shall be sent directly to the presiding officer, who shall have authority to correct the record.

(f) The parties may, in writing, jointly waive an oral hearing and instead elect a hearing upon a written record in which all evidence and argument would be submitted to the presiding officer in documentary form and statements of individuals would be made by affidavit.

§ 509a.8 Default.

If the subject individual fails to file a petition for a hearing, or fails to appear at a hearing, either in person or by attorney, or fails to submit a written argument where oral argument has been waived pursuant to § 509a.7(c) or (f) of this Part, the Notice shall remain in effect until the information, indictment, or complaint is finally disposed of and the Order shall remain in effect until terminated by the Board.

§ 509a.9 Rules of evidence.

(a) Formal rules of evidence shall not apply to the hearing, but the presiding officer may limit the introduction of irrelevant, immaterial, or unduly repetitious evidence.

(b) All matters officially noticed by the presiding officer shall appear on the record.

§ 509a.10 Burden of persuasion.

The petitioner has the burden of showing, by a preponderance of the evidence, that his or her continued service to or participation in the conduct of the affairs of the institution does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution.

§ 509a.11 Relevant considerations.

(a) In determining whether the petitioner has shown that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution, in order to decide whether the Notice or Order should be continued, terminated, or otherwise modified, the Board will consider: (1) The nature and extent of the petitioner's participation in the affairs of the institution; (2) the nature of the offense with which the petitioner has been charged; (3) the extent of the publicity accorded the indictment and trial; and (4) such other relevant factors as may be entered on the record.

(b) When considering a request for the termination or modification of a Notice, the Board will not consider the ultimate guilt or innocence of the petitioner with respect to the criminal charge that is outstanding.

(c) When considering a request for the termination or modification of an Order which has been issued following a final judgment of conviction against a subject individual, the Board will not collaterally review such final judgment of conviction.

§ 509a.12 Proposed findings and conclusions and recommended decision.

(a) Within 30 days after completion of oral argument or the submission of written argument where oral argument has been waived, the presiding officer shall file with the Secretary and certify to the Board for decision the entire record of the hearing, which shall include a recommended decision, the Notice or Order, and all other documents filed in connection with the hearing.

(b) The recommended decision shall contain:

- (1) A statement of the issue(s) presented,
- (2) A statement of findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record, and

(3) An appropriate recommendation as to whether the suspension, removal, or prohibition should be continued, modified, or terminated.

§ 509a.13 Decision of the Board.

(a) Within 30 days after the recommended decision has been certified to the Board, the Board shall issue a final decision.

(b) The Board's final decision, if adverse to the petitioner, shall contain a statement of the basis therefor. The Board shall be deemed to have satisfied this requirement where it adopts a recommended decision by a resolution that sets forth the basis for such adoption.

(c) The Secretary shall serve upon the petitioner and the representative of the Office of General Counsel a copy of the Board's final decision and the related recommended decision.

§ 509a.14 Miscellaneous.

The provisions of §§ 509.17, 509.18, 509.20, 509.21, and 509.22 of this subchapter shall apply to proceedings under this part.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.

[FR Doc. 82-30901 Filed 11-9-82; 8:45am]
BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 802 3220]

Southern Maryland Credit Bureau, Inc.; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a LaPlata, Md. consumer credit reporting agency to cease, among other things, failing to require customers, such as private investigative agencies, detectives or attorneys, who do not extend credit as part of their normal business, to certify the purpose for which credit information is sought; that use of the information will be restricted to that purpose; and that the customer understands that anyone obtaining credit information under false pretenses is subject to a fine and/or imprisonment under federal law. The credit bureau would be further required to compile a list of detectives and attorneys from the yellow pages of the telephone book in the area where the requesting party does business, and consult the list to determine whether certification must be provided. Additionally, the firm would have to require prospective customers to identify themselves and comply with certification requirements; and to withhold credit reports from parties it

has reason to believe would use the information for improper purposes.

DATE: Comments must be received on or before January 10, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PD, Charlyn J. Buss, Washington, D.C. 20580. (202) 724-1175.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Consumer credit reports.

Agreement Containing Consent Order to Cease and Desist

In the matter of Southern Maryland Credit Bureau, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Southern Maryland Credit Bureau, Inc., a corporation, hereinafter referred to as "proposed respondent" or "respondent," and it now appearing that the proposed respondent is willing to enter into an agreement containing an order not to engage in acts and practices being investigated.

It is hereby agreed by and between proposed respondent (by its duly authorized officer, Thomas W. Carroll, President-General Manager), its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its sole office and place of business located at 211 North U.S. Route 301, P.O. Box 220, LaPlata, Maryland 20646.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives:

- (a) Any further procedural steps;
- (b) The requirement that the Commission's decision contain a

statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty days, and information in respect thereto will be publicly released. The Commission then may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft of the complaint.

6. This agreement contemplates that, if it accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands

that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions: For the purpose of this order the terms "consumer," "consumer report," and "consumer reporting agency" are defined as set forth in Section 603 of the Fair Credit Reporting Act, Public Law 91-508, 15 U.S.C. 1681a (1976).

It is ordered that Southern Maryland Credit Bureau, Inc., a corporation, its successors, assigns, officers, agents, representatives, and employees, shall forthwith cease and desist from failing to maintain reasonable procedures required by Section 607(a) of the Fair Credit Reporting Act designed to limit the furnishing of consumer reports to the purposes specified under Section 604 of the Fair Credit Reporting Act.

Such procedures shall include but are not limited to those set forth below.

Respondent shall cease and desist from:

1. Failing to require any user such as a private investigative agency or detective, who does not, in the ordinary course of business, regularly extend credit or insurance for personal, family, or household use, to certify either in writing at the time of each request or orally at the time of the request, confirming in writing within ten business days after each oral request:

(a) The specific purpose or purposes for which the reports are sought;

(b) That the information will be used for no other purposes; and

(c) That the user understands that Federal law provides that a person who obtains information from a consumer reporting agency under false pretenses shall be fined not more than \$5,000 or imprisoned not more than one year or both.

2. Failing to consult a listing of all detectives, private investigative agencies, and attorneys found in the current yellow pages of the telephone book of the area where the user conducts business or a similar listing of detectives, private investigative agencies and attorneys, to determine whether a user should comply with the requirements of paragraph 1.

3. Failing to require all prospective users of information to identify themselves, and certify the purposes for which the information is sought and that

the information will be used for no other purpose.

4. Furnishing a consumer report to any person if the respondent has reasonable grounds for believing that the consumer report will not be used for a purpose listed in Section 604.

It is further ordered that the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered that the respondent shall forthwith distribute a copy of this order to each of its offices, agents, representatives and employees.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Southern Maryland Credit Bureau, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it would withdraw from the agreement or make final the agreement's proposed order.

Respondent is a credit bureau which assembles information bearing on consumers' creditworthiness, credit standing, and credit capacity for the purpose of furnishing consumer reports to creditors and other users. It is therefore a consumer reporting agency and is required to comply with the Fair Credit Reporting Act.

The first section of the complaint accompanying the order alleges that the credit bureau violated Section 607(a) of the Fair Credit Reporting Act by failing to ask a substantial number of its current customers to certify the reasons why they wanted credit reports and to state that the reports would be used for no other purpose. The complaint alleges the credit bureau also failed to make reasonable efforts to verify the identity of its customers and the uses to which prospective customers certified.

The second section of the complaint alleges that the credit bureau provided reports to one or more private investigators who do not extend credit as part of their normal business. The complaint alleges that, through investigation, the bureau would have had a reasonable basis for believing that such investigators might not have had permissible purposes for receiving credit reports. The complaint also alleges that the credit bureau provided reports to one or more private investigators without obtaining any statement as to the purposes for which consumer reports were sought and that the reports would be used for no other purpose. Finally, the complaint alleges that in a number of cases respondent provided reports to a private investigative agency which obtained those reports as part of its investigations of individuals in connection with divorce cases, child custody proceedings, personal injury litigation, or other circumstances where furnishing consumer reports is impermissible under the Fair Credit Reporting Act.

The agreement containing the consent order to cease and desist provides as follows: The credit bureau will require certain customers such as private investigators, who do not regularly extend credit or insurance for personal, family, or household use, to certify their purposes for obtaining reports about individuals at the time of each request. They will certify their purposes either in writing at the time of a request or orally at the time of the request, but they will provide a written confirmation of an oral request within 10 days. The certification will state the purpose for which the report is sought, that the information will be used for no other purpose, and that the customer understands that a person who obtains information from a consumer reporting agency under false pretenses can, under federal law, be imprisoned or fined. In addition, in the future, the credit bureau will consult a listing of all detectives and attorneys found in the current yellow pages of the telephone book of the area where a client conducts business or a similar listing of detectives and attorneys, to determine whether the customer should supply the certifications described above.

Finally, the credit bureau will require everyone seeking to obtain credit reports to identify themselves and to certify their purposes for obtaining the information and that the information will be used for no other purpose. The credit bureau will refuse to supply a consumer report to any person if it has reasonable grounds for believing that

the report will not be used for a permissible purpose.

The respondent must file a report with the Commission stating the manner in which it has complied with the order. It will file this report within sixty (60) days after service upon it of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement containing the proposed order or to modify in any way its terms.

Carol M. Thomas,
Secretary.

[FR Doc. 82-30896 Filed 11-9-82; 8:45 am]
BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-12679, File No. S7-944]

Exemption From All Provisions of the Investment Company Act of 1940 for Certain Finance Subsidiaries of United States and Foreign Private Issuers

Correction

In FR Doc. 82-26631, beginning on page 42578, on Tuesday, September 28, 1982, make the following changes:

1. On page 42578, in the third column, in footnote 1, in the twelfth line, "U.S." should read

"U.S. corporations deriving less than 20 per-cent of their income from U.S."

2. On page 42579, in the second column, in the fifth line from the top, "U.S. securities" should read "U.S. subsidiaries".

3. Also on page 42579, in the second column, in footnote 7, in the sixth line "supplies" should read "suppliers".

4. On page 42583, in the first column, in § 270.6c-1(b)(1), in the eighth line, "or payment" should read "of payment".

5. Also on page 42583, in the second column, after the authority, insert "Dated: September 22, 1982."

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-34-82]

Definition of Property for Purposes of the Windfall Profit Tax; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this Federal Register, the Internal Revenue Service is issuing temporary excise tax regulations relating to the definition of "property" for purposes of the windfall profit tax. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 10, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention CC:LR:T (LR-34-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Douglas W. Charnas of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend part 150 of title 26 of the Code of Federal Regulations. The proposed amendment of final regulations, based on the temporary regulations, would amend 26 CFR Part 51. For the text of the temporary regulations, see FR Doc. 82-30899 (T.D. 7846). The preamble to the temporary regulations explains the rules being proposed.

The proposed amendment reserves for subsequent publication the rules relating to the recognition of separate properties which are subject to a single right to produce. It is anticipated that the rules to be provided will generally follow the rules set forth in FEA Rul. 1977-1, 42 FR 3682 (1977), and FEA Rul. 1977-2, 42 FR 4409 (1977). Comments are invited on whether these rules should be modified for purposes of the windfall profit tax.

These regulations are proposed to be issued under the authority of Code sections 4997(b) and 7805.

Special Analyses

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

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not

apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

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

Comments and Requests for a Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably 6 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-30900 Filed 11-5-82; 4:30 pm]

BILLING CODE 4630-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 225, 225a

Intent to Revise Regulations Governing the Sale of Royalty-in-Kind Crude; Request for Comments

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of intent to revise regulations; request for comments.

SUMMARY: Because those U.S. royalty oil contracts issued in 1980 will expire in mid-1983, MMS intends to proceed next year with a new sale offering of royalty crude oil. But, before advertising that offering to the public in October 1983, MMS wishes to revise pertinent regulations so as to simplify and streamline the Federal Government's process for selling its royalty crude. MMS, therefore, solicits suggestions from those interested in the royalty oil program in order to: (1) Ease the burden on producers and eligible refiners, and (2) improve the Federal Government's administration of the program.

DATES: Written comments specific to the existing regulations must be received no later than January 10, 1983.

ADDRESSES: Written comments may be mailed or delivered to Mr. Orie L. Kelm, Deputy Associate Director for Royalty Management, Minerals Management Service—MS660, 12203 Sunrise Valley Drive, Room 6A218 (USGS National Center), Reston, VA 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm, (703) 860-7511 (FTS 928-7511).

SUPPLEMENTARY INFORMATION: Existing regulations (30 CFR Parts 225 and 225a) consist of sometimes conflicting or overlapping requirements. To eliminate these conflicts, MMS intends to simplify and clarify its policy so that uniform procedures can prevail for offering and allotting, then selling royalty crude, whether from onshore or offshore Federal leases. MMS is also interested in ways to streamline the application process for potential purchasers, to prorate quantities of crude equitably and rapidly, and then to efficiently sell royalty crude at fair market value. To the extent that existing law permits, MMS proposes also to minimize reporting requirements for industry and to improve the efficiency of the billing and collection process. Any comments on improving the royalty crude allocation, rate, and administration process will be considered in the changes MMS is proposing.

Any revised operational procedures will also be made compatible with the computer-assisted financial and auditing systems currently being developed by MMS for royalty management.

List of Subjects in 30 CFR Parts 225, 225a

Administrative practice and procedure, Minerals royalties, Petroleum allocation, Royalty-in-kind crude oil sales.

Dated: November 8, 1982.

Robert E. Boldt,
Associate Director for Royalty Management,
Minerals Management Service.

[FR Doc. 82-31001 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-MR-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Additional Eligibility Period

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: On April 20, 1982, on pages 16797 through 16799, the VA issued a

proposal to implement some of the provisions of the Veterans' Health Care, Training and Small Business Loan Act of 1981. The recently enacted Veterans' Compensation, Education and Employment Amendments of 1982 contains a section which supersedes a portion of the Veterans' Health Care, Training and Small Business Loan Act of 1981 which the proposed regulations were intended to implement.

Consequently, the VA is withdrawing the April 20 proposal and is substituting this proposal. The following regulatory provisions implement the sections of the Veterans' Health Care, Training and Small Business Loan Act of 1981 and the Veterans' Compensation, Education and Employment Amendments of 1982 which provide an additional period of eligibility for some Vietnam Era veterans with basic eligibility for educational assistance under chapters 34 and 36, title 38, United States Code.

DATE: Comments must be received on or before December 10, 1982. We propose to make this change effective January 1, 1982.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at this address during normal business hours until December 20, 1982. Anyone visiting the Veterans Administration Central Office in Washington, DC for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420; (202-389-2092).

SUPPLEMENTARY INFORMATION: On April 20, 1982 a proposal to amend 38 CFR Part 21 to implement some of the provisions of the Veterans' Health Care, Training and Small Business Loan Act of 1981 was published in the Federal Register on pages 16797 through 16799.

Interested people were given 30 days to submit comments, suggestions or objections. The Veterans Administration received three letters: one from a legal assistance association, one from a veterans' service organization and one from a technical college. Each letter contained one or more objections and suggestions.

While the Veterans Administration was considering these comments, the Veterans' Compensation, Education and Employment Amendments of 1982 was enacted. This law contains a section which supersedes a portion of the Veterans' Health Care, Training and Small Business Loan Act of 1981 which the proposed regulations were intended to implement. Consequently, the Veterans Administration is withdrawing the proposal of April 20 and is substituting this proposal.

Section 21.1042 is amended to show that § 21.1044 provides an exception to the general rule that veterans have 10 years from their date of discharge to use their entitlement to educational assistance allowance.

Section 21.1044 is added to state the criteria a Vietnam Era veteran must meet in order to get an additional period of eligibility. This policy change is required by law.

The Veterans Administration has determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than \$100 million. The proposals will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. These regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that these regulations will affect only individual benefit recipients. They will have no significant impact on small entities, i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans.

Vocational education, Vocational rehabilitation.

Approved: October 27, 1982.

Robert P. Nimmo,
Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as follows:

1. In § 21.1042, paragraphs (a) and (b) are revised to read as follows:

§ 21.1042 Ending dates of eligibility.

The ending date of eligibility will be determined as follows:

(a) *General.* Except as otherwise provided in this section and as provided by §§ 21.1043 and 21.1044, the Veterans Administration will not provide educational assistance to a veteran after the earlier of the following:

- (1) Ten years from his or her last discharge or release from active duty after January 31, 1955, or
- (2) December 31, 1989. (38 U.S.C. 1662; Pub. L. 97-72, 95 Stat. 1047)

(b) *Correction of military records.* If the veteran becomes eligible for educational assistance as the result of a correction of military records under 10 U.S.C. 1552, or a change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other correction action by competent military authority, the Veterans Administration will not provide educational assistance later than 10 years after the date his or her discharge or dismissal was changed, corrected or modified (except as provided by § 21.1043 or § 21.1044), or December 31, 1989, whichever is the earlier. (38 U.S.C. 1662; Pub. L. 97-72, 95 Stat. 1047)

(2) In determining whether this requirement is met, the Veterans Administration will use the criteria stated in § 21.1040(d). (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047).

(b) *Entitlement requirement.* The veteran must have unused entitlement to educational assistance allowance. (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047)

(c) *Time and length of additional eligibility period.* (1) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is before January 1, 1982, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) January 1, 1982, whichever is later. (2) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is after December 31, 1981, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) The first day following the end of the veteran's period of eligibility or extended period of eligibility, whichever is later.

(3) The ending date of an additional eligibility period is—

(i) The last day of attendance or training as certified by the school or the training establishment, or

(ii) December 31, 1984, whichever is earlier. (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047; Pub. L. 97-306)

(d) *Permissible programs.* (1) During the period of eligibility the veteran may only pursue—

(i) A program of apprenticeship or other on-job training.

(ii) A course pursued in residence leading to a vocational objective;

(iii) A correspondence course leading to a vocational objective;

(iv) A correspondence-residence course leading to a vocational objective; or

(v) A program of secondary education.

(2) During this period of additional eligibility the veteran may not pursue—

(i) A flight training course;

(ii) A course leading to a standard college degree; or

(iii) A program of secondary education if he or she already has a secondary school diploma or an equivalency certificate.

(3) If the veteran pursues a program of secondary education, his or her monthly

educational assistance allowance must be based upon the tuition and fees charged to the veteran for the course as provided in 38 U.S.C. 1691(b)(2). (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047)

(e) *Need requirements—vocational or occupational objective.* (1) The Veterans Administration may disallow a claim for an additional eligibility period to permit the veteran to pursue an approved vocational objective or a program of apprenticeship or other on-job training only if the veteran either—

(i) Does not meet the requirements of § 21.1040, or

(ii) Does not meet the requirements of paragraphs (a), (b) or (d) of this section, or

(iii) The Veterans Administration determines, based upon an examination of the veteran's employment and training history, that the veteran is not in need of the program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

(2) The Veterans Administration will determine that a veteran does not need his or her selected program or course only if—

(i) The veteran, on the day he or she files an application—

(A) Is employed in an occupation which requires more than 2 years of specific vocational preparation or training, and

(B) Has maintained that employment for a period of 6 or more consecutive months immediately preceding the day he or she filed an application for the additional period of eligibility; and

(ii) The Veterans Administration finds the veteran's current employment is consistent with his or her aptitudes and abilities. (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047, Pub. L. 97-306)

(f) *Requirements—secondary school diploma.* The veteran may pursue a program of secondary education during the additional eligibility period provided he or she does not have a secondary school diploma or an equivalency certificate. (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047)

(g) *Limitations.* If a veteran becomes disabled during the additional eligibility period, he or she may not qualify under § 21.1043 for an extension of the additional eligibility period past December 31, 1984. (38 U.S.C. 1662(a); Pub. L. 97-306)

[FR Doc. 82-30910 Filed 11-9-82; 8:45 am]

BILLING CODE 8320-01-M

2. Section 21.1044 is added to read as follows:

§ 21.1044 Additional period of eligibility.

A veteran who meets the basic eligibility criteria found in § 21.1040 has an additional period of eligibility if he or she also meets the requirements of this section. (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047)

(a) *Service requirements.* (1) The veteran must have

(i) Served at least 1 day on active duty after August 4, 1964 and before May 8, 1975, and

(ii) Received an unconditional discharge or release under conditions other than dishonorable from the period of service upon which the additional eligibility period is based.

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[A6-FRL 2209-3]

Approval and Promulgation of Implementation Plans; New Mexico Plan for the Bernalillo County Carbon Monoxide Nonattainment Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: This action proposes approval of revisions to the State Implementation Plan (SIP) for attainment of the National Ambient Air Quality Standard (NAAQS) for carbon monoxide (CO) in Bernalillo County, New Mexico. This action is based on the demonstration in the plan that it will ensure attainment and maintenance of the standard in Bernalillo County, New Mexico by 1987 as required under Part D of the Clean Air Act (CAA) Amendments of 1977.

DATE: Interested persons are invited to submit comments on this proposed action on or before January 10, 1983.

ADDRESSES: Written comments should be submitted to the U.S. Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270. Copies of the State submittal and EPA's evaluation report¹ are contained in SIP docket file (NM-1-82) and are available for public inspection during normal business hours at the above address and the following location: Middle Rio Grande Council of Governments, 924 Park Avenue S.W., Albuquerque, N.M. 87102.

FOR FURTHER INFORMATION CONTACT: Ragan Broyles, State Programs Section, Air Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION:**Background**

The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act requiring States to revise SIPs for all non-attainment areas and submit the revisions to EPA by January 1, 1979. The revised plan had to provide for attainment by December 31, 1982, unless the State demonstrated that it could not attain the CO standard by that date despite the implementation of all reasonably available control measures.

If EPA approved this demonstration, the attainment date for CO could be

extended up to December 31, 1987.

States receiving such extensions were required to submit a second SIP revision by July 1, 1982, that complies with all of the Part D requirements.

On March 3, 1978, Bernalillo County, New Mexico was designated by EPA as a non-attainment area for CO. The State of New Mexico submitted an initial SIP revision for the Bernalillo County CO non-attainment area in January 1979. The State requested EPA to extend the attainment date for the CO standard in this area until December 31, 1987. EPA approved the extension request and conditionally approved the initial CO SIP revision on April 10, 1980 (45 FR 24460) and March 26, 1981 (46 FR 18692), respectively.

The State submitted the second SIP revision to satisfy the requirements of Section 172(c) on June 28, 1982. A public hearing was held on May 28, 1982.

The 1982 SIP submission for Bernalillo County was reviewed by EPA in accordance with requirements of the 1982 Carbon Monoxide and Ozone Policy (46 FR 7182) published on January 22, 1981 and the "General Preamble" for SIP revisions for non-attainment areas published on April 4, 1979 (44 FR 20372).² The results of the review are summarized in the technical evaluation report available for review in the SIP docket file (NM-1-82) at the EPA Region 6 office in Dallas, Texas.

SIP Development Process

The control strategy for attainment of the CO standard in Bernalillo County was prepared by the Middle Rio Grande Council of Government (MRGCOG) with the assistance of the City of Albuquerque Air Pollution Control Division. MRGCOG is the designated lead planning agency pursuant to Section 174 of the CAA. The MRGCOG and local officials had responsibility for development of the control plan since the New Mexico Air Quality Control Act authorizes the county to administer and enforce the Air Quality Control Act through local air pollution control regulations. State officials were involved in the final plan review and submission of the plan to EPA. Although considered part of the SIP, the Bernalillo County control strategy is referred to as the Urban Implementation Plan (UIP). The UIP development process included extensive public participation and consultation with local elected officials. Input on the control strategy came from officials and staff of the City of

² EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 76182).

Albuquerque and Bernalillo County and the Albuquerque Bernalillo County Air Quality Control Board (AQCB).

Control Strategy

The Albuquerque, Bernalillo County area experiences numerous violations annually of the 8-hour CO standard (9 ppm), generally during the winter months. The second highest annual 8-hour average CO level recorded for the period 1978-81 was 21.1 ppm. This value occurred in December 1979 and was selected as the design CO concentration for a county wide control strategy. The corresponding required emission reduction to reach the standard is 59 percent. The emission reduction required was calculated using linear rollback.

It is estimated that CO emissions from highway vehicle sources represent almost 90 percent of the total CO emissions generated in the Albuquerque area in 1979. Due to the large contribution of highway vehicles to the CO non-attainment problem, the control strategy is directed at reducing emissions from individual vehicles and reducing vehicle trips and miles traveled. Control measures included in the plan and the net reductions estimated to be achieved by 1987 are as follows:

- Federal Motor Vehicle Control Program for new cars will provide a net reduction of 47 percent.
- Motor Vehicle Inspection/Maintenance (I/M) program will provide a net reduction of 12 percent.
- Transportation control measures (TCMs) will provide a net reduction of 6 percent.

Since traffic growth is projected to increase CO emissions by 5 percent in 1987, the above measures provide a total net emission reduction of 60 percent. The analysis shows the Bernalillo County control strategy will provide for attainment of the CO standard by December 31, 1987.

The plan also includes a projection of emissions for each year from 1982 through 1987 which shows that there will be reasonable further progress (RFP) toward achievement of the standard. The annual emission reductions from the I/M program and the TCMs will be assessed through monitoring programs established in the plan to insure the RFP requirements are met. The reductions from TCMs will be established on the basis of periodic monitoring of surrogate traffic parameters such as transit ridership, vehicle occupancy rates and traffic speeds. The City of Albuquerque, Air

¹ EPA Review of New Mexico SIP revision for Carbon Monoxide in Bernalillo County submitted on June 28, 1982, published in August, 1982.

Pollution Control Division will submit an annual report to EPA to demonstrate that RFP is being maintained.

The plan includes a commitment to implement and/or continue operation of the following TCMS:

- a. Bus system expansion.
- b. Traffic signal system expansion and related traffic flow improvements.
- c. Bicycle paths and routes.
- d. Carpool/vanpool program.
- e. Promotion of alternate work schedules.
- f. On-Street parking control in downtown area.

The bus system expansion and continued operation of the carpool/vanpool program provide for the basic transportation needs of the general public. A contingency plan is contained in the plan for identifying additional TCMS, if it is determined that RFP is not being maintained due to emission reduction shortfalls.

The vehicle I/M program is a centralized contractor operated program administered through the City of Albuquerque. Mandatory I/M inspections are scheduled to begin on January 3, 1983. The I/M program requires mandatory annual inspection of all gasoline fueled motor vehicles which are less than fifteen years old and weigh between 1,000 and 8,000 pounds and are registered in the City of Albuquerque or Bernalillo County outside a municipality. The program is projected to reduce automobile fleet emissions by 27.3 percent in 1987.

The June 28, 1982, SIP submittal includes a detailed discussion of the design elements of the I/M program. The program design adequately addresses all of the elements in the EPA policy of January 22, 1981 (46 FR 7182). However, the regulations for the I/M program were not included in the SIP submittal. The current regulations which were adopted on September 10, 1980, and amended on July 8, 1981, were submitted to EPA by letter of August 4, 1982, as supplemental information for the SIP submittal. Local authorities have committed to submit the regulations under separate cover as part of the 1982 SIP.

The I/M program will be enforced by a windshield sticker system. The sticker system will be enforced by the Albuquerque Police Department and the Sheriff's Office through the Albuquerque Metropolitan Court. Although the city ordinance could be enforced directly by the city, violations of both I/M ordinances will be prosecuted through

the District Attorney's office. The Albuquerque Traffic Code is being amended to reflect this and local authorities have committed to submit the revised code as part of the 1982 SIP revision. The proposed traffic code amendments provide for a fine of up to \$300 and 90 days in jail, which will discourage non-compliance.

As previously noted, the 1979 CO SIP revision was conditionally approved on March 26, 1981 (46 FR 18692). One of the conditions was the submittal of a revised implementation schedule and a detailed enforcement plan for the I/M program, including specific commitments of manpower and financial resources. The implementation schedule and enforcement plan in the 1982 SIP submittal fulfill this condition.

The final approval action will not be taken until the regulations and the amended traffic code are submitted to EPA as part of the SIP.

Proposed Action

EPA proposes to fully approve the SIP revision for attainment of the CO standard in Bernalillo County, New Mexico area, submitted by the Governor on June 28, 1982. Further, EPA is proposing to withdraw the conditional approval and to fully approve the 1979 CO control strategy and regulations.

Regulatory Process

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709 January 27, 1981).

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

This notice of proposed rulemaking is issued under the authority of Section 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7502.

List of Subjects in 40 CFR Part 52

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

Dated: September 10, 1982.

Dick Whittington,
Regional Administrator.

[FR Doc. 82-30905 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2212-2(a)]

Approval and Promulgation of Implementation Plans, Indiana; Proposed Approval of Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On November 24, 1981, the Indiana Air Pollution Control Board submitted a revision to the ozone and total suspended particulates portion of its State Implementation Plan (SIP). The revision is in the form of an operating permit for Jeffboat, Incorporated; Jeffersonville, Indiana. EPA is proposing to approve this revision.

DATE: Comments on this revision and on the proposed EPA action must be received by December 10, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review:

Environmental Protection Agency,
Region V, Air Programs Branch,
230 South Dearborn Street,
Chicago, Illinois 60604
Indiana Air Pollution Control Division,
Indiana State Board of Health,
1330 West Michigan Street,
Indianapolis, Indiana 46206

Comments on this proposed rule should be addressed to: (Please submit an original and five copies, if possible). Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, (312) 886-6034.

SUPPLEMENTARY INFORMATION: On November 24, 1981, the State of Indiana submitted a revision to its State Implementation Plan (SIP) for ozone and total suspended particulates. The revision consisted of an operating permit setting specific emission limitations for Jeffboat, Incorporated, located in Jeffersonville, Indiana.

On June 22, 1982, EPA announced the availability of this revision and took final action to approve it. (47 FR 26832). In that notice, EPA advised the public that it was deferring the effective date of its approval for 60 days, until August 23, 1982, to provide an opportunity for submittal of comments on the revision. EPA announced that, if within 30 days of the publication of the approval notice we received notice that someone wished to submit adverse or critical comment, we would withdraw the approval and begin a new rulemaking by proposing

the action and establishing a 30-day comment period. EPA also published a general notice announcing this special procedure on September 4, 1981 (46 FR 44476).

EPA has received notice that someone wishes to submit an adverse or critical comment. Therefore, in accordance with the procedure described above, EPA is today taking final action elsewhere in today's Federal Register to withdraw its June 22, 1982, approval of this revision to the Indiana SIP for ozone and total suspended particulates and, in this notice, is proposing to approve the revision. A detailed description of the revision and EPA's rationale for proposing approval are found at 47 FR 26832. Interested persons are invited to submit comments on this proposed approval. EPA will consider all comments received within 30 days of the publication of this notice.

Under Executive Order 12291, today's action is not "Major". The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

(Secs. 110, 172 and 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: August 25, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-30923 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 86

[AMS-FRL-2221-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Designation of High-Altitude Locations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed action would revise the present designation of high-altitude locations to exclude those counties in states which do not have an auto-related air quality problem at high-altitude. Specifically, it would exclude all of the currently designated high-altitude counties in Arizona, Idaho, Montana, Nebraska, Oregon, Texas, and Wyoming. This redesignation would take effect upon promulgation and would apply to the sale of 1983 model year light-duty vehicles and 1983 and

later model year light-duty trucks. The sale of both low-altitude and high-altitude vehicles would be allowed in areas excluded from the high-altitude requirements.

DATES: EPA will hold a public hearing on this notice only if it is requested to do so by November 22, 1982. Requests for a public hearing should be sent to the Agency contact person listed below. If a hearing is requested, its time and place will be announced in a subsequent Federal Register notice. Written comments on this proposal will be accepted until December 10, 1982, or until 30 days after the close of the hearing, should one be held.

ADDRESSES: Written comments should be submitted (preferably 4 copies) to: Central Docket Section (A-130), Environmental Protection Agency, Docket No. A-82-31, 401 M Street, S.W., Washington, D.C. 20460. Docket No. A-82-31 is located in the U.S. EPA, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel P. Heiser, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4274.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rulemaking action would revise the present designation of counties in which high-altitude vehicles are required to be sold. Before presenting the details of this proposed revision, however, it will be helpful to explore the basis for EPA's high-altitude motor vehicle program and those details which specifically relate to the designation of high-altitude counties.

A. Need for High-Altitude Emission Standards

EPA has found that light-duty motor vehicles which demonstrate compliance with only low-altitude emission standards generally emit about 50 percent more exhaust hydrocarbons (HC) and 100 percent more carbon monoxide (CO) when tested at 5,300 feet above sea level. Also, in most high-altitude urban areas, motor vehicles account for more than half of the total HC emissions and almost all of the CO emissions. The HC emissions in the presence of summer sunlight contribute to numerous violations of the National Ambient Air Quality Standard (NAAQS)

for oxidant in certain high-altitude metropolitan areas. Similarly, CO emissions in stable winter atmospheric conditions cause numerous violations of the NAAQS for CO. Although progress is being made in reducing the severity of air pollution episodes in these metropolitan areas, specifically controlling emissions from high-altitude motor vehicles (including 1984 and later LDTs) is needed to help assure that the NAAQS for ozone and CO are attained and maintained in the future.

B. Current High-Altitude Program

Mandatory high-altitude emission standards for 1982-83 light-duty motor vehicles were promulgated along with regulations to implement the standards on October 8, 1980 (45 FR 66984), under EPA's general rulemaking authority contained in section 202(a) of the Clean Air Act ("the Act"). These rules are consistent with the requirements for such standards that were established by Congress in section 202(f) of the Act.

The regulations which implement the current high-altitude standards were carefully designed to maximize model availability in high-altitude areas (a problem with EPA's 1977 high-altitude regulations), while at the same time minimizing the cost of the regulations and avoiding any adverse impact on the low-altitude fleet. One of the regulatory provisions included to achieve these goals was a requirement that, in order to market a vehicle anywhere in the nation, the vehicle must either automatically meet both the low- and the high-altitude standards, or be capable of being modified to do so. This protects model availability at high-altitude since manufacturers must certify vehicles to the high-altitude standards in order to sell them at low altitude. Once resources for certification are expended, manufacturers are likely to sell such vehicles at high altitude to recover their investment. Also, by allowing vehicles to be modified from their low-altitude configurations to comply with the standards at high altitude, the cost of these regulations to the nation is minimized since high-altitude emission control hardware is required only on those vehicles sold in high-altitude areas. However, the regulations generally restrict any such modifications to engine operating parameters, such as the air/fuel ratio of the carburetor, so that the vehicle modifications are not excessively expensive.

These provisions, in most cases, result in two different versions of the same model being sold in various parts of the nation: a low-altitude version and a

high-altitude version. This requires that certain areas be designated as "high-altitude" areas and that low-altitude vehicles be prohibited from being sold there. The criteria used to designate high-altitude counties up to this time have focused solely on the altitude of the county; specifically, whether 75 percent or more of both the land area and population residence were above 4,000 feet (45 FR 14079). The criteria did not address each county's need for the emission reductions resulting from the program since: (1) The cost of the program was expected to be small and would actually improve vehicle fuel economy, and (2) no adverse comments were received when the criteria were proposed.

In a petition to the Administrator dated April 6, 1982, the Arizona Congressional Delegation requested that EPA amend its criteria for designation of areas as "high-altitude" areas. In that petition, the delegation stated that the five Arizona counties currently obligated to comply with EPA's high-altitude regulations have no record of violation of the Natural Ambient Air Quality Standards (NAAQS) for CO or ozone. They further commented that high-altitude regulations were designed to alleviate problems in metropolitan areas such as Denver and Salt Lake City. Therefore, they recommended that areas without automobile-related air quality problems be eliminated from the present high-altitude regulations. After careful consideration of their request, the Agency agreed with the delegation's basic premise and stated EPA's intent to develop and propose new criteria for the designation of high-altitude areas. This notice of Proposed Rulemaking carries out that intent.

As the high-altitude program for 1984 and later model year light-duty trucks is expected to be very similar to that described above, the designation of high-altitude counties will remain an important aspect of the program well into the future.

II. Redesignation Criteria

The new high-altitude designation criteria would exclude from EPA's high-altitude program the counties currently designated in seven states. These seven states are: Arizona, Idaho, Montana, Nebraska, Oregon, Texas, and Wyoming. The states do not have any high-altitude counties which are in violation of the National Ambient Air Quality Standards for CO and ozone. The four remaining states, Colorado, Nevada, New Mexico, and Utah, all have a number of high-altitude areas in violation of these standards. The basis for this redesignation and the discussion

of other alternatives considered by EPA are presented below.

A. Issues

In this proposal, EPA is attempting to address two important issues affecting the designation of a high-altitude county: (1) Whether the emission reductions of EPA's high-altitude program are needed to attain adequate air quality in that area, and (2) whether the inclusion of that area in the program is needed to attain adequate air quality elsewhere. Both questions are important since, if the answer is no in both cases, even a small regulatory burden, such as a small increase in vehicle cost or a minor reduction in model availability, is not justified.

The first question can be adequately addressed by simply determining whether a state has requested an extension of the December 31, 1982 deadline for compliance with the NAAQS for CO or ozone for any high-altitude counties. Newer vehicles, regardless of whether their emissions at high-altitude are specifically controlled, will emit less than the vehicles they replace in the great majority of cases. Also, stationary source contributors to CO and ozone levels in the atmosphere are not expected to be a problem. Thus, future attainment is assured for those areas now in attainment. Those counties currently out of compliance are sufficiently so that their inclusion in the program does not appear controversial.

The second question is more difficult to address. There are two ways in which vehicles sold in one county affect attainment in another. One, vehicles owned by residents of one county are often driven into another or their emissions may be transported by wind and contribute to the air quality problems in another county. Two, people residing in one county can cross county lines to purchase a vehicle. This latter possibility is the more important of the two for two reasons: (1) The higher emitting vehicle spends most of its time in the area with the air quality problem, and (2) the population densities of non-violating counties in close proximity to violating counties are very low and neither the vehicles in non-violating counties nor their emissions significantly affect air quality in the violating regions.

Two possible barriers are apparent which tend to prevent the purchase of vehicles in other locales: (1) A state line and (2) distance. The state line appears to be the stronger of the two because of the need to transfer title, registration, etc., after purchase, and because it provides the state with a written record of the transfer of a newly purchased

vehicle from another state. A state attempting to prevent the out-of-state purchase of low-altitude vehicles by its residents would have readily available information for enforcement. Thus, it would appear possible to exclude all the current high-altitude counties in a given state, if none of those counties had an auto-related air quality problem and none contributed significantly to the air quality problem in a nearby county in another state.

The distance barrier is only important, then, within a state with a high-altitude air quality problem. There are four such states, Colorado, Nevada, New Mexico, and Utah.

Each has a number of cities where the NAAQS for CO and ozone are being violated, but many of the current high-altitude counties are quite distant from these cities. Still, it is possible to travel to purchase a vehicle from these areas with little or no record being normally available of the transfer. Also, most of the high-altitude counties in these states are at least somewhat economically connected to the violating cities. Thus, their inclusion in the program along with those cities may also have its conveniences (e.g., vehicle trading between dealers). From this, and the fact that EPA has received no complaint from anyone in those four states about their inclusion in the program, it would appear that the distance barrier is both less effective and less important than the state-line barrier.

B. Alternatives

EPA considered two alternative designation criteria for proposal. One would exclude all of the high-altitude counties in a state when no such county in that state was in violation of the NAAQS for CO and ozone (state-line option). The other would exclude these counties and, in addition, those counties in the other four states which were sufficiently distant from violating cities (state-line and distance option). Retaining high-altitude counties in states other than those with air quality problems was not considered since none of these counties appears to affect the air quality of the violating counties significantly.

The difference between the two alternative approaches is that the state-line and distance option would exclude additional high-altitude counties in the four states with air quality violations on the basis that counties sufficiently distant have no impact on the violating areas. The advantage of this difference is that additional counties would be excluded, increasing the savings due to redesignation. One disadvantage is it

would be difficult to define a sufficient distance that did not appear somewhat arbitrary. Also, the exclusion of the additional counties could reduce the market for vehicles with high-altitude configurations by up to 50 percent from present levels, as opposed to 20 percent for the state-line option. An effect this large could begin to affect model availability adversely and increase the cost of the program in the remaining areas significantly. Lastly, EPA has not received any complaints about the present designation criteria from parties associated with the four states with violating areas. Thus, the overall regulatory burden on those areas appears to be reasonable.

Overall, the disadvantages of the state-line and distance option appeared to outweigh its advantages. Thus, EPA has chosen to propose the state-line option, which would exclude all of the present high-altitude counties in the seven states without air quality violations and would retain all of the present high-altitude counties in the four states with air quality violations. However, EPA requests comments on the state-line and distance option, even though it is not being proposed.

III. Implementation and Leadtime

EPA plans to effect any revised designation criteria immediately upon publication of the final rulemaking in order to realize its benefits as early in the 1983 model year as possible. This expeditious implementation should not have any adverse impacts since the proposed action does not impose any added restrictions, but only grants additional flexibility. Specifically, while auto dealers in the exempted counties would be able to sell low-altitude vehicles, they would still be allowed to sell high-altitude vehicles. If manufacturers were committed to the production of a fixed number of 1983 high-altitude configurations, these vehicles could still be marketed and no adverse impact should occur.

IV. Environmental Impact

EPA expects no significant adverse environmental impact to result from the proposed action. The CO and HC emissions may increase to some extent in the excluded areas over that which would have occurred without the revision proposed in this notice. However, the ambient concentrations of CO and ozone in these areas are already below the National Ambient Air Quality Standards for these pollutants and further emission reductions are not needed. The CO and HC emissions of the 1983 and later model year low-altitude vehicles which would be sold

under this proposed action are still lower than those of the vehicles being replaced. Thus, EPA expects that air quality in the excluded areas will still improve in the future even without the benefit of EPA's high-altitude program.

V. Economic Impact

EPA expects this proposed action to produce a net savings for the nation. Fewer high-altitude vehicles would be sold in excluded areas and the additional cost of high-altitude modifications on these vehicles would be avoided. This cost savings would be approximately \$23 per vehicle on the average.

The overall reduction in high-altitude vehicle sales (about 20 percent) could increase the cost of high-altitude standards for the remaining high-altitude areas. Some of the costs to manufacturers are fixed costs and would have to be spread over fewer vehicles. Also, the production runs of the various high-altitude components would be smaller, which would tend to increase cost. However, EPA does not expect this increase would be larger than \$2-3 per vehicle and the high-altitude program in the remaining areas would still be cost effective and reasonable. Overall, the savings in the excluded counties would far outweigh any additional costs in the remaining counties.

VI. Public Hearing

Any person requesting a public hearing should submit a request to the Agency contact indicated above by November 22, 1982. If a hearing is requested, EPA will announce its date and location in the *Federal Register*.

If a hearing is held, the record of the hearings will be left open for 30 days following the close of the hearings to allow submission of rebuttal and supplementary information. Any documents submitted during this period should be sent to the EPA Central Docket Section at the address shown above (Docket No. A-82-31). It is also requested, but not required, that a copy of this submittal be sent directly to the Agency contact indicated above.

Commenters desiring to submit proprietary information should segregate that information from other comments to the greatest extent possible, and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the Agency contact indicated above, and not to the Docket, to insure that proprietary information is not inadvertently placed in the public docket.

Information covered by such a claim will be disclosed by EPA only to the

extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter.

VII. Authority

Statutory authority for this proposal is provided by Sections 202 and 301(a) of the Clean Air Act (42 U.S.C. 7521 and 7601). This action is also in accordance with the guidelines for establishing high-altitude regulations provided in Section 202(f)(3) of the Clean Air Act.

Specifically, the Administrator is required to consider and make a finding with respect to several factors, including "the likelihood that the adoption of such a high-altitude regulation will result in any significant improvement in air quality in any area to which it shall apply."

Congress therefore intended that EPA consider the effects of high-altitude regulations on areas in which those regulations would apply. As discussed above, the regulations would not have any significant effect vis-a-vis the National Ambient Air Quality Standards in the counties which would be excluded from the high-altitude regulations. Even without high-altitude regulations, these counties should continue to experience reductions in vehicle-related pollutants.

Administrative Designation: Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no significant adverse effect on competition, productivity, investment employment or innovation.

This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket cited at the beginning of this preamble.

Effect on Small Entities: Section 605 of the Regulatory Flexibility Act requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation indeed does not have any significant impact on small entities. Overall, this proposed action should reduce the regulatory burden on a large number of small entities, the auto dealers in the areas to be excluded. Those dealers in the remaining areas

may experience a slight increase in the cost of vehicles built to comply with the high-altitude regulations (\$2-3 per vehicle). However, the economic effect of this increase would be slight and would be far outweighed by the benefits in the excluded areas.

Impacts of Reporting Requirements:

This proposed rule does not affect the existing reporting requirements of EPA's high-altitude emission control program.

List of Subjects in 40 CFR Part 86

Administrative Practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: November 4, 1982.

Anne M. Gorsuch,
Administrator.

For the reasons set forth in the preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 86.082-30 is amended by revising paragraph (a)(5) as follows:

§ 86.082-30 Certification.

(a) * * *

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its areas located above 1,219 meters (4,000 feet), and:

(A) Requested an extension past the attainment date of December 31, 1982 for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (A).

(ii) The designated high-altitude locations defined in paragraph (i) are listed below:

Designated High-Altitude Locations (Counties)

State of Colorado

Adams	Arapahoe
Alamosa	Archuleta
Boulder	
Chaffee	Costilla
Cheyenne	Crowley
Clear Creek	Custer
Conejos	
Delta	Dolores
Denver	Douglas
Eagle	El Paso
Elbert	
Fremont	
Garfield	Grand
Gilpin	Gunnison

Hinsdale	Huerfano
Jackson	Jefferson
Kit Carson	
Lake	Las Animas
La Plata	Lincoln
Larimer	
Mesa	Montezuma
Mineral	Montrose
Moffat	Morgan
Otero	Ouray
Park	Pueblo
Pitkin	
Rio Blanco	Routt
Rio Grande	
Saguache	San Miguel
San Juan	Summit
Teller	
Washington	Weld

State of Nevada

Carson City	
Douglas	
Elko	Eureka
Esmeralda	
Humboldt	
Lander	Lyon
Lincoln	
Mineral	
Nye	
Pershing	
Storey	
Washoe	White Pine

State of New Mexico

Bernadillo	
Catron	Curry
Colfax	
De Baca	
Grant	Guadalupe
Harding	Hidalgo
Lincoln	Luna
Los Alamos	
McKinley	
Otero	
Mora	
Rio Arriba	Roosevelt
Sandoval	Santa Fe
San Juan	Sierra
San Miguel	Socorro
Taos	Torrance
Union	
Valencia	

State of Utah

Beaver	Box Elder
Cache	Carbon
Daggett	Duchesne
Davis	
Emery	
Garfield	Grand
Iron	
Juab	
Kane	
Millard	Morgan
Piute	
Rich	
Salt Lake	Sevier
San Juan	Summit
Sanpete	
Tooele	
Uintah	Utah
Wasatch	Weber
Wayne	

2. Section 86.084-30 is amended by revising paragraph (a)(5) as follows:

§ 86.084-30 Certification.

(a) * * *

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its areas located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982 for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (A).

(ii) The designated high-altitude locations defined in paragraph (i) are listed below:

Designated High-Altitude Locations (Counties)

State of Colorado

Adams	Arapahoe
Alamosa	Archuleta
Boulder	
Chaffee	Costilla
Cheyenne	Crowley
Clear Creek	Custer
Conejos	
Delta	Dolores
Denver	Douglas
Eagle	El Paso
Elbert	

Fremont		Valencia	
Garfield	Grand		State of Utah
Gilpin	Gunnison	Beaver	Box Elder
Hinsdale	Huerfano	Cache	Carbon
Jackson	Jefferson	Daggett	Duchesne
Kil Carson		Davis	
Lake	Las Animas	Emery	
La Platta	Lincoln	Garfield	Grand
Larimer		Iron	
Mesa	Montezuma	Juab	
Mineral	Montrose	Kane	
Moffat	Morgan	Millard	Morgan
Otero	Ouray	Piute	
Park	Pueblo	Rich	
Pitkin		Salt Lake	Sevier
Rio Blanco	Routt	San Juan	Summit
Rio Grande		Sanpete	
Saguache	San Miguel	Tooele	
San Juan	Summit	Uintah	Utah
Teller		Wasatch	Weber
Washington	Weld	Wayne	
	State of Nevada		
Carson City			
Douglas			
Elko	Eureka		
Esmeralda			
Humboldt			
Lander	Lyon		
Lincoln			
Mineral			
Nye			
Pershing			
Storey			
Washoe	White Pine		
	State of New Mexico		
Bernadillo			
Catron	Curry		
Colfax			
De Baca			
Grant	Guadalupe		
Harding	Hidalgo		
Lincoln	Luna		
Los Alamos			
McKinley			
Otero			
Mora			
Rio Arriba	Roosevelt		
Sandoval	Santa Fe		
San Juan	Sierra		
San Miguel	Socorro		
Taos	Torrance		
Union			

[FR Doc. 82-30907 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2658/P258; PH-FRL 2239-8]

Malathion; Proposed Tolerance**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide malathion in or on the commodity sunflower seeds. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before November 26, 1982.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers

University, New Brunswick, NJ 08903, has submitted pesticide petition number 2E2658 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Minnesota, North Dakota, and South Dakota, and the National Sunflower Association.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of malathion (0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate) resulting from postharvest application, in or on the raw agricultural commodity sunflower seeds at 8.0 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included rat acute oral studies with LD₅₀ values of 1,000 to 1,845 milligrams (mg)/kilogram(kg); an 80-week rat feeding study with a no-observed-effect level (NOEL) for oncogenic effects of 8,150 ppm (highest dose tested); a 47-day (voluntary) human feeding study with a NOEL of 0.2 mg/kg/day for cholinesterase inhibition; a rat teratology study (single dose, injected intraperitoneal) with a NOEL of 900 mg/kg; and a rec-assay mutagenicity study which was negative.

The acceptable daily intake (ADI), based on the human feeding study (NOEL of 0.2 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.02 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.2 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 6.13 mg/day; the current action will increase the TMRC by 0.00360 mg/day (0.06 percent). The current action will utilize an additional 0.30 percent of the ADI. The Agency has concluded that the amount of malathion added to the human diet from the proposed use will not significantly increase dietary exposure.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, currently established tolerances for meat and milk are adequate to cover any residues

resulting from sunflower seed meal used as animal feed; the tolerance established by amending 40 CFR 180.111 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the *Federal Register* that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to provide expeditiously a means to control the stored grain insect complex infesting stored sunflower seeds. Comments must bear a notation indicating the document

control number, "[PP 2E2658/P258]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: October 27, 1982.

Robert V. Brown,
Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.111 be amended by adding and alphabetically inserting the raw agricultural commodity sunflower seeds to read as follows:

§ 180.111 Malathion, tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Sunflower seeds (Post-H)	8.0
* * * * *	

[FR Doc. 82-30420 Filed 11-9-82; 8:45 am]
BILLING CODE 6560-50-M

Notices

Federal Register

Vol. 47, No. 218

Wednesday, November 10, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 5, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) title of the information collection; (3) form number(s), if applicable; (4) how often the information is requested; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer (202) 447-6201.

Revised

- Agricultural Marketing Service
Hops of Domestic Production—
Marketing Order No. 991
On occasion, annually, biennially
Farms: 6,938 responses; 16,060 hours; not
applicable under 3504(h)
Robert Boersma (202) 447-2256

Extension

- Agricultural Marketing Service
Walnuts Grown in California—
Marketing Order No. 984
On occasion, monthly, annually
Businesses or other institutions: 18,950
responses; 33,445 hours; not
applicable under 3504(h)
Robert Boersma (202) 447-2256

- Animal and Plant Health Inspection
Service
Request for Reimbursable Overtime
Services
PPQ 192
On occasion
Individuals, businesses or other
institutions: 2,000 responses; 166
hours; not applicable under 3504(h)
L. M. Sedgewick, Jr. (301) 436-8584

- Agricultural Marketing Service
Request for Classification
CN 357
On occasion
Businesses or other institutions: 3,000
responses; 250 hours; not applicable
under 3504(h)
Loyd R. Frazier (202) 447-5506

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82-30879 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-01-M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, Stat. 770-776), the Cooperative State Research Service, announces the following meeting:

Name: Committee of Nine.
Date: December 8, 1982.
Time: 8:00 a.m.-5:00 p.m.
Place: Committee Meeting Room 303A,
Agriculture Building, University of Arizona,
Tucson, Arizona 85721.

Type of Meeting: Open to the public.
Persons may participate in the meeting as
time and space permit.

Comments: The public may file written
comments before or after the meeting with
the contact person listed below.

Purpose: To evaluate and recommend
proposals for cooperative research on
problems that concern agriculture in two or
more States, and to make recommendations
for allocation of regional research funds
appropriated by Congress under the Hatch
Act for research at the State agricultural
experiment stations.

Contact Person for Agenda and More
Information: Dr. Estel H. Cobb, Recording

Secretary, U.S. Department of Agriculture,
Cooperative State Research Service,
Washington, D.C. 20250; telephone: 202/447-
4329.

Done at Washington, D.C., this 5th day of
November 1982.

W. I. Thomas,
Administrator, Cooperative State Research
Service.

[FR Doc. 82-30876 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-03-M

Packers and Stockyards Administration

Farmers Livestock Feeder Pig Sale, Ky.; Deposting of Stockyards

It has been ascertained, and notice is
hereby given, that the livestock markets
named herein, originally posted on the
respective dates specified below as
being subject to the Packers and
Stockyards Act, 1921, as amended (7
U.S.C. 181 *et seq.*), no longer come
within the definition of a stockyard
under said Act and are, therefore, no
longer subject to the provisions of the
Act.

Facility No., name and location of stockyard	Date of posting
KY-132 Farmers Livestock Feeder Pig Sale, Mayfield, Kentucky.	Oct. 20, 1970.

Notice or other public procedure has
not preceded promulgation of the
foregoing rule. There is no legal
justification for not promptly deposting
a stockyard which is no longer within
the definition of that term contained in
the Act.

The foregoing is in the nature of a
change relieving a restriction and may
be effective in less than 30 days after
publication in the Federal Register. This
notice shall become effective November
10, 1982.

(42 Stat. 159, as amended and supplemented;
7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 3rd day of
November 1982.

Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock
Marketing Division.

[FR Doc. 82-30878 Filed 11-9-82; 8:45 am]

BILLING CODE 3410-02-M

Wisner Sales Co., Inc., Nebr.; Proposed Posting of Stockyards

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

NE-191 Wisner Sales Co., Inc., Wisner, Nebraska

Notice is hereby given, therefore, that the said Chief, pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or argument concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by November 26, 1982.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 3rd day of November 1982.

Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-30877 Filed 11-9-82; 8:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket 41075]

International Air Associates, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., November 3, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-30871 Filed 11-9-82; 8:45 am]
BILLING CODE 6320-01-M

[Dockets 33019 and 38961; Order 82-11-23]

Notice of Order Concerning Mail Rates

Order 82-11-23, November 4, 1982, Dockets 33019 and 38961, establishes a new mail rate structure for the state of Alaska. It also proposes new final intra-Alaska service mail rates retroactive to January 1, 1981. **FOR FURTHER INFORMATION CONTACT:** Joseph W. Bolognesi, Bureau of Domestic Aviation (202) 673-5333, or James E. Gardner, Bureau of International Aviation (202) 673-5391.

Copies of the order are available from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

By the Civil Aeronautics Board: November 4, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-30872 Filed 11-9-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 31290; Order 82-11-33]

Order Concerning Standard Industry Fare Level

Order 82-11-33, November 5, 1982, Docket 31290, denies an application for exemption from the interim Standard Industry Fare Level requested by United Air Lines. **FOR FURTHER INFORMATION CONTACT:** Julien R. Schrenk, Bureau of International Aviation, (202) 673-2598.

Copies of the order are available from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

By the Civil Aeronautics Board, November 5, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-30873 Filed 11-9-82; 8:45 am]
Billing Code 6320-01-M

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-423-077, A-427-076, and A-428-082]

Sugar From France, Belgium, and the Federal Republic of Germany; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on sugar from France, Belgium, and the Federal Republic of Germany. The review covers the thirteen known exporters and third-country resellers of this merchandise to the United States and the period June 1, 1981 through May 31, 1982. There was no known shipments to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the margins calculated on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202)377-3601.

SUPPLEMENTARY INFORMATION:**Background**

On January 25, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 3399) the final results of its last administrative review of the antidumping finding on sugar from France, Belgium, and the Federal Republic of Germany (44 FR 33878, June 13, 1979) and announced its intent to conduct the next administrative review by the end of June 1983. 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 shipments of sugar, both raw and refined, currently classifiable under item numbers 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of thirteen exporters and third-country resellers of sugar to the United States from France, Belgium, and the Federal Republic of Germany. The review covers all thirteen and the period June 1, 1981 through May 31, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 102 percent, 103 percent, and 121 percent, based on the margins calculated on the last known shipments of this merchandise, shall be required on all shipments of sugar from France, Belgium, and the Federal Republic of Germany, respectively, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. The cash deposits shall be reduced by the amount of any estimated countervailing duty cash deposit, attributable to export subsidies, required at the time of entry. 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 hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or 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 § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: November 3, 1982.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-30692 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-25-M

[A-583-091]

Polyvinyl Chloride Sheet and Film From Taiwan; Preliminary Results of Administrative Review of Antidumping Finding, Intent To Revoke in Part, and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding, intent to revoke in part, and tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polyvinyl chloride sheet and film from Taiwan. The review covers the 46 known exporters and one third-country reseller of this merchandise to the United States currently covered by the finding. For all but two of the firms the review covers the period June 1, 1980 through either May 31, 1981, or June 30, 1981.

As a result of this review the Department has preliminarily determined to assess dumping duties for certain exporters equal to the calculated differences between United States price and foreign market value on each of their shipments during their individual period of review.

The Department intends to revoke the finding with respect to Nan Ya Plastics Corporation. We published a tentative determination to revoke in part with respect to Nan Ya Plastics Corporation on June 26, 1981. The Department has also tentatively determined to revoke the finding with respect to Cathay Plastic Industry Co., Ltd.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 33065) the preliminary results of its last administrative review and tentative determination to partially revoke the antidumping finding on polyvinyl chloride sheet and film from Taiwan. On September 23, 1981, the Department published in the Federal Register (46 FR 45983-4) the final results of the administrative review and announced its intent to conduct the next administrative review by the end of June 1982. 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 shipment of unsupported, flexible, calendered polyvinyl chloride ("PVC") sheet, film, and strips, over 6 inches in width and over 18 inches in length, and at least 0.002 inch but not over 0.020 inch in thickness, currently classifiable

under item numbers 771.4312 and 774.5590 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 46 exporters and one third-country (Hong Kong) reseller to the United States of PVC sheet and film from Taiwan currently covered by the finding. For all but two of the firms the review covers the period June 1, 1980 through either May 31, 1981, or June 30, 1981.

Twenty-one firms did not export PVC sheet and film to the U.S. during the periods reviewed. The estimated duty deposit rates for these firms will be the most recent information for each firm. Seven firms failed to respond to our questionnaire or provided insufficient information. For these non-responsive firms we used the best information available to determine the assessment and estimated duty deposit rates. The best information available is the most recent rate for each firm.

The Department has preliminarily decided not to cover the following nine firms in this review or future section 751 reviews:

Canal International Corp.
Hotsun Industrial Corp.
Interbond Ltd.
Jump International Corp.
P. R. Originals Co., Ltd.
Progress Plastics Co., Ltd.
Richard Soong Co., Ltd.
St. Solid Co., Ltd.
Taiwan Eva Industrial Co., Ltd.

Our preliminary review of these firms indicates that merchandise exported by them is not subject to the finding.

The Department has preliminarily decided also not to cover the following three firms in this review or future section 751 reviews:

Foremost Worldwide (Taiwan) Co., Ltd.
Phoenix Enterprises Inc.
Turner Enterprises Co.

Our preliminary review of these firms indicates that all have gone out of business.

This is not a proposal to revoke the finding with respect to these twelve firms. Should these firms begin exporting the covered merchandise to the U.S., we shall treat them as new exporters.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed delivered price either to an unrelated purchaser in the United States or to an unrelated Taiwanese trading company for export to the United States, as appropriate. Where applicable,

deductions were made for ocean freight, insurance, U.S. and foreign inland freight, currency conversion expenses, and export license fees, in accordance with § 353.10 of the Commerce Regulations. Additions were made for both harbor dues and customs duties on imported raw materials not collected by reason of subsequent exportation in a finished product, in accordance with § 353.10(d)(1)(ii) of the Commerce Regulations. Additions were also made for the amount of sales taxes, stamp taxes, and education taxes rebated upon exportation, but only to the extent that such taxes were incurred with respect to home market sales and were added to or included in the price of such or similar merchandise, in accordance with section 353.10(d)(1)(iii) of the Commerce Regulations. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, or constructed value when sufficient sales did not exist in the home market or to purchasers in third countries, all as defined in section 773 of the Tariff Act. Home market prices were based on delivered prices and were adjusted, where applicable, for inland freight, quantity and other discounts, a packing differential, credit cost differences, sales returns and allowances, technical assistance, certain advertising and sales promotions, and bad debt loss, in accordance with §§ 353.14 and 353.15 of the Commerce Regulations. An adjustment claimed for advertising and sales promotion expenses involved in part advertising in technical magazines. The Department disallowed this portion of the advertising claim because it was not directly related to the sales of PVC sheet and film in the home market. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (per-cent)
Digest International Develop. Corp.	6/1/80-6/30/81	
Dirkson Inc.	6/1/80-6/30/81	
Easin Inc.	6/1/80-6/30/81	
Essex Sporting Goods	6/1/80-5/31/81	15.9
Everlasting Manufacturing Inc.	6/1/80-6/30/81	
Fashion Plastics Fabr. Co., Ltd.	6/1/80-5/31/81	15.9
Formosa Shoe Industry	6/1/80-5/31/81	
Fuji Industries Co. (Taiwan), Ltd.	10/1/77-5/31/81	5.9
Grand Asia Plastic Industry, Inc.	6/1/80-5/31/81	15.9
Gela & Co.	6/1/80-6/30/81	(¹)
G. Gaily International Corp.	6/1/80-6/30/81	(¹)
Hayward & Co., Ltd.	6/1/80-6/30/81	(¹)
Holdcheer Corp. Ltd.	6/1/80-6/30/81	
Huihsin Trading Co., Ltd.	6/1/80-6/30/81	
Jamecie Corp.	6/1/80-5/31/81	11.37
Jiffy Trading Co.	6/1/80-5/31/81	(¹)
K.E. & Kingstone Co., Ltd.	6/1/80-6/30/81	
Key Song International Co., Ltd.	6/1/80-5/31/81	11.37
Le Yang, Inc.	6/1/80-5/31/81	
Long Joy Enterprises Co., Ltd.	6/1/80-5/31/81	5.9
Mine Chung Knitting Co., Ltd.	6/1/80-6/30/81	
Nan Lung Plastics Co., Ltd.	6/1/80-5/31/81	11.37
Nan Ya Plastics Corp.	6/1/80-6/30/81	
Nanping Corp.	6/1/80-6/30/81	
Odin Industrial Co., Ltd.	6/1/80-5/31/81	11.37
Paulko Enterprises	6/1/80-6/30/81	(¹)
San Ching Plastic	6/1/80-5/31/81	11.37
San Jing Enterprises Corp. Ltd.	6/1/80-5/31/81	5.9
Sequence Co., Ltd.	6/1/80-5/31/81	(¹)
Taiwan Upholstery Furniture Export Supplies Ltd.	6/1/80-5/31/81	11.37
Team Worldwide Corp.	6/1/80-6/30/81	(¹)
Union Industries Ltd.	6/1/80-5/31/81	11.37
Wen Fung Industries Co., Ltd.	6/1/80-5/31/81	5.9
World Fashions Corp.	6/1/80-6/30/81	
Yung Chieh Enterprises Co., Ltd.	6/1/80-5/31/81	11.37
Third-Country Reseller/Country: Lot Heng (PVC Co.), Ltd./Hong Kong	6/1/80-5/31/81	11.37

¹No shipments during the period.

Intent To Revoke in Part

As result of our review we intend to revoke the finding on PVC sheet and film from Taiwan manufactured by Nan Ya. As provided for in § 353.54(e) of the Commerce Regulations, the firm has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that PVC sheet and film produced by Nan Ya and sold directly or indirectly to the United States is being sold at less than fair value. If the finding is revoked with regard to this firm, it shall apply to unliquidated entries of PVC sheet and film produced and sold by Nan Ya, exported to the United States directly or indirectly through a Taiwanese trading company, and entered, or withdrawn from warehouse, for consumption on or after June 26, 1981.

Tentative Determination To Revoke in Part

Cathay Plastic Industry Co., Ltd. ("Cathay") has requested a revocation of the finding with regard to its shipments. This firm made all sales to the United States at not less than fair value or had *de minimis* margins for at least a two-year period. This firm has agreed in writing, as provided for in

§353.54(e) of the Commerce Regulations, to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that the merchandise thereafter imported into the United States is being sold by it directly or indirectly at less than fair value.

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 hearing, if requested, will be held 30 days after the date of publication of this notice or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the margins calculated above shall be required on all shipments of PVC sheet and film from those firms still covered by the finding entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review, intent to revoke in part, tentative revocation in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a) (1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: November 3, 1982.

Judith Hippler Bello,

Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration,

[FR Doc. 82-30891 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-25-M

Manufacturer/exporter	Time period	Margin (per-cent)
Apex International Corp.	6/1/80-6/30/81	
Asian International Inc.	6/1/80-5/31/81	11.37
BL & GY International Co., Ltd.	6/1/80-6/30/81	
Brave Dragon Industries Ltd.	6/1/80-5/31/81	15.9
Buono Manufacturing Co.	6/1/80-6/30/81	
Cathay Plastic Industry Co., Ltd.	6/1/80-6/30/81	
Cheng Hsung Corp.	6/1/80-6/30/81	(¹)
Chia Shiu Enterprises Corp.	6/1/80-6/30/81	
Chien YW Enterprises Corp.	6/1/80-6/30/81	
Collins Co., Ltd.	6/1/80-5/31/81	15.9
Diamond Shamrock Trading Corp.	6/1/80-5/31/81	(¹)

Initiation of Countervailing Duty Investigation; Certain Automated Fare Collection Equipment and Parts Thereof From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in France of certain automated fare collection equipment and parts thereof receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of AFC equipment are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will announce its preliminary determination on or before November 26, 1982, and we will announce ours on or before January 5, 1983.

EFFECTIVE DATE: November 10, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377-1779.

SUPPLEMENTARY INFORMATION:

Petition

On October 12, 1982, we received a petition from counsel for Cubic Western Data, Inc. on behalf of the U.S. industry producing automated fare collection equipment and parts thereof (AFC equipment). In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in France receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the Act), and that imports of AFC equipment are materially injuring, or threatening to materially injure, a U.S. industry.

France is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, Title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a

petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on AFC equipment and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in France receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by January 5, 1983.

Scope of the Investigation

The product covered by this investigation is automated fare collection equipment and parts thereof as currently provided for in items 676.15, 676.25, 676.30, 676.52, 678.40 and 678.50 of the *Tariff Schedules of the United States*.

Allegations of Subsidies

The petitioner alleges that manufacturers, producers, or exporters in France receive from the government of France the following benefits which constitute subsidies:

- Preferential loans
- Government conversion of shares to convertible debentures
- Capital grants
- Research and development assistance
- Preferential tax treatment
- Prepayment by state-owned corporations against future deliveries of equipment at terms inconsistent with commercial considerations
- Preferential export financing

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by November 26, 1982, whether there is a reasonable indication that imports of AFC equipment from France are materially

injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will continue according to statutory procedures.

Judith Hippler Bello,
Acting Deputy Assistant Secretary for Import Administration.

November 1, 1982.

[FR Doc. 82-30616 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss reports of the demersal finfish oversight committee and of the ad hoc committee on gillnets; discuss results of the lobster public hearings; discuss foreign fishing matters as well as other fishery management and administrative matters.

DATES: The public meetings will convene on Tuesday, November 30, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m., on Wednesday, December 1, 1982. The meetings may be lengthened or shortened or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the King's Grant Inn, Danvers, Massachusetts.

FURTHER INFORMATION: New England Fishery Management Council, Sintang Office Park, 5 Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: November 4, 1982.

E. Craig Felber,
Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-30793 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Modification

Notice is hereby given that Dr. Richard H. Lambertsen, University of Florida requested a modification to Permit No. 336 issued to him under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine

Mammals (50 CFR Part 216) on October 17, 1982.

Dr. Lambertsen requests additional authority to import specimen materials from all species of cetaceans taken legally in the North Atlantic Ocean.

Concurrent with the publication of this notice in the *Federal Register* the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: November 3, 1982.

R. B. Brumsted,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-30792 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Schedule of Expenditures for Property, Plant and Equipment of U.S. District Investments Abroad.

Type of Request: Revision.

Burden: 1,300 respondents; 3,900 reporting hours.

Needs and Uses: Secures 3 years of data on property, plant and equipment expenditures of majority-owned foreign affiliates of U.S. companies. Required for the preparation of the international investment accounts of the United States.

Affected Public: U.S. corporations having foreign affiliates.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: International Trade Administration.

Title: Request for Special Priorities Assistance.

Type of Request: Extension.

Burden: 1,800 respondents; 900 reporting hours.

Needs and Uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended. Used to assist defense contractors to make timely delivery of products, materials and services in support of authorized national defense and energy programs.

Affected Public: Producers and suppliers of industrial products, materials and services.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395-3785.

* * * * *

Agency: International Trade Administration.

Title: Controlled Material Requirements for Class A Products.

Type of Request: Extension.

Burden: 2,000 respondents; 500 reporting hours.

Needs and Uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act, as amended. Used to manage the consumption and use of controlled material.

Affected Public: Suppliers using controlled materials to produce items to be incorporated in class "A" products by contractors.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ken Allen, 395-3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6822, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk

Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 82-30617 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-CW-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of New Export Visa for Certain Cotton, Wool, and Man-Made Fiber Textile Products Exported From the Republic of Korea

November 4, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: A new export visa will be used for cotton, wool, and man-made fiber textile products in Categories 300-369, 400-469, and 600-669, produced or manufactured in the Republic of Korea and exported to the United States under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, effective on January 1, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on February 28, 1982 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: The Government of the Republic of Korea has informed the Government of the United States of its intention to begin using a new export visa for cotton, wool, and man-made fiber textile products which are subject to the terms of the bilateral agreement between the two governments. The exempt certification established by directive to the Commissioner of Customs of August 22, 1978 (38 FR 23357) is not being changed but will be enclosed by a rectangular border in black ink, effective on January 1, 1983, for exempt textile and apparel products exported on an after that date. Facsimiles of both the visa and exempt certification are published as enclosures to the letter to the Commissioner of Customs which follows this notice.

EFFECTIVE DATE: The Government of the Republic of Korea will begin using the new export visa, effective on January 1, 1983, for merchandise exported on and after that date. Merchandise exported from the Republic of Korea before

January 1, 1983 will not be denied entry for consumption, or withdrawal from warehouse for consumption, provided the visa is in accordance with requirements established before January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On May 25, 1972 a letter dated May 19, 1972 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the *Federal Register* (37 FR 10605), which established an export visa requirement for certain specified textile and apparel products, produced or manufactured in the Republic of Korea and exported to the United States, pursuant to the terms of the bilateral cotton, wool, and man-made fiber textile agreement between the two governments. There is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs further amending the letter of May 19, 1972 to provide for the use of a new export visa which will be used by the Government of the Republic of Korea, effective on January 1, 1983, for textile and apparel products of cotton, wool, and man-made fibers in Categories 300-369, 400-469, and 600-669, exported on and after January 1, 1983. Merchandise exported prior to January 1, 1983 shall not be denied entry for lack of the new visa provided it is accompanied by the previously authorized visa.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 4, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C. 20229

Dear Mr. Commissioner: This directive further amends, does not cancel, the directive of May 19, 1972 from the Chairman of the Committee for the Implementation of Textile Agreements that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in certain designated categories, produced or manufactured in the Republic of Korea, for which the Government of the Republic of Korea has not issued an appropriate export visa.

Effective on January 1, 1983, the directive of May 19, 1972 is further amended to provide for the use of a new export visa, fully described below, for cotton, wool, and man-made fiber textile products in Categories 300-

369, 400-469, and 600-669, produced or manufactured in the Republic of Korea and exported on and after that date. Merchandise exported before January 1, 1983 which has been visaed in accordance with previously established procedures shall not be denied entry.

The new export visa will be printed in black ink on the front of the commercial invoice (Special Customs Invoice or other successor document) and will include the number, date of issue, and correct category and correct quantity of the merchandise. This information will be enclosed by a rectangular border in black ink. The visa will be signed by an official designated by the Government of the Republic of Korea. A facsimile of the new visa is enclosed.

A facsimile of the exempt certification stamp which is not being changed is also enclosed to show the rectangular border with which it will be enclosed, effective on January 1, 1983, for exempt textile products exported on and after that date.

The action taken with respect to the Government of Republic of Korea and with respect to imports of cotton, wool, and man-made fiber textile products from the Republic of Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Remarks:
MINISTRY OF COMMERCE & INDUSTRY.
TEXTILE EXPORT VISA.

NO. : 2A 307640000011
DATE OF ISSUE: MAY. 13. 82
CAT. NO. : 640D
QUANTITY: 100 (UNIT: DOZ)

Noh, J.W.
DIRECTOR EXPORT DIVISION.
REPUBLIC OF KOREA

Remarks:

MINISTRY OF COMMERCE AND INDUSTRY
KOREAN ITEM
DATE: MAY 13, 82
ITEM: ~~LESS THAN 8 25~~
QUANTITY: -5, 6/12- DOZ

NON-QUOTA ITEM
No. 2A 3030001
Noh, J.W.
NON JANG WOOR
DIRECTOR EXPORT DIVISION
REPUBLIC OF KOREA

Facsimiles of Export Visa and Exempt Certification Stamps for Certain Cotton, Wool, and Man-Made Fiber Textile Products Exported From the Republic of Korea to the United States Effective on January 1, 1983

[FR Doc. 82-30815 Filed 11-9-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to the Clearing House Rules of the New York Mercantile Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule amendments.

SUMMARY: The New York Mercantile Exchange ("NYME") has submitted amendments to its Clearing House rules. The proposed amendments are aimed at ensuring and strengthening the financial integrity of the NYME and address the following areas: (1) Increasing the minimum capital requirements; (2) establishing position limits; (3) increasing the contribution to the Guaranty Fund and clarifying the procedure for withdrawal of funds; and (4) requiring the submission of semiannual reports and the notification of decreases in minimal capital of 20 percent or more. The Commodity Futures Trading Commission ("Commission") has determined that the proposed amendments are of major economic significance and that accordingly publication of the proposed amendments is in the public's interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 10, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to NYME Clearing House rules.

FOR INFORMATION CONTACT: De'Ana J. Hamilton, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 354-8955.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act, ("Act") 7 U.S.C. 7a(12) (Supp. III 1979), has determined that the proposed amendments to the New York Mercantile Exchange's Clearing House rules are of major economic significance. The proposed amendments are printed below using italics to indicate additions and brackets to indicate deletions:

New York Mercantile Exchange—Proposed Amendments of Clearing House Rules

1. Amend paragraphs (F), (J), (K) and (L) of Rule 41.05 as follows:

(F) Applications for membership in the Clearing House shall be accompanied by the applicant's balance sheet prepared and certified to by a certified public accountant and sworn to as to the substantial accuracy by the applicant whose signature shall be acknowledged. The balance sheet of the applicant shall show a [net] working capital (as defined in rule 41.23) [(current assets less liabilities)] of not less than \$500,000 [\$250,000.00]. [The computation of net capital shall not include the amount of the Guaranty Fund contribution. The Clearing House Committee, subject to the approval of the Board, has the right to waive or alter such requirements of an applicant.]

[(J) Members of the Clearing House shall submit to the President, annually, a copy of their balance sheet as of the close of their fiscal year. The balance sheet shall be prepared and certified to by a certified public accountant and sworn to as to the substantial accuracy by the Exchange Member of the partnership, corporation or association whose signature shall be acknowledged. The President may waive this requirement, in the case of Clearing Members who are also members of the New York Stock Exchange where their audit is not made on an annual basis.]

[(The balance sheet must show net capital in an amount at least equal to the prevailing requirements for new applicants to the Clearing House. When the prevailing requirement is increased, the Clearing Committee, subject to the approval of the Board, shall select a date by which all members of the Clearing House must meet the new requirements.)]

[Upon request at any time by the Clearing House Committee or the President, a Clearing Member shall furnish a current balance sheet.]

[(k) Should the net capital of a Clearing Member fall below the requirements for his membership in the Clearing House, he shall notify the President immediately.]

[(L) (i) Where a Clearing Member guarantees more than six qualified floor traders he shall have, in addition to the [\$250,000.00 of minimum net] capital required for each Clearing Member, an additional \$40,000.00 of [net] working capital for the guarantee of each floor trader in excess of six.

2. Amend paragraphs (A) and (E) of Rule 41.06 as follows:

(A) Contributions

Each clearing member shall deposit, and keep deposited, with the Exchange [an indemnity bond in the amount of \$25,000.00, or] the sum of [\$25,000.00] \$50,000 in cash, or [\$30,000.00]—\$60,000 face value of United States Treasury Bills having not more than one year to maturity (of which only [\$25,000] \$50,000 of cash proceeds shall be considered as the contribution), or such other amount as may be determined by the Board as a contribution to the Guaranty Fund. The sums so deposited shall collectively constitute a fund known as the "Guaranty Fund" and shall be used as provided in the Rules to reimburse the Exchange for any loss sustained by the Exchange as a result of the failure [default] of [the] any Clearing Member to discharge his obligations in accordance with the Rules.

[(E) Payment of Losses]

[If a Clearing Member shall be unable to pay immediately any deficit owing by such member to the Exchange, the contribution to the Guaranty Fund of such member shall first be utilized and the amount of any remaining deficit shall, until collected from such member, be made good by the application of such portion of the surplus of the Exchange as the Board determines to be available for the purpose. And if the amount thus transferred from the surplus be not sufficient to cover the entire loss, the balance of such loss shall be made up by an assessment in equal shares on each of the Exchange members.]

3. Adopt a new Rule 41.22 as follows:

41.22 POSITION LIMITS

(A) *Defined Terms.* For purposes of this Rule, the following terms shall have the meanings set forth below, unless the context otherwise requires:

"capital" shall mean the working capital (as defined in rule 41.23 of a clearing member, (1) increased by an amount equal to (a) the face amount of any approved letter of credit issued to the Clearing House for the capital account of such clearing member and (b) fifty percent of the working capital of any person that issues an approved Guarantee to the Clearing House for the capital account of such clearing member, and (2) decreased by an amount equal to fifty percent of the working capital of such clearing member for each approved Guarantee such member issues to the Clearing House for the capital account of another clearing member; provided, however, that the capital of a clearing member may not be increased by letters of credit and/or guarantees by more than 100% of such member's working capital.

"net interest" shall mean the number of contracts equal to (1) with respect to any clearing member, the sum of the net interest carried in the customer account and the proprietary account of such clearing member and (2) with respect to the customer account or the proprietary account of any clearing member, the difference between the gross open long and the gross open short positions in any futures contract which such clearing member may carry with Clearing House in such account.

"net straddles" shall mean (1) with respect to any clearing member, the sum of the net straddles carried in the customer account and the proprietary account of such clearing member and (2) with respect to the customer account or the proprietary account of any clearing member, the number of contracts equal to the lesser of (a) the sum of the net long positions, if any, in each delivery month in any futures contract which such clearing member may carry with the Clearing House in such account or (b) the sum of the net short positions, if any, in each delivery month in any futures contract which such clearing member may carry with the Clearing House in such account.

"weighted net interest" or "weighted net straddles" shall mean the net interest or net straddles in any futures contract multiplied by the weighting factor for such futures contract prescribed in paragraph (F) of this Rule.

(B) *Aggregate Position Limits.* Except as provided in paragraphs (D) and (E) of this Rule, no clearing member may have a

weighted net interest or weighted net straddles in all futures contracts combined in excess of the amounts set forth in the chart below opposite the line showing the range including such clearing member's capital:

Capital (millions of dollars)	Weighted net interest	Weighted net straddles	Total ¹
Super margin level 3	22,000	25,000	25,000
Super margin level 2	21,000	24,000	24,000
Super margin level 1	20,000	23,000	23,000
Over 50	19,000	21,500	21,500
35 to 50	16,000	20,000	20,000
25 to 35	13,000	18,500	18,500
20 to 25	10,000	17,000	17,000
15.5 to 20	7,500	15,500	15,500
10.5 to 15.5	6,000	14,000	14,000
8.0 to 10.5	4,500	12,500	12,500
5.5 to 8.0	3,500	11,000	11,000
4.5 to 5.5	2,500	9,000	9,000
3.5 to 4.5	2,000	8,000	8,000
2.5 to 3.5	1,500	7,000	7,000
2.0 to 2.5	1,000	6,000	6,000
1.5 to 2.0	800	5,000	5,000
1.0 to 1.5	600	4,000	4,000
0.75 to 1.0	400	3,000	3,000
0.5 to 0.75	250	2,000	2,000
0.25 to 0.5	150	1,000	1,000

¹Weighted net straddles and weighted net interest.

(C) *Single Contract & Single Month Limits.* Except as provided in paragraphs (D) and (E) of this Rule, no clearing member may have a weighted net interest or weighted net straddles in any one futures contract in excess of 66 percent of such member's aggregate position limit under paragraph (B) of this Rule or in any current delivery month of a futures contract in excess of 40 percent of such member's aggregate position limit under paragraph (B) of this Rule.

(D) *Super Margin Deposits.* Any clearing member may have a weighted net interest or weighted net straddles in excess of the limits established under paragraphs (B) and (C) of this Rule, and may have expanded position limits up to, but not in excess of, the weighted net interest and weighted net straddles allowed three levels above such member's limit under paragraphs (B) and (C) of this Rule, if such clearing member deposits with the Clearing House (in addition to all other deposits for margins, fees or other charges that may be required) an amount of additional margin for each weighted net interest or weighted net straddles in excess of such member's position limit as follows:

Level above that set as the clearing member's position limit	Super margin required for each excess weighted net interest or excess total weighted net interest and weighted net straddle	Super margin required for each excess weighted net straddle
1	Two times the original margin required for a net position in a futures contract, at the highest rate of original margin required for any futures contract.	Two times the straddle margin required for a futures contract, at the highest rate of straddle margin required for any futures contract.
2	Three times the original margin required for a net position in a futures contract, at the highest rate of original margin required for any futures contract.	Three times the straddle margin required for a futures contract, at the highest rate of straddle margin required for any futures contract.

Level above that set as the clearing member's position limit	Super margin required for each excess weighted net interest or excess total weighted net interest and weighted net straddle	Super margin required for each excess weighted net straddle
3	Four times the original margin required for a net position in a futures contract, at the highest rate of original margin required for any futures contract.	Four times the straddle margin required for a futures contract, at the highest rate of straddle margin required for any futures contract.

Such deposits shall be made at the same time and in the same form and manner, and shall otherwise be subject to the same Rules, as original margin deposits.

(E) *Other Position Limits.* The Board (or its designee), in its discretion, may at any time establish position limits for any one or more clearing members which are higher or lower than, or otherwise differ from, those established pursuant to paragraphs (B)-(C), or change the amount of additional margin required pursuant to paragraph (D), based on the Board's evaluation of the financial and operational capacity of such clearing member and such other factors as the Board, in its discretion, considers appropriate, including but not limited to, (1) the business needs and financial condition of the clearing member, (2) the number of memberships on other clearing organizations held by the clearing member and the average number of contracts cleared through other clearing organizations each day by the clearing member, (3) the extent to which the clearing member trades and clears for either customer accounts, proprietary accounts, or both, (4) the length of time the clearing member has held a membership with the Clearing House, (5) the total open positions of the clearing member regularly maintained with the Clearing House and other commodity clearing organizations, and (6) such other factors as the Board, in its discretion, considers appropriate. No clearing member shall have a weighted net interest or weighted net straddles in excess of any such limits established by the Board.

Any clearing member whose position limit is set at a level less than the maximum set forth in the chart in paragraph B of this Rule opposite the line showing the range including such member's capital may file a written request with the Board for an increase of such limits, supporting such request with such evidence as the clearing member may desire. Thereupon, the Board, with or without a hearing as it may consider proper, shall take such action thereon as it may deem appropriate.

(F) *Weighting Factors.* The weighting factors for computing weighted net interest and weighted net straddles in any futures contract shall be (i) $\frac{1}{2}$, in the case of palladium futures contracts, (ii) $\frac{1}{3}$, in the case of platinum futures contracts, (iii) $\frac{1}{4}$, in the case of round white potato futures contracts, and (iv) 1, in the case of any other Exchange futures contracts; provided, however, that (a) if the original margin required for any such futures contract under Rule 41.08A is

increased by 100 percent or more during any period of ten consecutive business days, the weighting factor for such futures contract shall be increased by 100 percent, unless the Board, in its discretion, determines that no change in weighting factors should be made and (b) if the original margin required for any such futures contract under Rule 41.08A is decreased by 50 percent or more during any period of ten consecutive business days, the weighting factor shall be decreased by 50 percent (but not below the minimum amounts set forth above), unless the Board, in its discretion, determines that no change in weighting factors should be made.

(G) *Liquidation of Excess Positions.* Any clearing member that exceeds its position limits under this Rule shall transfer or liquidate any futures contracts in excess of the position limits within such time as the President, in consultation with the Board, may prescribe and shall report to the President when such excess has been reduced. If a clearing member fails to transfer or liquidate any excess futures contracts within the time prescribed by the President, the President may liquidate such excess in accordance with Rule 41.26.

4. Adopt a new rule 41.23 as follows:
41.23 MINIMUM CAPITAL

REQUIREMENTS

(A) *Working Capital Defined.* For purposes of this Rule, the term "working capital" shall mean (1) in the case of any person which is a futures commission merchant, "adjusted net capital" computed in accordance with Commission regulation 1.17, and (2) in the case of any other person, "adjusted net capital" as defined above or, at the election of such person, the amount by which current assets exceed current liabilities, computed in accordance with generally accepted accounting principles.

(B) *Financial Requirements.* Each clearing member shall have a maintain minimum working capital of \$500,000, except that any clearing member who was a member of the Clearing House on July 21, 1982 shall not be required to comply with such minimum financial requirements until [insert date two years after CFTC approval of this Rule]; provided that during such period such member shall have and maintain minimum working capital in an amount equal to the minimum net capital required under the Rules in effect prior to July 21, 1982.

5. Adopt a new Rule 41.24 as follows:
41.24 FINANCIAL REPORTING

(A) *Semiannual Reports.* Each clearing member shall file with the Clearing House or its designated agent, within ninety days after the close of each fiscal year of such member, a copy of such member's balance sheet and income statement as of the close of such fiscal year, certified by an independent public accountant. Each clearing member shall also file with the Clearing House or its designated agent, within forty-five days after the close of the second quarter of each fiscal year of such member, a copy of such member's balance sheet and income statement as of the close of such quarter, certified by the chief financial officer of the clearing member. These reporting requirements may be satisfied by filing with the Clearing House a copy of Commission form 1-FR or Part II of the

Securities and Exchange Commission Financial and Operational Combined Uniform Single ("FOCUS") Report, certified by an independent public accountant or the chief financial officer of the clearing member, as many be required.

(B) *Reports to Other Regulatory Authorities.* Each clearing member shall also promptly file with the Clearing House or its designated agent a copy of any financial statement which such clearing member may file with the Commission, any registered national securities exchange, any commodity exchange or any other clearing organization.

(C) *Impairment of Capital Reports.* In the event that the working capital of any clearing member at any time falls below (i) the working capital shown on the last financial statement theretofore supplied by such clearing member to the Clearing House by more than 20% or (ii) the minimum working capital required by Rule 41.23, such clearing member shall immediately so advise the Clearing House in writing.

(D) *Other Financial Reports.* The Clearing House may at any time and from time to time require any or all clearing members, in its discretion, to file with the Clearing House, or another person designated by the Clearing House, such additional financial information, authenticated in such manner, as the Clearing House may from time to time determine.

(E) *Accountants Reports.* The qualifications and reports of accountants for clearing members must meet the requirements set forth in Commission regulations and must be satisfactory to the Clearing House.

6. Adopt a new Rule 41.25 as follows:
41.25 PROTECTION OF CLEARING

HOUSE

(A) *Clearing Member Assets.* If a clearing member fails promptly to discharge any obligation to the Clearing House, its margins on deposit with the Clearing House, its deposit in the Guaranty Fund, and any of its other assets under the control of the Clearing House shall be applied by the Clearing House to discharge the obligation. If the failure to discharge the obligation involves a default in the customer account of the clearing member, all of such assets (whether held for the proprietary or customer account) shall be available to discharge the obligation. If such failure involves a default in the proprietary account of the clearing member, only that portion of such assets as are held for the proprietary account shall be available to discharge the obligation. The clearing member shall immediately make up any deficiencies in its margin or its deposits in the Guaranty Fund resulting from such application.

(B) *Other Assets.* If the margin, deposits in the Guaranty Fund and other assets of the Clearing member under the control of the Clearing House are insufficient to satisfy all of the clearing member's obligations to the Clearing House, and if the clearing member fails to pay the Clearing House the amount of any such deficiency within one business day, the amount of the deficiency shall be paid from the following sources of funds, each such source to be completely exhausted before the next following source is applied:

(1) First, such Clearing House or Exchange funds as the Board, in its discretion, may determine to apply;

(2) Second, the Guaranty Fund deposit of each clearing member in equal shares; and

(3) Third, such assets as may be available from assessments made against clearing members pursuant to paragraph (C) of this Rule.

Any amount so paid shall be deemed a loss to the Clearing House and shall be a liability of the defaulting clearing member to the Clearing House.

(C) *Assessments.* Except as provided in paragraph (D) of this Rule, if there is a deficiency remaining after the Guaranty Fund has been exhausted as provided in paragraph (B) of this Rule, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required, subject to the limitations in this Rule, to pay an assessment in an amount determined by the Board, in accordance with the following procedure:

(1) If such deficiency is attributable to futures contracts involving a particular commodity, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required to pay an amount equal to the sum of (a) and (b) below:

(a) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the number of futures contracts involving that commodity cleared by such clearing member during the nine-month period preceding the default, and the denominator of which is the number of futures contracts involving that commodity cleared during such nine-month period by all clearing members (excluding the defaulting clearing member and any insolvent clearing member).

(b) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the average daily gross open position of such clearing member in futures contracts involving that commodity on each day during the nine-month period preceding the default, and the denominator of which is the average daily gross open position of all clearing members in futures contracts involving that commodity on each day during such nine-month period (excluding the defaulting clearing member and any insolvent clearing member).

(2) If such deficiency is attributable to future contracts involving more than one commodity, each clearing member (except the defaulting clearing member and any insolvent clearing member) shall be required to pay an amount equal to the sum of (a) and (b) below:

(a) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction, the numerator of which is the number of futures contracts involving any commodity cleared by such clearing member during the nine-month period preceding the default, and the denominator of which is the number of futures contracts involving any commodity cleared during such nine-month period by all clearing members (excluding the defaulting clearing member and any insolvent clearing member).

(b) An amount equal to fifty percent of such remaining deficiency multiplied by a fraction,

the numerator of which is the average daily gross open position of such clearing member in all futures contracts on each day during the nine-month period preceding the default, and the denominator of which is the average daily gross open position of all clearing members in all futures contracts on each day during such nine-month period (excluding the defaulting clearing member and any insolvent clearing member).

(3) Notwithstanding paragraphs (1) and (2) of this Rule, no clearing member shall be required to pay, as an assessment, any amount in excess of (a) 25 percent of such clearing member's working capital shown on its last financial statement filed with the clearing House pursuant to Rule 41.24, or (b) ten million dollars (\$10,000,000), whichever is less, during any period of ten consecutive business days (the "Maximum Assessment"). The difference, if any, between the amount that would be assessed against any clearing member pursuant to paragraph (1) or (2) of this Rule and the Maximum Assessment for any such clearing member, shall be considered a deficiency and shall be assessed against clearing members (excluding the defaulting clearing member, any insolvent clearing member and any clearing member which has paid the Maximum Assessment) in accordance with paragraphs (1) or (2) and this paragraph (3) until the entire deficiency is paid or every clearing member (except the defaulting clearing member and any insolvent clearing member) has paid the Maximum Assessment, and any such assessment shall be considered part of a single assessment, without regard to the times when they are made, for purposes of determining the Maximum Assessment.

(4) Notwithstanding paragraphs (1) and (2) of this Rule, a clearing member which pays an assessment in accordance with this paragraph (c) and gives the Clearing House written notice of withdrawal from membership within ten business days after such assessment is made shall not be subject to any further assessment after the date such notice is received by the Clearing House, except that such clearing member shall continue to be liable for any assessment made pursuant to the second sentence of paragraph (3) of this Rule, up to the Maximum Assessment.

(5) Any assessments made pursuant to this Rule shall be paid by each clearing member not more than one business day after written notice of any such assessment shall have been delivered to such clearing member.

(d) *Cancelled Assessments.* Notwithstanding paragraph (C) of this Rule, no clearing member shall be assessed if there would be a deficiency after all clearing members (excluding the defaulting clearing member and any insolvent clearing member) pay the Maximum Assessment.

(E) *Charges Against Guaranty Funds.* In the event it shall become necessary as provided in paragraph (B)(2) of this Rule to apply all or in part of the Guaranty Fund to meet any clearing member's obligations to the Clearing House, each clearing member shall be liable to make good any deficit in its deposit upon demand by the Clearing House.

(F) *Insolvent Members.* In the event that clearing members are assessed as provided in

paragraph (C) of this Rule, any insolvent clearing member who has been excluded from the assessment shall nonetheless be liable to the Clearing House for the amount of the assessment that otherwise would have been imposed on such clearing member.

(G) *Recovery of Losses.* If a loss for which Guaranty Fund deposits have been applied or clearing members have been assessed is afterward recovered by the Clearing House in whole or in part, the net amount of such recovery (after deducting legal fees and any other costs of collection incurred by the Clearing House) shall be paid as follows:

(1) First, to clearing members who made payments to the Clearing House pursuant to paragraphs (C) or (F) of this Rule, whether or not they are still clearing members, in proportion to the amounts so assessed, until all such clearing members shall have been repaid the full amount so assessed or the net amount of such recovery shall have been exhausted;

(2) Second, to clearing members against whose Guaranty Fund deposits the deficiency was charged pursuant to paragraph (B)(2) of this Rule, whether or not they are still clearing members, in proportion to the amounts charged against their respective deposits but limited to the amounts so charged; and

(3) The balance, if any, to any purpose the Board, in its discretion, may approve.

(H) *Clearing Member Definition.* For the purpose of this Rule, the term "clearing members" shall include any person from whom the clearing House accepted a futures contract for clearance House accepted a futures contract for clearance within the nine-month period preceding the date on which the defaulting clearing member's contracts were closed, whether or not such person is a member of the Clearing House at the time of the default or at the time when this Rule is applied to pay deficiencies or to allocate amounts recovered pursuant to paragraph (g) of this Rule.

7. Adopt a new Rule 41.26 to replace 41.09 as follows:

41.26 LIQUIDATION OF ACCOUNTS

(A) *Liquidation Required.* Upon the occurrence of a default described in Rule 41.25(A), and upon such other occurrences as may be specified in the Rules, the President shall promptly cause all futures contracts then outstanding between the defaulting clearing member (whether for customer or proprietary accounts) and the Clearing House to be liquidated pursuant to paragraphs (B) or (C) of this Rule, unless such futures contracts are transferred to the account of another clearing member.

(B) *Liquidation Procedure.* Any such liquidation of futures contracts pursuant to paragraph (A) of this Rule may be effected in such manner as the President, with the approval of the Board (or its designee), in his discretion, may direct. Without limiting the generality of the foregoing, any such liquidation may be effected by placing with one or more Exchange members chosen at the discretion of the President orders for the purchase or sale of futures contracts on the basis of the gross positions of the clearing member whose accounts are to be liquidated.

as reported by the clearing member to the Clearing House. The clearing member whose futures contracts are to be liquidated shall be liable to the Clearing House for any commissions or other expenses incurred in liquidating such accounts.

(C) *Liquidation By Offset.* Notwithstanding the provisions in paragraph (B) of this Rule, the President, in his discretion, may liquidate such futures contracts without placing orders for execution on the floor, by making appropriate entries on the records of the Clearing House (including, without limitation, pairing and cancelling offsetting long and short positions in the same delivery month of a futures contract carried by a clearing member) and establishing a liquidation price equal to the settlement price on the day such liquidation is ordered or at such other price as the President may establish.

(D) *No Liability For Liquidation.* Neither the Clearing House, the Exchange, or any agent thereof, shall be liable to a clearing member whose accounts have been liquidated or to any other person, regarding the manner in which accounts are liquidated pursuant to this Rule.

[41.09 FAILURE OF CLEARING MEMBER TO DEPOSIT MARGINS]

[In the event of the failure of a member to deposit any margins as required, the President, with the approval of the Board, may close out all or any part of the trades in the best interest of the Exchange and/or the defaulting Clearing Member. Any loss resulting therefrom shall be the liability of the defaulting Clearing Member. Any Clearing Member whose trades are thus closed out shall be promptly notified thereof by the President.]

Other materials submitted by the NYME in support of the proposed rule amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by [January 10, 1983]. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., this 5th day of November 1982.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 82-30875 Filed 11-9-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Meetings

AGENCY: National Commission on Excellence in Education.

ACTION: Notice of meetings.

SUMMARY: This notice amends the announcement of the meeting of the National Commission on Excellence in Education published in the Federal Register on September 17, 1982 on page 41162 and sets forth the schedule of the seventh and eighth full Commission meetings. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES:

November 14, 1982 (7:00 a.m. until 9:00 p.m.)

November 15, 1982 (8:30 a.m. until 4:00 p.m.)

November 16, 1982 (8:30 a.m. until 12:15 p.m.)

January 21 & 22, 1983 (8:30 a.m. until 5:00 p.m.)

February 18 & 19, 1983 (8:30 a.m. until 5:00 p.m.)

LOCATIONS:

November 14, 1982: Georgetown Inn, Lafayette Room, 1310 Wisconsin Avenue, N.W., Washington, D.C.

November 15, 1982: Georgetown Inn, Lafayette Room, 1310 Wisconsin Avenue, N.W., Washington, D.C.

November 16, 1982: National Institute of Education, 1200 19th Street, N.W., Room 823, Washington, D.C.

January 21 and 22, 1983: Washington, D.C.

February 18 and 19, 1983: Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Milton Goldberg, Executive Director, or Betty Baten, Administrative Officer, (202) 254-7920, 1200 19th St., N.W., Washington, D.C. 20208.

SUPPLEMENTARY INFORMATION: The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and

make recommendations to the nation and to the Secretary of Education.

The two hour meeting on November 14 is a Final Report Subcommittee meeting.

On November 15, the agenda will include presentations by: *Elias Blake*, on Excellence for Minority Students; *The Historically Black College*; *Alexander Astin* on Excellence and Equity; *Nancy Karweit* on Time and Learning; *Martin Maehr* on Motivational Factors in School Achievement, and a discussion on Transcript Analyses; Changes in High School Curriculum, Credits, and Grades, 1964-1980.

On November 16 the agenda will include presentations by: *Edward Pellegrino* on Can Values be Taught; *Judith Torney-Purta* and *John Schwille* on The Values Learned in School: Policy and Practice in Industrialized Countries and discussion by *Francis Roberts* and *David S. Seeley* on Parents and Schooling.

The meetings on January 21-22, 1983 and February 18-19, 1983 will be centered around the Commission's Final Report.

All meetings of the Commission are open to the public.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, N.W., room 222, from 8:00 a.m. until 5:00 p.m.

Dated: November 4, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-30851 Filed 11-9-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Cooperative Education Program; Application Notice for New Awards for Fiscal Year 1983

Applications are invited for new awards for administration, demonstration, and training projects under the Cooperative Education Program. Applications are not invited for exploration or research projects under this program. The Cooperative Education Program provides Federal financial assistance to help institutions of higher education offer students paid work experiences closely related to their academic and career pursuits, and to provide for specialized training to improve the effectiveness of programs of Cooperative Education.

The Administration's budget for fiscal year 1983 does not include funds for the

Cooperative Education Program. However, applications are invited to allow for sufficient time to evaluate applications and complete the grants process prior to the end of the fiscal year, should the Congress decide to appropriate funds for this program.

Authority for this program is contained in Title VIII of the Higher Education Act of 1965, as amended by Pub. L. 96-374.

(20 U.S.C. 1133-1133b)

Closing Date for Transmittal of Applications

Applications for administration, demonstration, and training grants must be mailed or hand-delivered by January 21, 1983.

Applications Delivered By Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.055A (for administration projects), 84.055B (for demonstration projects), or 84.055D (for training projects), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

Regulations for the Cooperative Education Program are published in 34 CFR Parts 631, 632, 633, and 635. Applicants should be guided by the provisions or requirements of the regulations in developing their applications.

Applicants are encouraged to be specific in their responses to the operative selection criteria, inasmuch as the Secretary will not give further consideration for funding to any application that receives an average score of 50 points or less in the evaluation process conducted in accordance with 34 CFR 75.217.

Administration Projects

To provide opportunities for a greater number of students to participate in Cooperative Education projects, the Secretary strongly encourages institutions of higher education to apply for funds for more than one eligible unit, as that term is defined in § 631.3 of the regulations.

As provided in the statute, in any fiscal year, an institution of higher education applying for an administration grant individually is eligible for an award of up to \$325,000. Each institution applying for an administration grant as a member of a consortium is eligible for an award up to \$250,000.

The Secretary will give awards for approximately 8 to 10 multi-year projects to successful applicants who have never before received Federal funds to support a program of Cooperative Education. Continuation awards for multi-year projects will be made out of succeeding years' appropriations and in accordance with 34 CFR 75.253. The Secretary will give awards for single-year projects to all other successful applicants.

In awarding administration grants, the Secretary, in accordance with the statute, will place an emphasis on funding institutions of higher education that show the greatest promise of success because of—

- (1) The extent to which programs of Cooperative Education in the academic disciplines, with respect to which the application is made, have had a favorable reception by employees; and
- (2) The commitment of the institution of higher education to Cooperative Education, as demonstrated by the plans which the institution has made to

continue Cooperative Education after the termination of Federal financial assistance.

Demonstration Projects

Applicants may apply for a demonstration grant to conduct a comprehensive Cooperative Education project, as that phrase is defined in § 631.3 of the regulations. Successful applicants may be given a multi-year grant out of the fiscal year 1983 appropriations to cover a project period of up to three years.

Training Projects

The Secretary will make awards for training projects designed to meet the needs of eligible individuals who participate or wish to participate in the planning, establishment, administration, or coordination of Cooperative Education projects conducted by institutions of higher education.

In preparing the application, applicants are encouraged to work jointly with employers in planning training projects.

The Secretary will make awards for single-year or multi-year projects to successful applicants. Continuation awards for multi-year projects will be made out of succeeding years' appropriations and in accordance with 34 CFR 75.253.

Available Funds

As noted above, no funds have been requested for this program. However, if funds are appropriated, it is estimated that \$9,400,000 would be available for administration grants. Of this sum, \$1,334,694 has been committed for noncompeting continuation grants for 19 administration projects. It is estimated that the remaining \$8,065,306 will support 150 projects, with awards averaging \$53,800.

Of the \$4,100,000 that would be available for demonstration grants, \$740,000 has been committed for noncompeting continuation grants for 3 comprehensive Cooperative Education projects. It is estimated that the remaining \$3,360,000 will support 5 to 7 comprehensive Cooperative Education projects, with awards averaging \$480,000.

Of the \$900,000 that would be available for training grants, \$527,400 has been committed for noncompeting continuation grants for 5 training projects. It is estimated that the remaining \$372,600 will support 4 training projects, with awards averaging \$93,150.

These estimates do not bind the U.S. Department of Education, except as may be required by the applicable statute and regulations.

Application Forms

Application forms and program information packages are expected to be mailed to eligible institutions of higher education by November 22, 1982. They may be obtained after that date from the Cooperative Education Branch, U.S. Department of Education (Room 3053, Regional Office Building 3), 7th and D Streets, S.W., Washington, D.C. 20202. Telephone: (202) 245-2146.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length for administration projects, 30 pages for demonstration projects, and 20 pages for training projects. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Cooperative Education Program (34 CFR Parts 631, 632, 633, and 635), published April 21, 1982, in the *Federal Register*.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78). (These parts were previously codified as 45 CFR Parts 74, 100a, 100c, and 100d, respectively).

Further Information

For further information, contact Dr. Morris L. Brown, Director, Division of Institutional and State Incentive Programs, Office of Institutional Support Programs, (Room 3053, ROB-3), U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2146.

(20 U.S.C. 1133-1133b)

Dated: November 3, 1982.

T. H. Bell,
Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.055: Cooperative Education Program)

[FR Doc. 82-30840 Filed 11-9-82; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Secretary of Education invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before December 10, 1982.

ADDRESSEE: Written comments or requests should be addressed to Karen Sagett, Desk Officer, Office of Management and Budget, 726 Jackson Place, N.W., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, S.W., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: William Wooten, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that OMB provide interested agencies and the public early and meaningful opportunity to comment on information collection requests.

Prior to the submission of proposed information requests, the Department of Education shall publish a notice in the *Federal Register* stating that OMB approval is being sought. This notice provides the public with an opportunity to obtain copies of the information collection request and an opportunity for comments. Comments and questions should be directed to ED and OMB. A copy of the notice will be included in ED's submission to OMB. The requirement for public consultation may be amended or waived by the Office of Management and Budget to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law or substantially interfere with an agency's ability to perform the statutory obligations.

Dated: November 5, 1982.

T. H. Bell,
Secretary of Education.

Office of Special Education and Rehabilitative Services (OSERS)

New

- Annual Program Report, Centers for Independent Living, Part B, Title VII, Amendments to the Vocational Rehabilitation Act of 1973.

RSA-7

Annual

Businesses or other institutions

SIC: 944

Responses: 150 Burden Hours: 1,200

Federal Cost: \$45,000 Public Cost: \$8,000

One form submitted for approval

Abstract: The RSA-7 is designed to provide adequate amounts of information on client characteristics and program accomplishments to satisfy the legal mandates and to permit the Secretary and the Commissioner to perform functions required of them by law.

Extensions

- Annual Report on Post-Employment Services and Case Reviews—RSA

RSA-62

Annual

State or local governments

SIC: 944

Responses: 84 Burden Hours: 74

Federal Cost: \$1,400 Public Cost: \$666

One form submitted for approval.

Abstract: To track as prescribed law: (1) Delivery of services after rehabilitation to ensure maintenance of employment; (2) Reviews of earlier determination of ineligibility for services; (3) Reviews placements into sheltered workshops to see if individuals so placed can not work in competitive labor market.

- Report of Vending Facility Program—RSA

RSA-15

Annual

State or local governments

SIC: 944

Responses: 54 Burden Hours: 448

Federal Cost: \$7,500 Public Cost: \$4,032

One form submitted for approval

Abstract: Indicates the financial health and programmatic impact of the program in terms of earnings and loss; indicates the most efficient types of stands in terms of return in investment and ability to produce earnings to support an operator. Aimed primarily at ensuring the program's financial accountability and solvency and its meeting the expressed goals in terms of client impact.

• Annual VR Program/Cost Report
REA-2
Annual
State or local governments
SIC: 944
Responses: 84 Burden Hours: 395
Federal Cost: \$29,000 Public Cost: \$3,000
One form submitted for approval
Abstract: Provides RSA the necessary detailed data, supplementing the summary information provided in the SF 269 to evaluate and monitor the financial performance and achievements of grantees in relation to selected program activities in the formula grant program operated by States.

• Grant Application
RSA-424
Nonrecurring
State or local governments/Businesses or other institutions
SIC: 821,944,892
Responses: 1,170 Burden Hours: 46,800
Federal Cost: \$20,000 Public Cost: \$374,000
One form submitted for approval.
Abstract: It services as the application for the discretionary grant programs of RSA. It is used to determine grant eligibility, technical acceptability of applications submitted, and amount of grant awards.

Office of Educational Research and Improvement (OERI) National Center For Educational Statistics (NCES)

New

• High School and Beyond: Field Test for the Second Follow-up Survey
ED-2441-1, 2441-2
Nonrecurring
Individuals or households
SIC: NA
Responses: 2,527 Burden Hours: 5,054
Federal Cost: \$182,332 Public Cost: \$6,700

Two forms submitted for approval.
Abstract: Field test data are needed for improving questionnaires and survey procedures that are designed to provide a data base for addressing such policy issues as: School effectiveness/excellence, quality of instruction, access to postsecondary education, student financial and needs, vocational education, and relationships between education and career patterns.

• Survey of Public Libraries, LIBGIS VI
ED 2349-1
Nonrecurring
Businesses or other institutions
SIC: 823
Responses: 1,500 Burden Hours: 1,125
Federal Cost: \$133,000 Public Cost: \$7,500

One form submitted for approval
Abstract: To provide basic data on public libraries. It will also provide specific data to be used in the hearings for the reauthorization of the Library Services and Construction Act (LSCA) by the Office of Libraries and Learning Technologies (OLLT). These data will be used to assess the OLLT library programs for public libraries.

• Noncollegiate Postsecondary School Survey, 1984
ED 2358, 2358-1, 2358-2
Biennially
Businesses or other institutions
SIC: 824
Responses: 7,750 Burden Hours: 989
Federal Cost: \$300,000 Public Cost: \$9,890

Three forms submitted for approval.
Abstract: A directory of public and private (proprietary) schools that offer vocational programs will be published for use by guidance counselors and State educational planners. Statistics on the characteristics of these schools and an analytical report will also be produced for use by manpower researchers. All information will be available on computer tape.

Note.—This form is for use in FY 84.

Revisions

• Institutional Characteristics of Colleges and Universities: 1983-84
ED 2300-1 and 1A
Annual
Businesses or other institutions
SIC: 822
Responses: 3,450 Burden Hours: 1,400
Federal Cost: \$173,000 Public Cost: \$8,400
Two forms submitted for approval
Abstract: Survey contains characteristics of institutions of higher education eligible for listing in the *Education Directory, Colleges and Universities*. Includes name institution, location, identification codes, telephone number, year established, enrollment, undergraduate tuition, and other basic information. Lists specific accreditations. Provides list of administrative officers and their titles.

• Employees in Institutions of Higher Education, Academic Year 1983-84
ED 2300-3
Annual
Businesses or other institutions
SIC: 822
Responses: 3,003 Burden Hours: 15,840
Federal Cost: \$215,000 Public Cost: \$198,000

One form submitted for approval
Abstract: Employees data are used by institutions and by States for comparison purposes and for

formulating budgets. Professional and educational associations, as well as Federal agencies, use employee data to develop financial indicators and to evaluate the extent to which salaries differ between men and women.

• Degrees and Other Formal Awards Between July 1, 1982 and June 30, 1983
ED 2300-2.1A-1, 2300-2.1B-1, 2300 2.1C
Annual
Businesses or other institutions
SIC: 822
Responses: 3,300 Burden Hours: 12,540
Federal Cost: \$291,000 Public Cost: \$330,000

Three forms submitted for approval
Abstract: Degrees and Other Formal Awards data are needed by the Department of Education, States, planning and budget and individual colleges for use in economic and financial planning and policy information. They are used by the Department of Labor in formulating their "Occupational Outlook Handbook" and by the National Occupational Information Coordinating Committee in assessing power information.

Note.—This form is for use in FY 84.

• Vocational Education Data System (VEDS)
ED 2404,-1,-2,-5,5-VA-7,-9 ED 2404A,-1,-7 and 1A
Annual
Individuals or households/State or local governments
SIC: 941
Responses: 347,254 Burden Hours: 102,225
Federal Cost: \$515,000 Public Cost: \$250,000
Ten forms submitted for approval
Abstract: The mandating legislation requires the National Center for Education Statistics to develop, implement, and operate a national vocational education data system employing uniform definitions and standard data elements. States are mandated to supply these data which are used to prepare the annual report to Congress on the state of vocational education.

Extensions

• State Expenditures for Postsecondary Education for Fiscal Year ending 1983
ED 2440
Annual
State or local governments
SIC: 822
Responses: 57 Burden Hours: 570
Federal Cost: \$72,000 Public Cost: \$5,643
One form submitted for approval

Abstract: This survey for 1982-83 fiscal year will collect data on programs not reflected in institutional accounts. Such data will make possible more accurate comparisons between States and will enable OMB and the Congressional Budget Office to establish the extent to which States change expenditure patterns in responses to changing Federal priorities.

Note.—This form is for use in FY 84.

- Financial Statistics of Institutions of Higher Education, 1983

ED 2300-4

Annual
Businesses or other Institutions
SIC: 822

Responses: 3,300 Burden Hours: 8,250
Federal Cost: \$192,000 Public Cost: \$82,250

One form submitted for approval

Abstract: College financial statistics are needed by the Department of Education to report on the condition of education and to determine eligibility for participation in the Title III program. These data are used by Bureau of the Census to report finances of State and local governments, and by the Bureau of Economic Analysis to develop the Gross National Product.

Office of Educational Research and Improvement (OERI)/National Institute of Education (NIE)

New

- Assessment of NIE's Program to Increase the Participation of Minorities and Women in Educational Research & Development

ED 192

Nonrecurring
Individuals or household/businesses or other institutions
SIC: 822/862/941/829

Responses: 720 Burden Hours: 180
Federal Cost: \$150,000 Public Cost: \$1,890

One form submitted for approval

Abstract: Assessment of NIE's program to increase the participation of Minorities and Women in Educational R&D fulfills a major program objectives: identifying successful approaches to increasing the number and influence of minorities and women in all phases of education research and development.

Office of Postsecondary Education (OPE)

Revisions

- National Direct Student Loan Program Report of Defaulted Loans as of December 30

ED 574

Annual
Businesses or other institutions
SIC: 822, 824

Responses: 3,200 Burden Hours: 8,000
Federal Cost: \$6,144 Public Cost: \$80,000
One form submitted for approval

Abstract: This report serves to provide information regarding the capability of an institution to establish and administer effective collection programs according to regulatory requirements. The data collected may be used to establish default trends and compare default ratios of various institutions. Revision to previously approved 574 through May 1983 is necessary to conform with ED form 646, Fiscal-Operations Report and Application.

- Application for Federal Student Aid ED 255

Annual
Individuals or households
SIC: NA

Responses: 2,000,000 Burden Hours: 3,000,000

Federal Cost: \$6,135,000 Public Cost: \$0
One form submitted for approval

Abstract: This form is needed to collect the data necessary: to determine whether the student is eligible for Federal student aid funds; and to calculate a uniform methodology number which financial aid administrators may use to award all other types of financial aid.

- Special Condition Application for Federal Student Aid

ED 255-2
Annual
Individuals or households
SIC: NA

Responses: 157,000 Burden Hours: 235,000

Federal Cost: \$866,250 Public Cost: \$0
One form submitted for approval

Abstract: This form is needed to collect data: to determine the amount of the expected family contribution of the applicant if certain family or financial conditions have changed for the worse; and to calculate a uniform methodology number which financial aid administrator may use to award all other types of financial aid.

- Request for Payment of 1982-83 Award (Alternate Disbursement System (ADS))

ED 304

Annual
Individuals or households/businesses or other institutions
SIC: 822

Responses: 81,700 Burden Hours: 27,600

Federal Cost: \$300,279 Public Cost: \$0

One form submitted for approval.

Abstract: Used to obtain benefits by students attending institutions that participate under the ADS system.

This instrument is used to verify student enrollment and cost of attendance which is used by the Secretary to determine their Pell Grant award. The Secretary acts as the disbursing agent on behalf of these institutions.

- ADS Student Report (Request for Additional Payment)

ED 304-1

On occasion, Semiannually, Annual
Individuals or households/businesses or other institutions

SIC: 822

Responses: 99,560 Burden Hours: 33,750

Federal Cost: \$185,960 Public Cost: \$0
One form submitted for approval.

Abstract: This form is used by students attending institutions that participate in the Pell Grant Program under the Alternate Disbursement System to request any additional payment as well as having the financial aid administrator verify that the student is still attending school, is eligible for his/her next payment, and that the previous information given was correct.

Office of Elementary and Secondary Education (OESE)

New

- Career Education Annual Report ED 704; 704-1

Annual
State or local governments
SIC: 941

Responses: 56 Burden Hours: 448
Federal Cost: \$2,760 Public Cost: \$46,412

Two forms submitted for approval.

Abstract: The division of Career Education proposes to collect data in Nov.-Dec. 1982-83 on the implementation of Career Education under the Career Education Incentive Act (P.L. 95-207). This information shall be analyzed by the staff and shall provide the basis for making recommendations to the States for the improvement in the operation and administration of the program as required by Sec. 14(b) of the Act.

Revisions

- Indian Fellowship Application/Indian Fellowship Application for Non-competing Continuations

ED 501/501-1

Annual
Individuals or households
SIC: 881

Responses: 1,075 Burden Hours: 2,250
Federal Cost: \$30,000 Public Cost: \$0
Two forms submitted for approval.
Abstract: The application will be used to obtain information needed to determine eligibility for funds, select Fellows, and to determine the amount to be awarded each application. The information collected from the continuing Fellows will be used to determine their eligibility and need for continued funding.

- Application for School Assistance in Federally Affected Areas

ED 4019/4019-1

Annual

State or local governments

SIC: 941

Responses: 3,000 Burden Hours: 25,170
Federal Cost: \$15,000 Public Cost: \$2,560

Two forms submitted for approval.

Abstract: P.L. 81-874 provides that 16 separately identified categories of federally connected pupils are entitled to varying percentages of a rate of payment to their school district. Five basic tables are used to report pupils claimed.

- Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions

ED 4376

Annual

State or local governments

SIC: 941

Responses: 2,000 Burden Hours: 2,000
Federal Cost: \$1,500 Public Cost: \$52,000

Two forms submitted for approval.

Abstract: An annual survey is conducted to collect data on (1) the average daily attendance of children in State-operated or supported institutions for neglected or delinquent children and (2) the October caseload of children in local institutions. These data are used in the statutory formula for computing entitlements.

- Preapplication for Federal Assistance (Construction) Application for Federal Assistance

Ed 355/355-1

On occasion

State or local governments

SIC: 821

Responses: 80 Burden Hours: 160
Federal Cost: \$3,800 Public Cost: \$3,800

Two forms submitted for approval
Abstract: Data is used to determine eligibility of school districts for Federal Assistance to construct needed school facilities.

Reinstatements

- Application for Grants (Part B and C) Indian Education Act, Noncompeting

Ed 267

Annual

Individuals or Households

SIC: NA

Responses: 200 Burden Hours: 6,000
Federal Cost: \$63,000 Public Cost: \$252,000

One form submitted for approval

Abstract: To improve educational opportunities for Indian students for preschool through the University by supporting programs that: (a) provide improved educational support services; (b) increase the numbers of Indians in leadership positions; (c) develop new educational approaches of high quality; (d) contribute to increased control by Indians over the availability and quality of their own education.

- Application for Grants (Part A): Indian Education Act, Noncompeting Continuations

Ed 444-1

Annual

Individuals or household/Businesses or other institutions

SIC: NA

Responses: 169 Burden Hours: 1,350
Federal Cost: \$13,500 Public Cost: \$54,000

One form submitted for approval

Abstract: Application for support for Indian Controlled Schools on or near Reservation to provide special enrichment programs.

- Application for Grants (Part A) Indian Education Act, New and Noncompeting Continuations

Ed 736-1

Annual

State or local governments

SIC: 821

Responses: 1,052 Burden Hours: 31,560
Federal Cost: \$1,600 Public Cost: \$315,600

One form submitted for approval

Abstract: The purposes of Part A of the Indian Education Act are to enable Elementary and Secondary Schools to develop and implement Supplementary Programs specially designed to help meet the Special Educational and Culturally-Related Academic needs of Indian Students.

- Application for Grants (Part C) Indian Education Act, New and Noncompeting Continuations

Ed 737-1

Annual

Individuals or Households

SIC: NA

Responses: 104 Burden Hours: 3,120
Federal Cost: \$33,000 Public Cost: \$132,000

One form submitted for approval

Abstract: Under Part C of the Indian Education Act grants are awarded to

improve educational opportunities below the College level for Indian adults. Authorized grant activities are: Provide Educational Services, and Develop Planning, Pilot and Demonstration Projects.

- Recommendations for Advisory Council on Indian Education

Ed 543

Annual

Businesses or other institutions

SIC: 941

Responses: 80 Burden Hours: 80
Federal Cost: \$3,150 Public Cost: \$1,600

One form submitted for approval

Abstract: The Indian Education Act authorizes a Presidentially appointed National Advisory Council on Indian Education. Five such membership positions are open annually thereby necessitating a solicitation of nominations.

- Indian Student Enrollment Certification

ED 506

Annual

Individual or Households

SIC: NA

Responses: 25,000 Burden Hours: 6,250
Federal Cost: \$5,700 Public Cost: \$75,237

One form submitted for approval

Abstract: Program designed to benefit eligible Indian children by calculating grant award based on count of correct and valid forms on file with local education agencies.

- Education Consolidated Grant Application

ED 1000

Annual

State or local governments

SIC: 821,941

Responses: 57 Burden Hours: 114
Federal Cost: \$100,000 Public Cost: \$1,140

One form submitted for approval

Abstract: Each eligible jurisdiction must submit an annual application to the Secretary of Education as a precondition to receiving the authorized funds.

Office of Bilingual Education & Minority Languages Affairs (OBEMLA)

New

- Financial Status and Performance Report for Bilingual Education

ED 890

Annual

State or local governments/businesses or other institutions

SIC: 941/822

Responses: 700 Burden Hours: 16,800
Federal Cost: \$30,000 Public Cost: \$134,400

One form submitted for approval

Abstract: Data collection instrument needed by grantee to provide administering agency with performance and financial report required by OMB Circular A-102.

• Financial Status and Performance Report for Bilingual Vocational Training & Instructor Training

ED 791 - 1/2

Annual

State or local governments/businesses or other institutions

SIC: 941/822

Responses: 20 Burden Hours: 480

Federal Cost: \$2,000 Public Cost: \$3,840

Two forms submitted for approval

Abstract: Data collection instrument used by grantee to provide administering agency with performance and financial report required by OMB Circular A-102.

Extensions

• Application for Grant under Bilingual Vocational Education Programs

ED 791

Annual

State or local governments/businesses or other institutions

SIC: 941/822

Responses: 20 Burden Hours: 800

Federal Cost: \$20,000 Public Cost: \$6,400

One form submitted for approval

Abstract: Title II, Subpart 3 of the Vocational Education Act of 1976, as amended, authorizes the award of grants to applicants that meet the purposes and requirements of the Act and the application requirements and award criteria established in regulations. The proposed data collection informs applicants of the information required under law and regulations.

• Application for Continuation Grants under Bilingual Education

ED 4561-1

Annual

State or local governments/businesses or other institutions

SIC: 941/822

Responses: 520 Burden Hours: 10,400

Federal Cost: \$30,000 Public Cost: \$83,200

One form submitted for approval

Abstract: Title VII of the Elementary and Secondary Education Act authorizes multi-year grant awards subject to the conditions on the Act and governing regulations. The proposed data collection requests budget information for the next budget period and requests applications to present evidence of compliance with legal requirements to establish their eligibility for continued assistance.

[FR Doc. 82-30839 Filed 11-9-82; 8:45am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Inventions Available for License

The Department of Energy (DOE) hereby announces a number of inventions available for license, either exclusively or nonexclusively. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, GC-42, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of specifications of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151.

Copies of listed U.S. patents may be obtained, for a modest fee, from the U.S. Patent and Trademark Office, Washington, D.C. 20231.

Signed at Washington, D.C., on this 2d day of November, 1982.

Department of Energy.

R. Tenney Johnson,

General Counsel.

DEPARTMENT OF ENERGY, ASSISTANT GENERAL COUNSEL FOR PATENTS, WASHINGTON, D.C. 20585

Patent Applications

258,971 Flowmeter for Determining Average Rate of Flow of Liquid in a Conduit
 266,248 System for Thermochemical Hydrogen Production
 280,576 Neutron and Gamma Radiation Shielding Material, Structure, and Process of Making Structure
 281,141 Hyper Filter-Fluorescer Spectrometer for X-Rays Above 120 keV
 281,155 Magnetic Testing Probe
 281,453 Fast Transient Digitizer
 282,286 Thermal Control System and Method for a Passive Solar Storage Wall
 284,050 Method and Apparatus for Measuring Flow Velocity Using Matched Filters
 284,151 Plasma Channel Optical Pumping Device and Method
 284,158 Control System for a Wound-Rotor Motor
 284,859 Solvent Extraction Recovery of Shale Oil
 286,422 Method for Fabricating a Seal Between a Ceramic and Metal Alloy
 287,856 Method of Making Electrodes for Electrochemical Cell
 287,857 Electrochemical Cell and Negative Electrode Therefor
 287,965 Thermoelectric Refrigerator Having Improved Temperature Stabilization Means
 287,966 Method for Determining the Hardening Articles of Tungsten-Nickel-Iron Alloy
 288,234 Frequency Spectrum Analyzer With Phase-Lock
 288,561 Portable Vacuum Object Handling Device
 288,562 Timing Discriminator Using Leading-Edge Extrapolation

290,282 Glass Heat Pipe Evacuated Tube Solar Collector
 290,289 Coolant Monitoring Apparatus for Nuclear Reactors
 290,885 Optical Pumping in a Whispering Mode Optical Waveguide
 291,898 Viscous Sludge Sample Collector
 291,899 Nitrogen Fixation Method and Apparatus
 291,900 Solid State Laser Rod Holder
 292,852 Photoelectrolytic Cell
 292,979 Acoustical Heat Pumping Engine
 293,043 Hydrocarbon Synthesis Catalyst and Method of Preparation and Use Thereof
 293,910 Intense Transient Magnetic Field Generation by Laser-Plasma
 293,911 Radioactive Materials Shipping Cask Anticontamination Enclosure
 293,912 Microscope and Method of Use
 294,601 Reinjection Laser Oscillator and Method
 294,878 Apparatus and Method for Pyrolyzing Biomass Material
 295,512 Novel Polycathecholamide Chelating Agents
 297,307 Oil Shale Retorting and Combustion System
 297,308 Nuclear Reactor Control Apparatus
 297,372 Glass for Sealing Lithium Cells
 297,477 Method and Apparatus for Producing Cryogenic Targets
 298,969 Method and Article for Primary Containment of Cesium Wastes
 299,232 Combination Gas Producing and Waste-Water Disposal Well
 299,233 Method for Removal of Phosgene From Boron Trichloride
 299,241 Multi Baffle Cyclone
 300,337 Production of Hydrocarbons From Hydrates
 301,786 Compaction Die for Forming a Solid Annulus on a Right Circular Cylinder
 301,787 Fluidized Bed Catalytic Coal Gasification Process
 302,338 Neutron Flux Profile Monitor for Use in a Fission Reactor
 303,325 Porous Electrode Preparation
 303,674 Single Transmission Line Data Acquisition System
 303,675 Electrically-Isolated Single Transmission Line Data Acquisition System
 304,737 Analog Quadrature Signal to Phase Angle Data Conversion by a Quadrature Digitizer and Quadrature Counter
 305,295 Method and System for Ethanol Production
 306,998 Mechanically Expandable Annular Seal
 307,000 Closure Device for Lead-Acid Batteries
 307,032 Neutron Position-Sensitive Scintillation Detector
 307,560 Apparatus for Converting Biomass to a Pumpable Slurry
 308,738 Method for Fabricating Cermets of Alumina-Chromium Systems
 308,739 Solid Electrolytes Strengthened by Metal Dispersions
 308,966 Oxygen Stabilized Zirconium Vanadium Intermetallic Compound
 309,655 Production of Anhydrous Aluminum Chloride Composition

309,656 Method of Depositing a High-Emissivity Layer
 310,246 Process and Catalyst for Converting Synthesis Gas to Liquid Hydrocarbon Mixture
 310,248 Ductile Transplutonium Metal Alloys
 311,204 Component Restraint System
 311,205 Detection Method for Use With Gas Chromatographs
 313,413 Method for Producing Hard-Surfaced Tools and Machine Components
 313,414 Corrosion-Resistant Uranium
 313,417 Fluid-Cooled Gas Turbine Airfoil
 314,916 Ultrasonic Liquid Level Detector for Varying Temperature and Pressure Environments
 314,917 Permanent Magnet Flowmeter Having Improved Output Terminal Means
 314,918 Vapor Cooled Current Lead for Cryogenic Electrical Equipment
 314,919 Method and Apparatus for Removing Particle Species From Fusion Plasma Confinement Devices
 314,920 Parallel-Wire Grid Assembly With Method and Apparatus for Construction Thereof
 315,377 Rotatable Stem and Lock
 315,378 Purifying Contaminated Water
 315,379 Liquid Level, Void Fraction, and Superheated Steam Sensor for Nuclear Reactor Cores
 315,397 Central Solar Energy Receiver
 317,701 Open-Cycle Magnetohydrodynamic Power Plant Based Upon Direct-Contact Closed-Loop High-Temperature Heat Exchanger
 317,706 Direct-Contact Closed-Loop Heat Exchanger
 317,816 Spectrometer Gun
 317,818 Pt/Pd Electrocatalyst Electrodes for Fuel Cells
 318,080 Electropositive Bivalent Metallic Ion Unsaturated Polyester Complexed Polymer Concrete
 318,081 Method for Oxygen Reduction in a Uranium Recovery Process
 318,668 Method of Uranium Reclamation From Aqueous Systems by Reactive Ion Exchange
 321,345 Doppler Flowmeter
 321,346 Method of Producing a Colloidal Fuel From Coal and a Heavy Petroleum Fraction
 321,946 Wide Range Radioactive Gas Concentration Detector
 322,143 Security Seal
 322,144 Process for Treating Fission Waste
 322,145 High Precision Triangular Waveform Generator
 323,149 Apparatus and Method for Continuous Electroplating
 323,150 Magnet Pole Tips
 326,087 Method of Extruding and Packaging a Thin Sample of Reactive Material Including Forming the Extrusion Die
 326,775 Extracting Alcohols From Aqueous Solutions
 328,327 Method and Composition for Holding Low Density Desiccant Syntactic Foam Articles
 335,994 Plastic Schottky Barrier Solar Cells
 335,995 Double-Clad Nuclear Fuel Safety Rod
 335,996 High Power Radio Frequency Attenuation Device

335,997 Multifunctional Reference Electrode
 335,998 An Electronic Method for Autofluorography of Macromolecules on Two-D Matrices

Patent

4,083,651 Self-Regulating Composite Bearingless Wind Turbine

[FR Doc. 82-30821 Filed 11-9-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

Research on High Voltage Electric Field Effects; Notice of Public Meeting

Notice is hereby given that the Research on High Voltage Electric Field Effects sponsored by the Department's Electric Energy Systems Division will be reviewed in a public meeting on November 15, 16, and 17, 1982, at the Marriott Hotel Southwest, Denver, Colorado. The first session will begin at 1:00 p.m., November 15, and will adjourn at 6:00 p.m. on November 17, 1982.

Inquiries should be directed to K. W. Klein, Division of Electric Energy Systems, (202) 252-4563.

Issued in Washington, D.C. on November 2, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-30867 Filed 11-9-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Notice of Action on Consent Order With the Southland Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199j that it has adopted the Consent Order with the Southland Corporation ("Southland") executed on July 1, 1982 and published for comment in 47 FR 31600 on July 21, 1982, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations for the period September 1, 1973 through January 28, 1981. Southland has agreed to make payments totalling \$1,193,397.

As required by the regulations cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Four comments were

received by August 20, 1982, the thirtieth day following publication of the notice of the proposed Consent Order. DOE has considered all comments and determined that the Consent Order should be made final without modification. The Consent Order has been made effective as a final order of the DOE upon receipt by Southland of notice to the effect on September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, RG-30, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, Phone: (202) 633-9358.

Copies of the Consent Order may be received free of charge by written request to: Southland Consent Order Request, Department of Energy, RG-30, Room 5146, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Busing, 1000 Independence Avenue, SW., Room 1 E-190, Washington, D.C. 20585, between the hours 8:00 a.m.-4:00 p.m.

SUPPLEMENTARY INFORMATION:

The Consent Order

On July 21, 1982, DOE published notice in Federal Register at page 31600 announcing the execution of a proposed Consent Order between Southland and DOE. In compliance with DOE Regulations, that notice and a subsequent press release summarized the Consent Order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the Consent Order.

The proposed Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the DOE's audit of compliance by Southland with the Federal petroleum price and allocation regulations for the period September 1, 1973, through January 28, 1981.
2. Southland has agreed to pay \$1,193,397 thirty (30) days after the Consent Order had been made effective.
3. Within twenty (20) days after the effective date of the Consent Order, Southland shall pay civil penalties in the amount of \$23,868.
4. The Consent Order also provides details concerning the conclusion of the audit of and procedures concerning enforcement of the provisions of the Consent Order itself. The Consent Order provides that Southland has waived its right to an appeal or judicial review of

the Consent Order. The Consent Order does not constitute an admission by Southland or a finding by DOE of a violation of any Federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received a total of four comments on the proposed Southland Consent Order. Comments were submitted by the States of Maine; New York; California and Alabama, which submitted a joint comment; and the National Consumer Law Center. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

Several of the comments stated that payment to the U.S. Treasury was improper or unlawful and cited the decision of the Temporary Emergency Court of Appeals (TECA) in *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F.2d 717 (TECA) 1982. However, *Citronelle* is inapplicable here.

In *Citronelle*, TECA affirmed a district court determination in a judicial enforcement action that the seller overcharged customers in specific sales of crude oil. TECA declined to permit payment of adjudicated overcharges directly into the U.S. Treasury without an attempt being made first to refund such monies to the injured persons. Unlike *Citronelle*, this is not an adjudicated enforcement case; and the Consent Order here makes no finding of a violation, nor does Southland admit to any violations, of DOE regulations. Further, when entering into negotiated settlements, DOE attempts, where practicable, to provide remedial benefits to persons injured by the consenting firm's alleged violations. Here, however, the issues resolved by this Consent Order do not readily permit identification of injured parties since Southland marketed its gasoline at retail in numerous states on a cash basis. Under the circumstances of this case, DOE is unable to determine who may have borne the burden of the alleged violations.

Comments received from the states suggested that refunds should be made to them to fund various energy-related programs. While a program of allocating funds to states may be appropriate in some instances, there is no requirement, and there should be no expectation, that refunds be distributed to the states in every case. In this case, DOE has decided to exercise its discretion to provide in the first instance for a payment to the U.S. Treasury.

Several comments suggested that a petition to the Office of Hearings and Appeals (OHA) under Subpart V of the Regulations (10 CFR Part 205, Subpart V) for the implementation of special refund procedures was mandatory. Contrary to the assertions of some commenters, the use of Subpart V is not required by the Regulations. The choice of appropriate remedies in a particular Consent Order is made on a case-by-case basis within the framework of an overall negotiated agreement between the DOE and the consenting firm. In light of the violations alleged, the parties agreed that payment to the U.S. Treasury is an appropriate remedy.

Having considered all comments received, DOE has determined that the proposed Consent Order with Southland should be made final without modification. The Consent Order was made final and effective upon receipt of notice by Southland on September 24, 1982.

Issued in Washington, D.C., November 1, 1982.

Milton C. Lorenz,
Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-30820 Filed 11-9-82; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83-63-000]

American Electric Power Service Corp.; Notice of Filing

November 5, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate, Appalachian Power Company (APCO) tendered for filing on October 26, 1982, Modification No. 19 to the Interconnection Agreement between APCO and Virginia Electric and Power Company (VEPCO). This Modification provides for the sale by APCO to VEPCO of 600 MW of Oil-Displacement Capacity and Energy from January 1, 1983 to December 31, 1984.

AEP states that the demand charge for said service will be \$2,812,500 per month.

AEP requests that the Commission accept the Modification for filing on or before January 1, 1983 as it intends to begin the sale of Oil-Displacement Capacity and Energy to VEPCO as of that date.

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 22, 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. 82-30824 Filed 11-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-705-000]

Arkansas Power & Light Co.; Notice of Refund Report

November 5, 1982.

The filing Company submits the following:

Take notice that on October 15, 1982, Arkansas Power & Light Company filed a refund report pursuant to the Commission's order issued September 3, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30825 Filed 11-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-62-000]

Iowa-Illinois Gas and Electric Co.; Notice of Filing

November 5, 1982.

The filing Company submits the following:

Take notice that on October 26, 1982, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) tendered for filing 3rd Revised Sheet No. 8 and 2nd Revised Sheet No. 9 to WES-M FPC wholesale Electric Tariff, Original Volume No. 1.

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 22, 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. 82-30826 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-73-000]

New England Power Co.; Notice of Filing

November 4, 1982.

The filing Company submits the following:

Take notice that on October 29, 1982, New England Power Company (NEP) tendered for filing amendments to two Power Contracts between NEP and Massachusetts Municipal Wholesale Electric Company and the Town of Templeton Municipal Lighting Plant. The proposed effective date is January 1, 1983.

NEP states that the proposed amendment will increase the Rate for the sale of Unit Power from its coal-burning Salem Harbor Units 1, 2, and 3 from a settlement level of \$108.03 per kw-yr. to \$165.47 per kw-year, resulting in an annual increase in capacity charges of \$4,308,000.

NEP further states that the proposed Rate is predicated in part upon NEP's W-5 filing made July 30, 1982. For this reason, NEP requests waiver of certain of the Commission's Regulations.

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, 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 22, 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. 82-30827 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-70-000]

Pacific Gas and Electric Co.; Notice of Filing

November 4, 1982.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PG&E), on October 29, 1982, tendered for filing as an initial rate schedule a September 10, 1982 Agreement for distribution of electric capacity and energy, commencing on November 1, 1982, by PG&E for Calaveras County Public Power Agency (Calaveras).

PG&E has requested a waiver of the Commission's 60-day notice requirement in order to provide service on the date requested by Calaveras.

PG&E states that the Agreement provides that PG&E will distribute, to Calaveras member loads, energy that has been allocated to Calaveras under Public Law 87-874, by the Western Area Power Administration from New Melones Dam.

PG&E further states that the rate for primary and secondary distribution shall be a system average rate, with reimbursement of energy losses and a 1 mil/kwh charge for supplemental meter reading and other services.

Copies of the filing were served upon Calaveras, the Western Area Power Administration, and the California Public Utilities Commission.

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 22, 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. 82-30828 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-74-000]

Pacific Power & Light Co.; Notice of Filing

November 4, 1982.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on October 29, 1982, tendered for filing a Wholesale Purchase Power Agreement (Agreement) dated October 19, 1982 between Cheyenne Light, Fuel and Power Company (Cheyenne) and Pacific. Pacific states that the Agreement provides for the termination of Pacific's Rate Schedule FPC No. 108 and an increase in rates for service to Cheyenne. The proposed change in rates would increase revenues from Cheyenne by \$4,902,729 based on the 12-month period ending December 31, 1981.

Pacific requests the Commission to permit this rate schedule to become effective January 1, 1983, which it claims is the date of commencement of service.

Copies of this filing were supplied to Cheyenne and the Public Service Commission, the State of Wyoming.

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 22, 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. 82-30829 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-313-002]

Public Service Company of New Mexico; Notice of Compliance Filing

November 5, 1982.

The filing Company submits the following:

Take notice that on September 27, 1982, Public Service Company of New Mexico filed revised Service Schedules A and B for service to the City of Gallup, New Mexico. Such filing was made pursuant to Opinion No. 146, issued September 17, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30830 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-72-000]

Southern Company Services, Inc.; Notice of Filing

November 5, 1982.

The filing Company submits the following:

Take notice that Southern Company Services, Inc., on October 29, 1982, tendered for filing on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (the Southern Companies) an initial contract for economy energy transactions between the Southern Companies and the City of Tallahassee, Florida (City). The contract provides for economy energy sales from the Southern Companies to City. The service under the rate schedule is scheduled to commence on October 29, 1982. The contract between the Southern Companies and the City makes provisions for economy energy transactions from the Southern Companies to the City whenever such transactions would be to the mutual advantage of both parties to the agreement.

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 22, 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. 82-30831 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-69-000]

Southern Electric Generating Co.; Notice of Filing

November 4, 1982.

The filing Company submits the following:

Take notice that on October 29, 1982, Southern Electric Generating Company (SEGCO) tendered for filing a proposed amendment to its Power Contract with Alabama Power Company and Georgia Power Company, which Contract is designated SEGCO Rate Schedule FPC No. 1.

SEGCO states that the amendment to the Power Contract is necessary to enable it to recover increased debt expense related to construction expenditures, which is not provided for in the the computation of rates and charges under the currently existing contract. These expenditures and increased debt expense are occasioned by the need to refurbish SEGCO's generating units to extend their useful lives, and the installation of certain pollution control facilities to comply with mandatory state environmental air quality standards.

Copies of the filing were served upon the affected companies, the Alabama Public Service Commission and the Georgia Public Service Commission.

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 22, 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. 82-30832 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-64-000]

Southern Indiana Gas and Electric Co.; Notice of Filing

November 5, 1982.

The filing Company submits the following:

Take notice that on October 26, 1982, Southern Indiana Gas and Electric Company (SIG&E) tendered for filing proposed changes in its wholesale power service Rate RS which is the basis for FERC Rate Schedule Nos. 34, 35, 36 and 37 under which it sells power for resale to rate revenues from jurisdictional sales and service by \$636,911 based upon the twelve-month period ending September 30, 1981. The increase is requested to become effective on April 1, 1983. SIG&E realizes that the effective date allows for more elapsed time than is set forth for FERC action. The extended time period was agreed upon by the Company and the customers in order to allow sufficient time for retail regulatory action. The affected customers are the City of Bonneville, City of Tell City, City of Huntington, and the Town of Ferdinand, Indiana.

Copies of the filing have been served upon the affected wholesale customers named above, and upon the Public Service Commission of Indiana.

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 22, 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. 82-30833 Filed 11-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-68-000]

**Southwestern Electric Power Co.;
Notice of Filing**

November 5, 1982.

The filing company submits the following:

Take notice that Southwestern Electric Power Company ("SWEPCO") on October 29, 1982, tendered for filing a Contract for Electric Service between SWEPCO and Cajun Electric Power Cooperative, Inc. (Cajun). The Contract for Electric Service provides for a formulaic method of determining periodic changes in rates and charges applicable to services rendered Cajun by SWEPCO. Rates determined under the first application of the Contract for Electric Service will result in aggregate increased revenues from Cajun for the 12 months ending June 30, 1983 of about \$1,032,126 or 18.8 percent, over rates presently in effect. SWEPCO requests that the Contract for Electric Service and rates determined thereunder be made effective as of September 1, 1982 and, accordingly, requests waiver of the notice requirements under the Federal Power Act. Cajun has concurred in the filing and the proposed effective date.

Copies of the filing have been served on Cajun and upon the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said application 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 Rule 214 or 211 of the Commission's Revised Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such

motions or protests should be filed on or before November 22, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30834 Filed 11-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83-67-000]

West Texas Utilities Co.; Notice of Filing

November 4, 1982.

The filing Company submits the following:

Take notice that on October 29, 1982, West Texas Utilities Company (WTU) tendered for filing twenty-eight (28) executed Delivery Point and Service Specifications sheets providing for changes in conditions of service under Service Agreements between WTU and Brazos Electric Power Cooperative, Concho Valley Electric Cooperative, Dickens County Electric Cooperative, Gate City Electric Cooperative, Greenbelt Electric Cooperative, McCulloch County Electric Cooperative, Rio Grande Electric Cooperative, Southwest Texas Electric Cooperative, and Taylor Electric Cooperative, executed under WTU's FERC Electric Tariff, Original Volume No. 1. The changes provide for changing the voltage, the decrease or increase in stated maximum contract demand at the existing delivery point, adding a new delivery point, and terminating existing delivery points.

Copies of this filing have been sent to the Public Utility Commission of Texas and the affected full requirements wholesale customers.

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 22, 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. 82-30835 Filed 11-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER 81-517-000]

Wisconsin Electric Power Co.; Notice of Refund Report

November 5, 1982.

The filing Company submits the following:

Take notice that on October 27, 1982, Wisconsin Electric Power Company filed a refund report pursuant to the Commission's letter of September 20, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30836 Filed 11-9-82; 8:45 am]
BILLING CODE 6717-01-M

[Volume 766]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 3, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PUKGRASER
***** KENTUCKY DEPARTMENT OF MINES & MINERALS *****									
***** KENTUCKY WEST VIRGINIA GAS CO *****									
RECEIVED: 10/05/82 JA: KY *****									
8301395	502948	1607100000	107-DV			A C WEBB -#585	KENTUCKY EAST	40.2	
8301476	503029	1619500000	107-DV			A J MAY #5382	KENTUCKY EAST	21.5	
8301466	503019	1607100000	107-DV			A J STURGILL #5285	KENTUCKY EAST	25.6	
8301354	502907	1607100000	107-DV			A L MARTIN #410	KENTUCKY EAST	94.9	
8301483	503036	1611900000	107-DV			A L MARTIN #5471	KENTUCKY EAST	17.0	
8301361	502914	1607100000	107-DV			ADAM TURNER #280	KENTUCKY EAST	20.8	
8301444	502997	1607100000	107-DV			ALEX J STUMBO #5104	KENTUCKY EAST	29.4	
8301492	503045	1607100000	107-DV			ANDREW MITCHELL #5570	KENTUCKY EAST	21.0	
8301481	503034	1607100000	107-DV			ANDY NEWSOM #5454	KENTUCKY EAST	30.5	
8301370	502923	1607100000	107-DV			B L C MAY #437	KENTUCKY EAST	23.3	
8301417	502970	1619500000	107-DV			BALLARD WEDDINGTON -#832	KENTUCKY EAST	54.6	
8301496	503049	1619500000	107-DV			BEN-ADAMS-#56520	KENTUCKY EAST	24.0	
8301479	503032	1611900000	107-DV			BETSY A E SLONE #5414	KENTUCKY EAST	15.6	
8301425	502978	1619500000	107-DV			BETTY M JOHNSON -#919	KENTUCKY EAST	27.9	
8301519	503072	1607100000	107-DV			BURRIS M HERALD #7046	KENTUCKY EAST	16.1	
8301374	502927	1607100000	107-DV			C C HORTON - #451	KENTUCKY EAST	22.2	
8301490	503043	1611900000	107-DV			C C MARTIN #5541 D	KENTUCKY EAST	24.0	
8301511	503064	1619300000	107-DV			C G BOWMAN #6765	KENTUCKY EAST	16.9	
8301508	503061	1611900000	107-DV			C P STEPHENS #6348	KENTUCKY EAST	19.3	
8301389	502942	1607100000	107-DV			CALVIN CLARK - #538	KENTUCKY EAST	23.3	
8301392	502945	1611900000	107-DV			CHARLES & FRANCIS STURGILL - #550	KENTUCKY EAST	48.1	
8301369	502922	1607100000	107-DV			CHARLES HUNTER #433	KENTUCKY EAST	24.1	
8301495	503048	1611900000	107-DV			CHAS STURGILL #5614	KENTUCKY EAST	19.3	
8301412	502965	1611900000	107-DV			CLAY MARTIN -#794	KENTUCKY EAST	29.1	
8301413	502966	1619500000	107-DV			DAN J SYCK - #795	KENTUCKY EAST	29.1	
8301408	502961	1619500000	107-DV			DAN J SYCK #735	KENTUCKY EAST	61.2	
8301419	502972	1619500000	107-DV			E L PINSON -#835 D	KENTUCKY EAST	57.2	
8301401	502954	1619500000	107-DV			EDMOND C CLARK -#6400	KENTUCKY EAST	27.1	
8301456	503009	1611900000	107-DV			EFFIE SLONE #5167	KENTUCKY EAST	29.1	
8301506	503059	1607100000	107-DV			ELI JOHNSON #5931	KENTUCKY EAST	19.2	
8301446	502999	1607100000	107-DV			ELISHA HALL #5111	KENTUCKY EAST	22.7	
8301421	502974	1619500000	107-DV			F A WRIGHT -#862	KENTUCKY EAST	49.7	
8301435	502988	1619300000	107-DV			FELIX BRASHEAR #1285	KENTUCKY EAST	43.6	
8301441	502994	1611900000	107-DV			FLORENCE & ROBERT WICKER #1513	KENTUCKY EAST	6.0	
8301379	502932	1607100000	107-DV			FLORENCE HALL - #470	KENTUCKY EAST	38.9	
8301442	502995	1607100000	107-DV			FLORENCE HALL #1534	KENTUCKY EAST	43.0	
8301432	502985	1619500000	107-DV			FLOYD BURCHETT -#1220	KENTUCKY EAST	31.2	
8301433	502980	1619500000	107-DV			FLOYD H COMBS -#1238	KENTUCKY EAST	45.1	
8301434	502987	1619500000	107-DV			FLOYD H COMBS #1283	KENTUCKY EAST	23.0	
8301391	502944	1607100000	107-DV			G B HALL - #545	KENTUCKY EAST	31.4	

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FIELD NAME

PAID

SEC(1)

SEC(2)

WELL NAME

APL NO

JA DKT

JD NO

JD NO	JA DKT	APL NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PAID
8301484	503037	1611900000	107-DV		GEORGE CONLEY #5473	KENTUCKY EAST	29.8
8301463	503016	1607100000	107-DV		GEORGE MCKINNEY #5253D	KENTUCKY EAST	22.8
8301383	502936	1607100000	107-DV		GREEN CONN - #503	KENTUCKY EAST	22.9
8301384	502937	1607100000	107-DV		GREEN CONN - #511	KENTUCKY EAST	21.2
8301357	502910	1607100000	107-DV		GREEN TURNER - #204	KENTUCKY EAST	29.9
8301358	502911	1607100000	107-DV		GREEN TURNER - #205	KENTUCKY EAST	27.3
8301382	502935	1607100000	107-DV		GRUVER KEATHLEY #495	KENTUCKY EAST	50.0
8301409	502962	1611900000	107-DV		H C BEVERLY - #740	KENTUCKY EAST	30.1
8301503	503056	1619500000	107-DV		H R BLACKBURN #5600	KENTUCKY EAST	22.9
8301486	503039	1607100000	107-DV		H R JOHNSON #5513	KENTUCKY EAST	12.8
8301386	502939	1607100000	107-DV		HAMILTON COAL & LAND CO #515	KENTUCKY EAST	31.1
8301410	502963	1619500000	107-DV		HELEN LESLIE - #7650	KENTUCKY EAST	31.4
8301360	502913	1607100000	107-DV		HELEN MARTIN #277	KENTUCKY EAST	42.9
8301464	503017	1607100000	107-DV		HENKERSON ROBERTS #5275D	KENTUCKY EAST	30.0
8301414	502967	1611900000	107-DV		HENRY C SLOAN - #798	KENTUCKY EAST	26.8
8301507	503060	1611900000	107-DV		HENRY QUILLLEN #5947	KENTUCKY EAST	25.8
8301367	502920	1607100000	107-DV		IRELAND BOYD #428	KENTUCKY EAST	20.1
8301524	503077	1613300000	107-DV		ISAAC ISON #7167	KENTUCKY EAST	15.0
8301362	502915	1607100000	107-DV		ISAAC LEWIS #349D	KENTUCKY EAST	18.9
8301459	503012	1607100000	107-DV		ISAAC PARSONS SR #5172	KENTUCKY EAST	26.9
8301405	502958	1619500000	107-DV		J A SCOTT - #675	KENTUCKY EAST	20.5
8301445	502998	1607100000	107-DV		J U MAYO #5110	KENTUCKY EAST	28.4
8301373	502926	1607100000	107-DV		J E HALL #444	KENTUCKY EAST	30.1
8301504	503057	1619500000	107-DV		J E YOST #5876	KENTUCKY EAST	25.1
8301513	503066	1619300000	107-DV		J H HALL #6832	KENTUCKY EAST	25.8
8301523	503076	1619300000	107-DV		J L RAWLINS #7162	KENTUCKY EAST	16.1
8301449	503002	1607100000	107-DV		J L SPURLOCK #5125	KENTUCKY EAST	33.4
8301487	503040	1619500000	107-DV		J LEE FERGUSON #5515 D	KENTUCKY EAST	34.1
8301491	503044	1619500000	107-DV		J LEE FERGUSON #5567	KENTUCKY EAST	20.9
8301428	502961	1607100000	107-DV		J M HALL - #986D	KENTUCKY EAST	39.6
8301469	503022	1607100000	107-DV		J M PORTER #5318	KENTUCKY EAST	19.2
8301423	502976	1619500000	107-DV		J M TAYLOR - #891	KENTUCKY EAST	66.3
8301387	502940	1607100000	107-DV		J P AKERS - #518	KENTUCKY EAST	23.5
8301398	502951	1611900000	107-DV		J W BATES - #608	KENTUCKY EAST	25.3
8301447	503000	1607100000	107-DV		JAMES A HUNTER #5114	KENTUCKY EAST	27.9
8301480	503033	1607100000	107-DV		JAMES H AKERS #5447	KENTUCKY EAST	61.1
8301482	503035	1607100000	107-DV		JAMES H AKERS #5470 D	KENTUCKY EAST	21.0
8301380	502933	1607100000	107-DV		JAMES NEWMAN - #473	KENTUCKY EAST	29.5
8301510	503063	1607100000	107-DV		JAMES OSBORNE #6744	KENTUCKY EAST	25.1
8301422	502975	1619500000	107-DV		JAS M BILLITER - #883	KENTUCKY EAST	53.8
8301526	503079	1613300000	107-DV		JEFFERSON ISON #7179	KENTUCKY EAST	14.0
8301394	502947	1611900000	107-DV		JEFFIE HALL #584	KENTUCKY EAST	21.6
8301439	502992	1619300000	107-DV		JESSE BRASHEAR #1471	KENTUCKY EAST	26.2
8301368	502921	1607100000	107-DV		JOEL TURNER #430	KENTUCKY EAST	22.8
8301430	502983	1611900000	107-DV		JOHN D SMITH - #1088	KENTUCKY EAST	17.4
8301427	502980	1619500000	107-DV		JOHN E TAYLOR - #967	KENTUCKY EAST	31.9
8301359	502912	1607100000	107-DV		JOHN G TURNER - #266	KENTUCKY EAST	30.5
8301502	503055	1619500000	107-DV		JOHN H LOWE #5784	KENTUCKY EAST	30.1
8301452	503005	1607100000	107-DV		JOHN HALL #5149D	KENTUCKY EAST	43.0
8301457	503010	1607100000	107-DV		JOHN HUNTER #5170	KENTUCKY EAST	32.2
8301522	503075	1619300000	107-DV		JOHN J GODSEY #7146	KENTUCKY EAST	29.1
8301514	503067	1619300000	107-DV		JOHN M GODSEY #6899	KENTUCKY EAST	21.5
8301494	503047	1607100000	107-DV		JOHN M HALL #5608	KENTUCKY EAST	24.0

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PRUD PURCHASER

JD NO	JA JKI	API NU	U	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PRUD
8301473	503026	1607100000		107-UV	JOHN M LAYNE #5355	KENTUCKY EAST	23.0	
8301489	503042	1611900000		107-DV	JOHN P GIBSON #5535	KENTUCKY EAST	28.0	
8301516	503069	1613300000		107-DV	JOHN W LUSK #6947	KENTUCKY EAST	46.5	
8301396	502949	1611900000		107-UV	JOHN WICKER #592	KENTUCKY EAST	26.4	
8301364	502917	1607100000		107-UV	JONAH WEBB - #366	KENTUCKY EAST	12.6	
8301377	502930	1611900000		107-UV	JOSEPH HALL - #458	KENTUCKY EAST	37.3	
8301400	502953	1611900000		107-DV	JOSEPH HALL #629	KENTUCKY EAST	22.4	
8301450	503003	1611900000		107-DV	JOSEPH HALL JR #5136D	KENTUCKY EAST	14.9	
8301465	503018	1611900000		107-DV	JOSEPH HALL JR #5283	KENTUCKY EAST	29.3	
8301500	503053	1611900000		107-DV	JOSEPH STEWART #5731	KENTUCKY EAST	17.9	
8301375	502928	1611900000		107-DV	K J DAY - #453	KENTUCKY EAST	33.4	
8301365	502918	1611900000		107-DV	KENAS SLOANE #394	KENTUCKY EAST	36.5	
8301440	502993	1611900000		107-DV	KINLEY RISNER #1511	KENTUCKY EAST	23.0	
8301424	502977	1619500000		107-DV	LAWYER SCOTT -#899	KENTUCKY EAST	82.3	
8301390	502943	1611900000		107-DV	LECK GIBSON - #541	KENTUCKY EAST	21.5	
8301378	502931	1611900000		107-DV	LEONARD TERRY #469	KENTUCKY EAST	29.3	
8301460	503013	1607100000		107-DV	LEWIS MEADE #5173	KENTUCKY EAST	41.2	
8301407	502960	1611900000		107-DV	LOUKANA SLOANE -#732	KENTUCKY EAST	23.3	
8301404	502957	1607100000		107-DV	M A DAVIDSON #620	KENTUCKY EAST	13.5	
8301399	502952	1607100000		107-UV	M A DAVIDSON #620	KENTUCKY EAST	38.5	
8301438	502991	1619300000		107-DV	MACK H YOUNG #13470	KENTUCKY EAST	24.0	
8301393	502946	1611900000		107-DV	MARTHA & M D SLOANE - #567	KENTUCKY EAST	24.6	
8301385	502938	1611900000		107-DV	MARY HUFF - #513	KENTUCKY EAST	22.0	
8301499	503052	1607100000		107-DV	MILES HALL #5706	KENTUCKY EAST	25.5	
8301474	503027	1607100000		107-DV	MORGAN HALL #5356	KENTUCKY EAST	44.5	
8301451	503004	1607100000		107-DV	MORGAN TURNER #5139	KENTUCKY EAST	22.9	
8301527	503080	1613300000		107-DV	MOSES ISON #7180	KENTUCKY EAST	28.6	
8301472	503025	1607100000		107-DV	NANCY HALL #5343	KENTUCKY EAST	46.6	
8301485	503038	1611900000		107-DV	NOAH BOLEM #5501	KENTUCKY EAST	18.9	
8301403	502956	1619500000		107-DV	P B STRATTON -#656	KENTUCKY EAST	24.5	
8301515	503068	1607100000		107-DV	PATIENCE FANNIN - #6945	KENTUCKY EAST	25.1	
8301371	502924	1607100000		107-DV	A L CONLEY #441 D	KENTUCKY EAST	28.5	
8301426	502979	1619500000		107-DV	R THOMPSON -#937	KENTUCKY EAST	25.7	
8301431	502984	1607100000		107-DV	REBECCA HOBSON -#1179	KENTUCKY EAST	22.0	
8301388	502941	1611900000		107-DV	RICHARD HALL - #522	KENTUCKY EAST	93.0	
8301366	502919	1611900000		107-DV	RICHARD HALL #411 D	KENTUCKY EAST	46.7	
8301471	503024	1611900000		107-DV	RICHARD HALL #5350	KENTUCKY EAST	22.0	
8301477	503030	1611900000		107-DV	RICHARD HALL #5398	KENTUCKY EAST	17.2	
8301372	502925	1607100000		107-DV	RICHARD TURNER #442	KENTUCKY EAST	51.1	
8301521	503074	1619300000		107-DV	ROBERT CORNETT #7124	KENTUCKY EAST	21.2	
8301397	502950	1607100000		107-DV	ROBERT MITCHELL -#594	KENTUCKY EAST	23.9	
8301429	502982	1619500000		107-DV	ROBERT WILLIAMS -#1030	KENTUCKY EAST	31.5	
8301418	502971	1619500000		107-DV	ROBERT WILLIAMS -#833	KENTUCKY EAST	22.9	
8301420	502973	1619500000		107-DV	ROBERT WILLIAMS -#852 D	KENTUCKY EAST	36.2	
8301498	503051	1619500000		107-DV	S B LESLIE #5700	KENTUCKY EAST	19.7	
8301402	502955	1619500000		107-DV	SALLIE JACKSON -#647	KENTUCKY EAST	21.2	
8301443	502990	1607100000		107-DV	SAM GLICK #5065	KENTUCKY EAST	35.5	
8301497	503050	1607100000		107-DV	SCOTT BURKE #5685	KENTUCKY EAST	21.5	
8301406	502959	1611900000		107-DV	SHERMOUD OSBORNE -#694	KENTUCKY EAST	50.7	
8301363	502910	1607100000		107-DV	SUL DEROSSETT #356	KENTUCKY EAST	13.1	
8301468	503021	1607100000		107-DV	SOLOMON AKERS #5300	KENTUCKY EAST	23.7	
8301448	503001	1607100000		107-DV	SOLOMON SALMONS #5119	KENTUCKY EAST	22.9	
8301355	502908	1607100000		107-UV	SUSIE HAYS #220	KENTUCKY EAST	26.4	

JO NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	VOLUME	766	PAGE	007	PRUD	PURCHASER
-KING DRILLING CO											
8301677		3410323076	RECEIVED:	10/08/82	JA: OH						10.0 COLUMBIA GAS TRAN
8301678		3416923307	107-TF		GEORGE PHILLIPS #1						10.0 COLUMBIA GAS TRAN
-MACK OIL & GAS CO			RECEIVED:	10/08/82	WAYNE HORST #2						
8301681		3411121353	108		PIATT #1						1.0 RIVER GAS CO
8301682		3411121646	108		PIATT #2						1.0 RIVER GAS CO
8301683		3411121647	108		PIATT #3						1.0 RIVER GAS CO
-MUSTANG PETROLEUM INC.			RECEIVED:	10/08/82	JA: OH						
8301687		3411122434	0	107-OV	RICHARD & GORDON TUEL #1						30.0
-NOBLE OIL CORP			RECEIVED:	10/08/82	BAKER UNIT #1						
8301690		3413322774	107-TF		PARIS RESORTS #3						20.0 GENERAL ELECTRIC
8301688		3413322770	107-TF		PARIS RESORTS #3						20.0 GENERAL ELECTRIC
8301689		3413322771	107-TF		PARIS RESORTS #4						20.0 GENERAL ELECTRIC
8301691		3413322825	107-TF		PORTAGE LAND CO #1						20.0 GENERAL ELECTRIC
-NORTH EAST NATURAL GAS CO INC			RECEIVED:	10/08/82	JA: OH						
8301695		3415721559	0	108	BAER #1						7.9 M B OPERATING CO
8301692		3401920592	108		BEAMER #1						0.7 M B OPERATING CO
8301693		3401920667	108		BEAMER #2						0.8 M B OPERATING CO
8301694		3401920746	108		CONUTTON LAND CO #8-1						1.2 M B OPERATING CO
8301699		3415722270	108		CONUTTON LAND CO #1						2.8 M B OPERATING CO
8301701		3415722419	0	108	CONUTTON LAND CO #2						9.1 M B OPERATING CO
8301697		3415721610	108		DREYON-OWENS #1						6.6 EAST OHIO GAS CO
8301696		3415721603	108		FELGENHAUER #1						1.5 M B OPERATING CO
8301700		3415722303	108		HARTZLER #1						1.0 M B OPERATING CO
8301698		3415721721	108		T BELKNAP #2						0.4 M B OPERATING CO
-OHIO NATURAL FUEL CO			RECEIVED:	10/08/82	JA: OH						
8301704		3403124819	103		HOLMES LIMESTONE #1						18.0 COLUMBIA GAS TRAN
8301703		3403124825	107-TF		HUFF #1						30.0 COLUMBIA GAS TRAN
8301702		3403124852	107-TF		OLINGER #4						30.0 COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC			RECEIVED:	10/08/82	JA: OH						
8301705		3411522678	107-TF		M MORRIS #4						85.0 EAST OHIO GAS CO
-PETRO APPLACHIA INC			RECEIVED:	10/08/82	JA: OH						
8301707		3400922568	107-TF		BLOCKER #1						10.0 COLUMBIA GAS TRAN
-PETROLEUM ENERGY PRODUCING CORP			RECEIVED:	10/08/82	JA: OH						
8301708		3400720740	108		J & M BUTCHER UNIT #1						7.0 THE EAST OHIO GAS
-PINE TOP ESTATES PARTNERSHIP			RECEIVED:	10/08/82	JA: OH						
8301709		3415321147	103	107-TF	R & D FISHER #1						20.0 EAST OHIO GAS
-POI ENERGY INC			RECEIVED:	10/08/82	JA: OH						
8301706		3400721849	103	107-TF	SENG #1-1						26.0
-RICHARD M ULLMAN			RECEIVED:	10/08/82	JA: OH						
8301768		3411522813	107-TF		QUEEN #1						18.0 COLUMBIA GAS TRAN
-ROBERT H FULMER			RECEIVED:	10/08/82	JA: OH						
8301648		3416700304	108		ADAMS #1						1.3 RIVER GAS CO
8301649		3416700791	108		ADAMS #2						1.3 RIVER GAS CO
8301650		3416700792	108		ADAMS #3						1.3 RIVER GAS CO
-ROYAL LEVERAGED LTD 81-1			RECEIVED:	10/08/82	JA: OH						
8301713		3410522259	107-TF		CAMPBELL-MASSAR #1						5.0 COLUMBIA GAS TRAN
8301714		3410522260	107-TF		CAMPBELL-MASSAR #2						5.0 COLUMBIA GAS TRAN
8301715		3410522261	107-TF		CAMPBELL-MASSAR #3						5.0 COLUMBIA GAS TRAN
-ROYAL PETROLEUM LEVERAGE #81-II LTD			RECEIVED:	10/08/82	JA: OH						
8301718		3410522350	107-TF		DAVIS #1						5.0 COLUMBIA GAS TRAN
8301719		3410522352	107-TF		DAVIS #3						5.0 COLUMBIA GAS TRAN
8301720		3410522353	107-TF		DAVIS #4						5.0 COLUMBIA GAS TRAN

SEVILLE
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MONROE
JACKSON
RANDLE

CENTER

BUSHNELL

PENNSVILLE

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PRUD PURCHASER

FIELD NAME

U SEC(1) SEC(2) WELL NAME

API NO

JA DKT

JD NU

JD NU	JA DKT	API NO	U SEC(1)	SEC(2)	WELL NAME	PR	RECEIVED:	JA:	OH	PRUD	PURCHASER
-ROYAL PETROLEUM PRIVATE DRILLING							10/08/82			5.0	COLUMBIA GAS TRAN
8301717		3410522312	107-TF		JOHNSON #4					5.0	COLUMBIA GAS TRAN
8301716		3410522295	107-TF		NAU #1A					5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 - IV							10/08/82			5.0	COLUMBIA GAS TRAN
8301711		3405320568	107-TF		PROCTOR #1					5.0	COLUMBIA GAS TRAN
8301712		3405320569	107-TF		PROCTOR #2					5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 III							10/08/82			10.0	COLUMBIA GAS TRAN
8301710		3405320556	107-TF		FONBLE #1					7.5	COLUMBIA GAS TRAN
-SMITH SHAFER SMITH (A PARTNERSHIP)							10/08/82			2.0	MB OPERATING CO
8301734		3410322648	107-TF		A & D CARD #1					1.5	MB OPERATING CO
8301735		3410922780	107-TF		ROBERT EWING UNIT #1					1.5	MB OPERATING CO
-STOCKER&SITLER INC							10/08/82			0.6	MB OPERATING CO
8301739		3401920700	108		BUHECKER LEASE #4					0.7	MB OPERATING CO
8301741		3401921095	108		BUHECKER LEASE #5					0.5	MB OPERATING CO
8301742		3401921357	108		BUHECKER LEASE #6					0.5	MB OPERATING CO
8301749		3415722783	108		CLARKE UNIT #2					0.3	MB OPERATING CO
8301750		3415722784	108		CLARKE UNIT #3					1.4	MB OPERATING CO
8301748		3415722782	108		CLARKE UNIT #4					1.0	MB OPERATING CO
8301738		3401920477	108		DIERICK UNIT #1					1.5	MB OPERATING CO
8301737		3401920476	108		DIERICK UNIT #2					1.3	MB OPERATING CO
8301736		3401920475	108		DIERICK UNIT #3					0.5	MB OPERATING CO
8301751		3415722817	108		DOLVIN UNIT #3					0.5	MB OPERATING CO
8301747		3415722573	108		GRABLE LEASE #2					4.0	COLUMBIA GAS TRAN
8301746		3415722572	108		GRABLE LEASE #3					3.0	COLUMBIA GAS TRAN
8301745		3415722571	108		GRABLE LEASE #4					2.0	COLUMBIA GAS TRAN
8301744		3415721960	108		NEMETZ UNIT #1					4.0	COLUMBIA GAS TRAN
8301740		3401920794	108		ROY RICE LEASE #1					8.0	
8301743		3415122537	108		RUTH YARGER UNIT #1					30.0	COLUMBIA GAS TRAN
-TALBOTT OIL & GAS CO							10/08/82			30.0	COLUMBIA GAS TRAN
8301755		3410521888	108		CHARLES BARRETT #1					20.0	COLUMBIA GAS TRAN
8301753		3410521886	108		EMMET MCCASKEY #2					6.0	EAST OHIO GAS CO
8301756		3410521926	108		GEORGE L WRIGHT #3					27.0	TENNESSEE GAS PIP
8301752		3410521744	108		OLIVE & EMMET MCCASKEY #1					27.0	TENNESSEE GAS PIP
8301754		3410521887	108		WARREN HOLDEN #1					27.0	TENNESSEE GAS PIP
-TEMPLE OIL & GAS CO							10/08/82			0.0	
8301761		3411522824	107-TF		ISSAC SMITH #13					25.0	COLUMBIA GAS TRAN
-THE BENATTY CORPORATION							10/08/82			4.0	GAS TRANSPORT INC
8301633		3411522320	103		107-TF R COOK #1						
8301632		3411522026	103		107-TF R SCOTT #3						
-TITAN ENERGY CORP							10/08/82				
8301763		3415521671	103		107-TF J VARGA #1						
8301762		3415521670	103		107-TF M VARGA #1						
-TORENT OIL & GAS CO							10/08/82				
8301767		3413322855	107-TF		SUMMERS #2						
-TOWNER PETROLEUM CO							10/08/82				
8301764		3405923329	103		107-TF GRAHAM C & R #1						
8301765		3412122738	103		107-TF H CORBETT #3						
8301766		3412122867	103		107-TF LARSON D #1						
-W J LYDIC INC							10/08/82				
8301680		3412725302	103		107-TF RODGERS #1						
8301679		3412723223	103		107-TF WORTHINGTON #1						
-WYNN OIL CO (DBA)							10/08/82				
8301770		3416724255	103		D LEMASTERS #1						

MEIGSVILLE
MEIGSVILLE

OXFORD
BUFFALO
BUFFALO

HARRISON
HARRISON

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PROD PURCHASER

FIELD NAME

API NO

JG NO JA DKT

API NO	JG NO	JA DKT	U SEC(1) SEC(2) WELL NAME	RECEIVED	PROD	PURCHASER	FIELD NAME	VOLUME	PAGE	
***** OKLAHOMA CORPORATION COMMISSION *****										
***** -B J KELLENBERGER *****										
8301555	16310		3513921418	103	10/01/82	JA: OK	GLEN BRILES #1	191.0	KANSAS-NEBRASKA N	
8301556	16309		3500722052	103			H J DIETRICK #1	132.0	KANSAS NEBRASKA N	
8301558	16312		3500721959	103			HENRY ROPER #1	124.0	TENNESSEE GAS PIP	
8301557	16311		3500721989	103			JACK REDDICK #1	95.0	TENNESSEE GAS PIP	
***** -BOGERT OIL CO *****										
8301621	15877		3507323144	103	10/04/82	JA: OK	KOOKEN 1-27	278.0	PHILLIPS PETROLEU	
***** -BRYANT PETROLEUM CORP *****										
8301613	16380		3510720625	103	10/04/82	JA: OK	JACKSON #2	766.5	OKLAHOMA NATURAL	
8301612	16381		3510720626	103			JACKSON #3	255.5	OKLAHOMA NATURAL	
***** -C & S RESOURCES INC *****										
8301560	18286		3508321783	102-2	103	10/01/82	JA: OK	103	95.0	SUN GAS CO
***** -CARNES PETROLEUM CO *****										
8301554	16302		3511720347	103	10/01/82	JA: OK	CARNES 7-A	91.3	H J D CATTLE CO	
8301551	16301		3511720652	103			MCNULTY 10-A	3.7	H J D CATTLE CO	
8301549	16298		3511720508	103			MCNULTY 4-A	5.5	H J D CATTLE CO	
8301552	16300		3511700000	103			MCNULTY 6-A	3.7	H J D CATTLE CO	
8301553	16304		3511720651	103			MCNULTY 9-A	3.7	H J D CATTLE CO	
***** -CHAMPLIN PETROLEUM COMPANY *****										
8301543	16129		3500300000	103	10/01/82	JA: OK	DAISY #2	0.0	CHAMPLIN PETROLEU	
***** -CHAMPLIN PETROLEUM COMPANY *****										
8301606	16486		3508300000	108	10/04/82	JA: OK	SMITH-BROWN UNIT #1	21.0	CITIES SERVICE GA	
***** -COLLINS PETROLEUM INC *****										
8301610	16396		3514722519	103	10/04/82	JA: OK	J SNELSON 2A	15.0	KANOKLA ENERGY CO	
***** -COTTON PETROLEUM CORPORATION *****										
8301616	16303		3501121632	103	10/04/82	JA: OK	PIERCE #A# #1	750.0		
***** -CZAR RESOURCES INC *****										
8301605	16527		3510920529	102-4	103	10/04/82	JA: OK	103	180.0	CONOCO INC
***** -DAWN ENERGY CO *****										
8301609	16390		3515321273	103	10/04/82	JA: OK	MURAVA #1	312.0	INTERNORTH INC	
***** -DLB ENERGY CORP *****										
8301617	16344		3507323423	103	10/01/82	JA: OK	GEDDES #1-10	182.0	PHILLIPS PETROLEU	
***** -DYCO PETROLEUM CORPORATION *****										
8301562	18288		3514920198	102-4	103	10/04/82	JA: OK	103	310.0	EL PASO NATURAL G
***** -ENSERCH EXPLORATION INC *****										
8301608	16400		3515121245	103	10/04/82	JA: OK	DELMAR L GOUCHER #1	301.0		
***** -HARPER OIL COMPANY *****										
8301607	16402		3507323404	103	10/04/82	JA: OK	CAIN #28-2	18.0	EASON OIL CO	
***** -KAISER-FRANCIS OIL COMPANY *****										
8301603	17029		3504700000	108	10/01/82	JA: OK	GOLDTRAP #1-8	12.0	GRACE PETROLEUM C	
***** -KIRBY EXPLORATION CO *****										
8301563	21086		3503120796	107-0P	103	10/01/82	JA: OK	103	200.0	PANHANDLE EASTERN
***** -KLEIN OIL CO *****										
8301602	17382		3503120775	108	10/04/82	JA: OK	PITTMAN #1	0.0	ARKANSAS LOUISIAN	
***** -L & T OIL & GAS INC *****										
8301545	16246		3507323462	103	10/01/82	JA: OK	LONG #1	57.0		
***** -MARLIN OIL CORPORATION *****										
8301547	16289		3500722042	103	10/01/82	JA: OK	JESS #1	54.0	PANHANDLE EASTERN	
8301550	16290		3500722043	103	10/01/82	JA: OK	MINTA #1	100.0	PANHANDLE EASTERN	
***** -MORAN EXPLORATION INC *****										

JO #NO	JA OKT	API NO	U SEC(1)	SEC(2)	WELL NAME	PRUD	PURCHASER
8301546	16233	3501721950	103	RECEIVED:	OG & E #1	0.0	PHILLIPS PETROLEU
-MORAN EXPLORATION INC					10/04/82		
8301619	16335	3501722133	103	RECEIVED:	STEJSKAL #1	0.0	PHILLIPS PETROLEU
-NATOMAS NORTH AMERICA INC					10/01/82		
8301540	21034	3500920501	107-0P	RECEIVED:	BELL #1-25	0.0	EL PASO NATURAL G
-P A MCGINLEY & J R MCGINLEY JR					10/01/82		
8301544	15964	3503700000	103	RECEIVED:	BILLINGSLEA #2	35.0	
-PIERCE & WILSON OIL CO					10/04/82		
8301611	16395	3514722722	103	RECEIVED:	BRADLEY #2-A	9.0	PHILLIPS PETROLEU
-PIONEER PRODUCTION CORPORATION					10/01/82		
8301541	18135	3502500000	102-4	RECEIVED:	THELMA BROWN #1-21	0.0	PANHANDLE EASTERN
-PORTS OF CALL OIL CO					103		
8301615	16370	3501721908	103	RECEIVED:	EASLEY #20-1	100.0	PHILLIPS PETROLEU
8301614	16371	3501721909	103	RECEIVED:	YUKON'S BEST #20-1	100.0	PHILLIPS PETROLEU
-PROEX ENERGY CORP					10/04/82		
8301548	16268	3509322328	103	RECEIVED:	MCKINNEY #3	54.8	PIONEER GAS PRODU
-SAXON OIL COMPANY					10/01/82		
8301559	16548	3503120835	107-0P	RECEIVED:	COMANCHE #2	0.0	MICHIGAN-WISCONSI
-SUN EXPLORATION & PRODUCTION CO					10/04/82		
8301600	17470	3507100000	108	RECEIVED:	KEMNITZ "A" #1	7.0	CITIES SERVICE CO
8301601	17405	3507300000	108	RECEIVED:	PEACH UNIT #1	17.0	EXXON CO USA
-TENNECO OIL COMPANY					10/01/82		
8301561	18285	3504321372	102-4	RECEIVED:	PERCY #1-8	49.0	
-TENNECO OIL COMPANY					10/04/82		
8301618	16340	3509323379	103	RECEIVED:	WESTPHAL #1-27	72.0	PUBLIC SERVICE CO
-UNION OIL COMPANY OF CALIF					10/04/82		
8301599	17414	3500920093	108	RECEIVED:	ANNIE BRUNER #1-33	13.0	EL PASO NATURAL G
-UNION TEXAS PETROLEUM					10/01/82		
8301542	15880	3509322442	103	RECEIVED:	RUSSELL-OAKLEY #2	109.5	PANHANDLE EASTERN
-UNIVERSAL RESOURCES CORPORATION					10/04/82		
8301620	16194	3507323309	103	RECEIVED:	MARIE 1-23	0.0	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.					10/04/82		
8301604	16930	3504722854	103	RECEIVED:	EDWARDS #2-11	396.4	AMINOIL USA INC

UTAH DIVISION OF OIL, GAS, & MINING							

-BELCO DEVELOPMENT CORP				RECEIVED:	10/07/82	0.0	COLORADO INTERSTA
8301582	K-111-18	4304730574	108	RECEIVED:	NBU 67-30	428.0	COLORADO INTERSTA
-COASTAL OIL & GAS CORP					10/07/82	547.0	COLORADO INTERSTA
8301583	K-136-9	4304731234	107-IF	RECEIVED:	NATURAL BUTTES UNIT 51J (32-9-22)	17.0	
8301585	K-136-7	4304731224	103	RECEIVED:	107-TF NATURAL BUTTES 41J (31-9-22)	885.0	PACIFIC GAS & ELE
-GULF OIL CORPORATION					10/07/82	90.0	NORTHWEST PIPELIN
8301580	K-125-5	4301330576	103	RECEIVED:	MUON 1-30-C4		
-NATURAL GAS CORPORATION OF CALIF					10/07/82		
8301584	K-149-2	4304730944	107-IF	RECEIVED:	TRAPP SPRINGS 8-36		
-PETROVEST INTERNATIONAL					10/07/82		
8301581	K-150-1	4301930561	103	RECEIVED:	ESCONDIDO #1 43-65-0067		

WEST VIRGINIA DEPARTMENT OF MINES							

-B & G OIL & GAS COMPANY				RECEIVED:	10/01/82	0.0	CONSOLIDATED GAS
8301570	4702103233		108	RECEIVED:	CRADDOCK-HARDMAN		
-CLIFFORD MILLS					10/01/82		

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME	766	FIELD NAME	PRCD	PURCHASER	PAGE	011
8301572		4709901428	108	RECEIVED:	10/04/82	M H PERRY #1				2-5	ROARING FORK GAS		
-CLIFFORD MILL:		4709900978	108	RECEIVED:	10/04/82	BURNIE BOOTH #1				2-3	ROARING FORK GAS		
8301588		4709900989	108	RECEIVED:	10/04/82	BURNIE BOOTH #2				3-5	ROARING FORK GAS		
8301587		4709901333	108	RECEIVED:	10/04/82	EARL BOOTH #1				3-3	ROARING FORK GAS		
-COASTAL CORP		4707301101	107-DV	RECEIVED:	10/04/82	MUSTANG-SURF #6				21-0			
8301591		4700101553	103	RECEIVED:	10/04/82	JAMES E FRIDLEY MN-12693				5-5	GENERAL SYSTEM PU		
-CONSOLIDATED GAS SUPPLY CORPORATION		4700101613	103	RECEIVED:	10/04/82	WILLIAM LANTZ MN-12730				2-7	GENERAL SYSTEM PU		
8301597		4703501614	107-DV	RECEIVED:	10/04/82	H E HOWARD #999				13-7	COLUMBIA GAS TRAN		
8301593		4703501611	107-DV	RECEIVED:	10/04/82	N G GARDER #1001				9-2	COLUMBIA GAS TRAN		
8301594		4703501615	107-DV	RECEIVED:	10/01/82	RUSSELL REED #1000				14-7	COLUMBIA GAS TRAN		
8301592		4702103879	103	RECEIVED:	10/01/82	FRAME I-002-2				10-6	CONSOLIDATED GAS		
-GENE STALMAKER INC		4709901514	108	RECEIVED:	10/04/82	KOONCE AND ZIMMERMAN #C-1				1-5	ROARING FORK GAS		
8301565		4709901504	108	RECEIVED:	10/04/82	KOONCE AND ZIMMERMAN A-1				1-5	ROARING FORK GAS		
-H D WELLS & JACK DYER		4709901506	108	RECEIVED:	10/01/82	KOONCE AND ZIMMERMAN B-1				1-5	ROARING FORK GAS		
8301567		4701322868	108	RECEIVED:	10/04/82	C V MILLS #1 CAL-2868				4-4	COLUMBIA GAS TRAN		
8301568		4703302488	108	RECEIVED:	10/04/82	BEATRICE SCOTT S-323				0-2	CONSOLIDATED GAS		
8301566		4701301689	108	RECEIVED:	10/04/82	DOBBS HEIRS #2				4-7	CONSOLIDATED GAS		
-INDUSTRIAL GAS ASSOCIATES		4708501379	108	RECEIVED:	10/01/82	J G PATTON #1				0-5	CONSOLIDATED GAS		
8301573		4706100315	108	RECEIVED:	10/04/82	CASCADE B #1				20-0	CONSOLIDATED GAS		
-JAMES F SCOTT		4707320984	107-DV	RECEIVED:	10/04/82	CLIFFORD LAMP #1				10-0	COLUMBIA GAS TRAN		
8301598		4702103695	108	RECEIVED:	10/01/82	MCHENRY #1				50-0	CONSOLIDATED GAS		
-PHILLIPS PETROLEUM COMPANY		4707900294	108	RECEIVED:	10/01/82	GRASS & ZERKLE #1 ON GROSS LEASE				18-0	PENNZOIL CU		
8301564													
-RIDGEWOOD RESOURCES INC													
8301595													
-ROBERT R JONES													
8301590													
-WEBSTER MYERS													
8301569													

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8344.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1976 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential

under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each MGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir

102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
102-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-IF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-EB: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30769 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 767]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 3, 1982.

JD NO	JA DKT	API NO	D SEC (1)	SFC (2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8301781	9-17-82-PD	0112520068	107-CS	10/12/82	REICHOLD CHEMICAL 3-6 #1	LOWER PENNSYLVANIAN C	23.7	REICHOLD CHEMICA
***** CALIFORNIA DEPARTMENT OF CONSERVATION *****								
8301791	82-6-0042	0411320641	102-2	10/08/82	BARRIOS #1	CROSSROADS GAS	3.4	PACIFIC GAS & ELE
8301792	82-6-0062	0411320536	102-4	10/08/82	E A PAYNE #2	CACHE CREEK GAS	200.0	SHELL OIL CO
8301838		0411320654	102-4	10/08/82	SHAWSTON #7	SAXON GAS	875.0	PACIFIC GAS AND E
***** PETRO-LEWIS CORPORATION *****								
8301835	82-4-0133	0402958982	103	10/08/82	ELLIS 55D	SOUTH BELBRIDGE	5.1	MOBIL OIL CORP
8301834	82-4-0134	0402960121	103	10/08/82	ELLIS 55E-19	SOUTH BELBRIDGE	8.1	MOBIL OIL CORP
8301833	82-4-0135	0402962047	103	10/08/82	ELLIS 55F-19	SOUTH BELBRIDGE	10.0	MOBIL OIL CORP
8301832	82-4-0136	0402964823	103	10/08/82	ELLIS 55G-19	SOUTH BELBRIDGE	8.7	MOBIL OIL CORP
8301830	82-4-0138	0402962046	103	10/08/82	ELLIS 56B-19	SOUTH BELBRIDGE	5.6	MOBIL OIL CORP
8301829	82-4-0139	0402964822	103	10/08/82	ELLIS 56F-19	SOUTH BELBRIDGE	15.0	MOBIL OIL CORP
8301828	82-4-0140	0402964821	103	10/08/82	ELLIS 56G-19	SOUTH BELBRIDGE	22.0	MOBIL OIL CORP
8301784	82-4-0176	0402966782	103	10/08/82	ELLIS 56H-19	SOUTH BELBRIDGE	14.0	MOBIL OIL CORP
8301807	82-4-0161	0402966781	103	10/08/82	ELLIS 57C-19	SOUTH BELBRIDGE	17.3	MOBIL OIL CORP
8301826	82-4-0142	0402962048	103	10/08/82	ELLIS 65F-19	SOUTH BELBRIDGE	1.4	MOBIL OIL CORP
8301824	82-4-0143	0402964820	103	10/08/82	ELLIS 65G-19	SOUTH BELBRIDGE	7.2	MOBIL OIL CORP
8301825	82-4-0144	0402965862	103	10/08/82	ELLIS 65H-19	SOUTH BELBRIDGE	33.0	MOBIL OIL CORP
8301806	82-4-0162	0402966783	103	10/08/82	ELLIS 65I-19	SOUTH BELBRIDGE	23.0	MOBIL OIL CORP
8301823	82-4-0145	0402960152	103	10/08/82	ELLIS 66B-19	SOUTH BELBRIDGE	4.4	MOBIL OIL CORP
8301822	82-4-0146	0402960153	103	10/08/82	ELLIS 66F-19	SOUTH BELBRIDGE	17.0	MOBIL OIL CORP
8301820	82-4-0148	0402962049	103	10/08/82	ELLIS 66H-19	SOUTH BELBRIDGE	14.2	MOBIL OIL CORP
8301819	82-4-0149	0402965819	103	10/08/82	ELLIS 66I-19	SOUTH BELBRIDGE	34.9	MOBIL OIL CORP
8301821	82-4-0147	0402963864	103	10/08/82	ELLIS 67F-19	SOUTH BELBRIDGE	37.4	MOBIL OIL CORP
8301817	82-4-0151	0402965860	103	10/08/82	ELLIS 67P-19	SOUTH BELBRIDGE	11.7	MOBIL OIL CORP
8301812	82-4-0156	0402960154	103	10/08/82	ELLIS 75F-19	SOUTH BELBRIDGE	17.3	MOBIL OIL CORP
8301811	82-4-0157	0402962823	103	10/08/82	ELLIS 75G-19	SOUTH BELBRIDGE	12.9	MOBIL OIL CORP
8301783	82-4-0177	0402962824	103	10/08/82	ELLIS 76F-19	SOUTH BELBRIDGE	2.4	MOBIL OIL CORP
8301805	82-4-0163	0402966542	103	10/08/82	ELLIS 76H-19	SOUTH BELBRIDGE	22.0	MOBIL OIL CORP
8301810	82-4-0158	0402954708	103	10/08/82	ELLIS 77E-19	SOUTH BELBRIDGE	21.2	MOBIL OIL CORP
8301804	82-4-0164	0402962825	103	10/08/82	ELLIS 85G-19	SOUTH BELBRIDGE	4.8	MOBIL OIL CORP
8301803	82-4-0165	0402965865	103	10/08/82	ELLIS 85I-19	SOUTH BELBRIDGE	27.0	MOBIL OIL CORP
8301802	82-4-0166	0402966784	103	10/08/82	ELLIS 85K-19	SOUTH BELBRIDGE	23.0	MOBIL OIL CORP
8301782	82-4-0178	0402962827	103	10/08/82	ELLIS 87F-19	SOUTH BELBRIDGE	15.0	MOBIL OIL CORP

FIELD NAME	PKUD	PUKCHASER
SOUTH BELBRIDGE	14.0	MOBIL OIL CORP
SOUTH BELBRIDGE	27.0	MOBIL OIL CORP
SOUTH BELBRIDGE	14.0	MOBIL OIL CORPORA
SOUTH BELBRIDGE	11.4	MOBIL OIL CORP
SOUTH BELBRIDGE	20.7	MOBIL OIL CORP
SOUTH BELBRIDGE	2.2	MOBIL OIL CORP
SOUTH BELBRIDGE	23.0	MOBIL OIL CORP
SOUTH BELBRIDGE	1.7	MOBIL OIL CORP
SOUTH BELBRIDGE	3.8	MOBIL OIL CORP
SOUTH BELBRIDGE	15.0	MOBIL OIL CORP
SOUTH BELBRIDGE	16.4	MOBIL OIL CORP
SOUTH BELBRIDGE	31.2	MOBIL OIL CORP
SOUTH BELBRIDGE	29.0	MOBIL OIL CORP
SOUTH BELBRIDGE	21.0	MOBIL OIL CORP
SOUTH BELBRIDGE	20.0	MOBIL OIL CORP
SOUTH BELBRIDGE	1.9	MOBIL OIL CORP
SOUTH BELBRIDGE	24.0	MOBIL OIL CORP
SOUTH BELBRIDGE	10.0	MOBIL OIL CORP
SOUTH BELBRIDGE	1.9	MOBIL OIL CORP
SOUTH BELBRIDGE	11.3	MOBIL OIL CORP
SOUTH BELBRIDGE	15.0	MOBIL OIL CORPORA
PLEITO	1.0	ATLANTIC RICHFIEL
EAST ISLANDS GAS FIEL	121.0	PACIFIC GAS AND E
RICE CREEK GAS	150.0	PACIFIC GAS & ELE
ELLSWORTH	0.0	COLORADO INTERSTA
ELLSWORTH	91.0	INTERNORTH INC
ELLSWORTH	91.3	INTERNORTH INC
SINGLEY-SANDERS	0.0	INTERNORTH INC
SINGLEY-SANDERS	0.0	PANHANDLE EASTERN
WHITEWATER 20-A-27N-9	125.0	CONSUMERS POWER C
ORION #36	720.0	
OTSEGO LAKE 24	149.6	MICHIGAN CONSOLID
CLEON 13	133.0	MICHIGAN CONSOLID
CLEON 32A	46.0	MICHIGAN CONSOLID
WILDCAT	40.0	SOUTHEASTERN MICH

JD NU	JA DKT	API NO	U SEC(1)	SEC(2)	WELL NAME
8301801	82-4-0167	0402964815	103		ELLIS 87G-19
8301831	82-4-0137	0402965861	103		KING 55H-19
8301790	82-4-0179	0402966786	103		KING 57D-19
8301818	82-4-0150	0402962821	103		KING 67E-19
8301816	82-4-0152	0402965869	103		KING 67G-19
8301815	82-4-0153	0402964710	103		KING 68B-19
8301800	82-4-0168	0402966785	103		KING 68C-19
8301785	82-4-0180	0402960161	103		KING 71B-30
8301814	82-4-0154	0402962822	103		KING 71C-30
8301786	82-4-0181	0402966790	103		KING 71D-30
8301813	82-4-0155	0402964711	103		KING 72B-30
8301787	82-4-0182	0402966789	103		KING 72C-30
8301809	82-4-0159	0402965868	103		KING 77F-19
8301799	82-4-0169	0402965870	103		KING 77G-19
8301798	82-4-0170	0402966787	103		KING 77H-19
8301797	82-4-0171	0402966537	103		KING 78M-19
8301796	82-4-0172	0402966543	103		KING 81E-30
8301795	82-4-0173	0402966544	103		KING 81F-30
8301788	82-4-0183	0402966790	103		KING 82D-30
8301794	82-4-0174	0402966546	103		KING 82E-30
8301808	82-4-0160	0402965859	103		KING 84C-30
8301789	82-4-0184	0402966788	103		KING 88M-19
-TENNECO OIL COMPANY				RECEIVED:	10/08/82 JA: CA
-TEXACO INC				102-4	PLEITO RANCH 2-30
8301837	82-6-0053	0407720376	102-4		RECEIVED: 10/08/82 JA: CA
-TXO PRODUCTION CORP				102-4	SARGENT SLOUGH #1
8301836	82-6-0051	0410320129	103		RECEIVED: 10/08/82 JA: CA
*****					TOLLE 27-1
KANSAS CORPORATION COMMISSION					*****
-CITIES SERVICE COMPANY					*****
8301883	K-79-0787	1508100000	108-ER		RECEIVED: 10/07/82 JA: KS
-COMANCHE PRODUCTION, INC.					VAN BLARICUM A #1
8301879	K-82-0623	1505300000	102-4		RECEIVED: 10/04/82 JA: KS
8301880	K-82-0654	1505320532	102-4		COMANCHE #2
-GRAHAM-MICHAELIS CORP					HELMICK #3
8301882	K-80-0297	1508100000	108-ER		RECEIVED: 10/07/82 JA: KS
-TEXACO INC					SCHUETTE B #1
8301881	K-79-0608	1511900000	108-PB		RECEIVED: 10/07/82 JA: KS
*****					A D SANDERS B #1
MICHIGAN DEPARTMENT OF NATURAL RESOURCES					*****
-AMOCO PRODUCTION CO					*****
8301878		2105535296	102-4		RECEIVED: 10/12/82 JA: MI
-REEF PETROLEUM CORP					STATE WHITEWATER "JM" #2-20
8301877		2112534740	102-4		RECEIVED: 10/12/82 JA: MI
-SHELL OIL CO					JACOB #1-36
8301871		2113731727	102-4		RECEIVED: 10/12/82 JA: MI
8301872		2110131875	102-4		SI OTSEGO LAKE VIKING 2-24B
8301870		2110135422	102-4		STATE CLEON 4-13
-SUN EXPLORATION & PRODUCTION CO					STATE CLEON 4-32
8301873		2106733158	103		RECEIVED: 10/12/82 JA: MI
					CURRELL-FERRELL #1

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8301868		2111335533	103		ENTERPRISE UNIT #1-28	ENTERPRISE	8.0	DOM CHEMICAL CO
8301847		2114334253	103		ENTERPRISE UNIT #11-5	ENTERPRISE	22.0	DOM CHEMICAL CO
8301848		2111335430	103		ENTERPRISE UNIT TRACT 1 #26	ENTERPRISE	2.0	DOM CHEMICAL CO
8301860		2111335267	103		ENTERPRISE UNIT TRACT 1 #27	ENTERPRISE	19.0	DOM CHEMICAL CO
8301858		2111335222	103		ENTERPRISE UNIT TRACT 2 #13	ENTERPRISE	5.0	DOM CHEMICAL CO
8301857		2111335262	103		ENTERPRISE UNIT TRACT 2 #15	ENTERPRISE	13.0	DOM CHEMICAL CO
8301859		2111335201	103		ENTERPRISE UNIT TRACT 3 #8	ENTERPRISE	31.0	DOM CHEMICAL CO
8301855		2111335223	103		ENTERPRISE UNIT TRACT 5 #3	ENTERPRISE	29.0	DOM CHEMICAL CO
8301856		2111335188	103		ENTERPRISE UNIT TRACT 7 #2	ENTERPRISE	18.0	DOM CHEMICAL CO
8301846		2114335004	103		ENTERPRISE UNIT 1-25	ENTERPRISE	2.0	DOM CHEMICAL CO
8301845		2114334925	103		ENTERPRISE UNIT 11-4	ENTERPRISE	7.0	DOM CHEMICAL CO
8301867		2111335412	103		NORWICH UNIT #4-113	NORWICH	15.0	DOM CHEMICAL CO
8301866		2111335406	103		NORWICH UNIT #4-114	NORWICH	21.0	DOM CHEMICAL CO
8301869		2111335511	103		NORWICH UNIT #4-116	NORWICH	37.0	DOM CHEMICAL CO
8301850		2111335398	103		NORWICH UNIT #4-117	NORWICH	26.0	DOM CHEMICAL CO
8301851		2111335399	103		NORWICH UNIT #4-118	NORWICH	11.0	DOM CHEMICAL CO
8301865		2111335534	103		NORWICH UNIT #4-119	NORWICH	12.0	DOM CHEMICAL CO
8301864		2111335431	103		NORWICH UNIT #4-120	NORWICH	11.0	DOM CHEMICAL CO
8301852		2111335400	103		NORWICH UNIT #4-121	NORWICH	12.0	DOM CHEMICAL CO
8301844		2111334668	103		NORWICH UNIT #5-27	NORWICH	6.0	DOM CHEMICAL CO
8301853		2111334667	103		NORWICH UNIT #5-29	NORWICH	0.3	DOM CHEMICAL CO
8301861		2111334310	103		NORWICH UNIT #5-30	NORWICH	0.4	DOM CHEMICAL CO
8301863		2111335268	103		NORWICH UNIT #5-31	NORWICH	0.1	DOM CHEMICAL CO
8301849		2111335312	103		NORWICH UNIT #5-32	NORWICH	29.0	DOM CHEMICAL CO
8301862		2111335269	103		NORWICH UNIT #5-33	NORWICH	0.2	DOM CHEMICAL CO
8301874		2108734256	103		RICH FIELD UNIT #14-1	RICH	59.0	SOUTHEASTERN MICH
8301876		2108734250	103		RICH FIELD UNIT TRACT 17 #1	RICH	22.0	SOUTHEASTERN MICH
8301875		2108734271	103		RICH FIELD UNIT TRACT 41 #1	RICH	20.0	SOUTHEASTERN MICH
8301854		2114335176	103		ST HELEN UNIT TR 15 #44	ST HELEN	10.0	DOM CHEMICAL CO

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8301776		3002505568	108		RECEIVED: 10/08/82	EUMONT-MONUMENT	5.9	EL PASO NATURAL G
8301773		3001522743	103		STATE A-7 #1	EMPIRE	15.0	PHILLIPS PETROLEU
8301775		3002508595	108		STATE 19 #1	JALMAT	0.4	PHILLIPS PETROLEU
8301777		3002508611	108		JALMAT FIELD YATES SAND UNIT #106	JALMAT	3.6	PHILLIPS PETROLEU
8301843		3001524088	103		JALMAT FIELD YATES SAND UNIT #132	JALMAT	350.0	
8301778		3001524022	103		TURKEY 4 STATE WELL #1	NORTH TURKEY TRACK (H		
8301771		3001524204	103		COLLIER STATE #10	RED LAKE QUEEN GRAYBU	200.0	PHILLIPS PETROLEU
8301772		3002502896	108		COLLIER STATE #11	RED LAKE QUEEN GRAYBU	200.0	PHILLIPS PETROLEU
8301842		3002500000	108		E VAC GB/SA U TR 2739 #002	VACUUM GB/SA	1.0	EL PASO NATURAL G
8301839		3002500000	108		RECEIVED: 10/12/82	HOBBS (G-SA)	8.3	PHILLIPS PETROLEU
8301840		3002500000	108		RECEIVED: 10/08/82	HOBBS (G-SA)	2.1	PHILLIPS PETROLEU
8301841		3002500000	108		RECEIVED: 10/08/82	HOBBS (G-SA)	3.5	PHILLIPS PETROLEU
8301774		3004507937	108		RECEIVED: 10/08/82	HOBBS (G-SA)	6.4	PHILLIPS PETROLEU
8301774			108		RECEIVED: 10/08/82	FULCHER KUTZ PICTURED	0.6	SOUTHERN UNION GA

 NEW MEXICO DEPARTMENT OF ENERGY & MINERALS

 -CONOCO INC
 8301776 3002505568 RECEIVED: 10/08/82 JA: NM
 8301773 3001522743 STATE A-7 #1
 -GULF OIL CORPORATION
 8301775 3002508595 RECEIVED: 10/08/82 JA: NM
 8301777 3002508611 JALMAT FIELD YATES SAND UNIT #106
 -HONDO OIL & GAS COMPANY
 8301843 3001524088 JALMAT FIELD YATES SAND UNIT #132
 -HARBOS ENERGY CORPORATION
 8301778 3001524022 TURKEY 4 STATE WELL #1
 -PHILLIPS PETROLEUM COMPANY
 8301771 3001524204 COLLIER STATE #10
 -SHELL OIL CO
 8301772 3002502896 COLLIER STATE #11
 8301842 3002500000 E VAC GB/SA U TR 2739 #002
 8301839 3002500000 N HOBBS (G-SA) UNIT SEC 14 #441
 8301840 3002500000 N HOBBS (G-SA) UNIT SEC 18 #411
 8301841 3002500000 N HOBBS (G-SA) UNIT SEC 23 #221
 -SOUTHLAND ROYALTY CO
 8301841 3002500000 N HOBBS (G-SA) UNIT SEC 23 #331
 -TEXACO INC
 8301774 3004507937 RECEIVED: 10/08/82 JA: NM
 8301774 3004507937 RECEIVED: 10/08/82 DALABETTA #1
 8301774 3004507937 RECEIVED: 10/08/82

JD NU	JA DKT	API INJ	0 SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8301780		3002500000	108-ER		H T MATTERN #4	EUNICE MONUMENT	0.0	WAKREN PETROLEUM
-YATES PETROLEUM CORPORATION			RECEIVED:	10/08/82	JA: NM			
8301779		30000561612	102-3		107-TF EUREKA #UK # ST #1	WILDCAT ABO	0.0	TRANSWESTERN PIPE
*****PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES*****								
*****RECEIVED: 10/07/82 JA: PA*****								
-ANGERMANN ASSOCIATES INC			RECEIVED:	10/07/82	JA: PA			
8301884	15787	3700500000	103		E P & K STEIRER #1 - ARM-22680	M PENNA - UPPER DEVON	15.0	INDUSTRIAL ENERGY
8301885	15788	3706300000	103		ERVIN H BAUGH #5 - IND-26878	M PENNA - UPPER DEVON	25.0	PEOPLES NATURAL G
8301886	15789	3706326930	103		KATHERINE B LEWIS #1 - IND-26930	M PENNA UPPER DEVONIA	45.0	PEOPLES NATURAL G
-ARMCLAR GAS CO			RECEIVED:	10/07/82	JA: PA			
8301887	15877	3700522589	103		WOLFE #14 SERIAL 90 A	HOGBACK	18.0	COLUMBIA GAS TRAN
-ATLAS RESOURCES INC			RECEIVED:	10/07/82	JA: PA			
8301888	15880	3706326916	102-4		CRAMER #2	CHERRYHILL	150.0	COLUMBIA GAS TRAN
8301891	15879	3706326718	103		KNAPP #4	GRANT	478.0	T M PHILLIPS GAS
8301889	15881	3706326901	102-4		PENNS MANOR AREA SCHOOL DIST #1	CHERRYHILL	160.0	COLUMBIA GAS TRAN
8301890	15878	3706326687	103		SCHROTH KRAYNAK #2C	MONTGOMERY	201.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION			RECEIVED:	10/07/82	JA: PA			
8301892	16035	3703921473	103		J WENZEL #1	MILDCAT	10.0	COLUMBIA GAS TRAN
8301893	16036	3703921473	107-TF		J WENZEL #1	MILDCAT	10.0	COLUMBIA GAS TRAN
-C & N CO			RECEIVED:	10/07/82	JA: PA			
8301898	15875	3706324893	108		DENNIS K FOSTER #3	WHITE	0.0	COLUMBIA GAS TRAN
8301918	16074	3706325200	108		JOE MRUK #2	WHITE	0.0	COLUMBIA GAS TRAN
8301917	16073	3706325197	103		JOE MRUK #3	WHITE	0.0	COLUMBIA GAS TRAN
8301919	16075	3706325201	108		JOE MRUK #4	WHITE	0.0	COLUMBIA GAS TRAN
8301916	15965	3712921673	108		KISKIMINETAS SPRINGS SCHOOL #6	LOYALHANNA	2.0	PEOPLES NATURAL G
8301914	15963	3706324141	108		MUSSER FOREST INC #1	ARMSTRONG	2.0	PEOPLES NATURAL G
8301915	15964	3706324142	108		MUSSER FOREST INC #2	ARMSTRONG	2.0	PEOPLES NATURAL G
8301913	15962	3706324741	108		MUSSER FOREST INC #3 (87A)	ARMSTRONG	2.0	PEOPLES NATURAL G
8301902	15950	3706324732	108		R & P COAL CO #10-IND-24732	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301907	15955	3706324733	108		R & P COAL CO #11-IND-24733	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301908	15956	3706324734	108		R & P COAL CO #12-IND-24734	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301909	15957	3706324735	108		R & P COAL CO #13-IND-24735	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301903	15951	3706324736	108		R & P COAL CO #14-IND-24736	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301910	15958	3706324726	108		R & P COAL CO #4 - IND - 24726	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301900	15948	3706324727	108		R & P COAL CO #5-IND-24727	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301901	15949	3706324728	108		R & P COAL CO #6-IND-24728	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301905	15953	3706324729	108		R & P COAL CO #7-IND-24729	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301904	15952	3706324730	108		R & P COAL CO #8-IND-24730	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301906	15954	3706324731	108		R & P COAL CO #9-IND-24731	WASHINGTON	20.0	COLUMBIA GAS TRAN
8301899	15876	3706324892	108		RICHARD F JUBIE #2	WHITE	0.0	COLUMBIA GAS TRAN
8301911	15959	3706324076	108		RUSSELL A SPANARD #2	WHITE	0.0	PEOPLES NATURAL G
8301912	15960	3706324075	108		RUSSELL A SPANARD #3	WHITE	0.0	PEOPLES NATURAL G
8301897	15874	3706324891	108		WILLIAM C MORETTI #1	WHITE	0.0	COLUMBIA GAS TRAN
-CARDINAL OIL CO			RECEIVED:	10/07/82	JA: PA			
8301920	11146	3703921449	107-TF		ANDREW ZOLTAK #1 PA PER CRA-21449	CONNEAUT	0.0	COLUMBIA GAS TRAN
8301921	16093	3703921488	107-TF		JOHN GRIBUS #1 81-66 PER CRA-21488	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CARL E MCCALL			RECEIVED:	10/07/82	JA: PA			
8302034	15910	3703121045	103		MCCALL #1	CONNEAUT	12.0	PEOPLES NATURAL G
-CENTER BAR GAS CO			RECEIVED:	10/07/82	JA: PA			
8301923	11939	3703921218	107-TF		THEODORE M LUEPP PA PER CRA-21218	CONNEAUT	0.0	COLUMBIA GAS TRAN
8301922	11938	3703921217	107-TF		HARD A CULLERS #1 PA PER CRA-21217	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	10/07/82	JA: PA			

JU NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8301926	15833	3706326869	103		E HILEMAN WN-1886	MONTGOMERY TOWNSHIP	12.0	GENERAL SYSTEM PU
8301927	15968	3703321352	103		G MADERIA WN-1930	PENN TOWNSHIP	44.0	GENERAL SYSTEM PU
8301925	15835	3712921930	102-4		HENRY HAWLEY #1 WN 1870	HEMPFIELD TOWNSHIP	5.0	GENERAL SYSTEM PU
8301928	15829	3706323177	108		LAIRD W MCCULLOUGH WN-1451	CANDE TOWNSHIP	20.0	GENERAL SYSTEM PU
8301929	15632	3706323354	108		LINDSAY COAL CO WN 1473	ROCHESTER MILLS	15.0	GENERAL SYSTEM PU
8301930	15834	3706521761	108		ROBERT V MAINE WN-1703	GASKILL TOWNSHIP	0.7	GENERAL SYSTEM PU
-D-APOLONIA PETROLEUM INC				RECEIVED: 10/07/82	JA: PA			
8301931	15917	3704921691	103		CHIA CHANG #1	CHIA CHANG	13.0	COLUMBIA GAS TRAN
8301932	15919	3704921692	103		CHIA CHANG #2	CHIA CHANG	13.0	COLUMBIA GAS TRAN
8301933	15921	3704921694	103		CHIA CHANG #4	CHIA CHANG	13.0	COLUMBIA GAS TRAN
8301934	15922	3702120162	103		JOHN NIEMIEC JR #2	JOHN NIEMIEC JR	50.0	
-DELBERT W CLUTTER				RECEIVED: 10/07/82	JA: PA			
8301924	15176	3705900000	108		CLUTTER 2543	CLUTTER 2543	0.9	COLUMBIA GAS TRAN
-DELTA DRILLING CO				RECEIVED: 10/07/82	JA: PA			
8301937	16078	3706326301	103		M E ADAMS #1 IND 26301	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8301935	15967	3706326797	102-2		M MCGUIRE #2 IND 26797	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8301936	15966	3706300000	103		M MCGUIRE #2 IND 26797	CHERRYHILL	0.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED: 10/07/82	JA: PA			
8301939	15841	3706326977	103		CHARLES BUTERBAUGH #4 KA-130	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
8301944	15853	3706521627	108		DONALD OIXON #1 KL-74	UPPER DEVONIAN SANDS	30.0	CONSOLIDATED GAS
8301945	15854	3700522216	108		EDWARD SAMOSKY #1 KL-91	UPPER DEVONIAN SANDS	30.0	PEOPLES NATURAL GAS
8301941	15843	3706326747	103		JESSE FAIRMAN #1 KA-125	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8301947	15856	3700522195	108		JOHN HAWKINS #1 KL-97	UPPER DEVONIAN SANDS	30.0	PEOPLES NATURAL GAS
8301942	15851	3706324252	108		JOHN KWISNEK #1 KL-90	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8301946	15855	3700522163	108		L M HILL #1 KL-98	UPPER DEVONIAN SANDS	30.0	PEOPLES NATURAL GAS
8301938	15840	3706326839	103		LEONARD GOSS #1 KA-126	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8301943	15852	3706324251	108		NANNIE STREAMS #1 KL-99	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8301940	15842	3706326979	103		RUDOLPH RYDBOM #1 KA-131	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
-EMPIRE DRILLING CO				RECEIVED: 10/07/82	JA: PA			
8301948	15037	3706326908	103		WHISKEY RUN #5	MCINTYRE	10.0	T W PHILLIPS GAS
-ENERGY PRODUCTION CO				RECEIVED: 10/07/82	JA: PA			
8301949	15837	3706326871	103		MARLIN STEPHENS #2A	NOLD MOUNTAIN	12.8	COLUMBIA GAS TRAN
-FOX OIL & GAS INC				RECEIVED: 10/07/82	JA: PA			
8301959	16031	3706324932	108		CHARLES ARFORD #1	MONTGOMERY TOWNSHIP	20.5	COLUMBIA GAS TRAN
8301956	16028	3706325325	108		ELSIE PALMER #1	GREEN TOWNSHIP	4.6	COLUMBIA GAS TRAN
8301951	15907	3706326904	103		GEORGE J GILLO #1	CHERRYHILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
8301953	16025	3706325328	108		HARRY LYDIC #1	GREEN TOWNSHIP	20.5	COLUMBIA GAS TRAN
8301955	16027	3706324990	108		MILDRED SMITH #1	GREEN TOWNSHIP	2.1	COLUMBIA GAS TRAN
8301960	16032	3706325327	108		PURCHASE LINE HIGH SCHOOL #1	GREEN TOWNSHIP	7.7	COLUMBIA GAS TRAN
8301950	15206	3706324696	102-2		RALPH SHERWIN #1	GREEN TOWNSHIP	25.5	COLUMBIA GAS TRAN
8301954	16026	3706325112	108		RICHARD HELLER #1	GREEN TOWNSHIP	20.5	COLUMBIA GAS TRAN
8301957	16029	3706324845	108		RICHARD HELLER #2	GREEN TOWNSHIP	20.5	COLUMBIA GAS TRAN
8301961	16033	3706324843	108		RICHARD KIRKLAND #1	GREEN TOWNSHIP	20.5	COLUMBIA GAS TRAN
8301952	15848	3706325098	108		WILLIAM BUTERBAUGH #1	MONTGOMERY TOWNSHIP	20.5	COLUMBIA GAS TRAN
8301958	16030	3706325062	108		WILLIAM LEWIS #2	MONTGOMERY TOWNSHIP	20.5	COLUMBIA GAS TRAN
-GOE PRO INC				RECEIVED: 10/07/82	JA: PA			
8301965	15908	3704921811	103		ARNOLD BENTLEY #1	ALBION-EAST	0.0	NATIONAL FUEL GAS
8301962	15824	3704921828	103		G & E LOOMIS #1	ALBION-WEST	0.0	NATIONAL FUEL GAS
8301963	15825	3704921815	103		GEORGE PETRAS #1	BUSHNELL-LEXINGTON	0.0	COLUMBIA GAS TRAN
8301968	15826	3704921815	107-TF		GEORGE PETRAS #1	BUSHNELL-LEXINGTON	0.0	COLUMBIA GAS TRAN
8301964	15827	3704921816	103		GEORGE PETRAS #2	BUSHNELL-LEXINGTON	0.0	COLUMBIA GAS TRAN
8301969	15828	3704921816	107-TF		GEORGE PETRAS #2	BUSHNELL-LEXINGTON	0.0	COLUMBIA GAS TRAN
8301967	15972	3704921812	103		J-B FARMS #2	ALBION-EAST	0.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PRD	PURCHASER
8301966	15909	3704921827	103	RECEIVED: 10/07/82	PAULINE GRAVES #1	ALBION-EAST	0.0	NATIONAL FUEL GAS
-GULF OIL CORPORATION					DAISHER WM #2			
8301973	15818	3703320559	108		DICKEY #2	REED-DEEMER	14.0	NATIONAL FUEL GAS
8301975	15821	3703320643	108		FEE "A" #70	REED-DEEMER	14.0	NATIONAL FUEL GAS
8301974	15820	3703320405	108		FEE "A" #79	REED-DEEMER	14.0	NATIONAL FUEL GAS
8301977	15823	3703300000	108		FEE "A" #84	REED-DEEMER	12.0	NATIONAL FUEL GAS
8301970	15794	3706521118	108		FEE "A" #87	REED-DEEMER	14.0	NATIONAL FUEL GAS
8301972	15815	3703320590	108		IRVIN B W #6	REED-DEEMER	14.0	NATIONAL FUEL GAS
8301976	15822	3703320557	108		KUNTZ "B" #1	REED-DEEMER	14.0	NATIONAL FUEL GAS
8301971	15796	3706520398	108	RECEIVED: 10/07/82	HOOPER I CONTRACT 001732	NEW SALEM	3.0	COLUMBIA GAS TRAN
-HAROLD E BROWN					RIDENDOURI WELL #20691	VANDERGRIFT FIELD	0.0	PEOPLES NATURAL G
8301895	16024	3705100000	108	107-PE				
8301894	16076	3700922705	108	RECEIVED: 10/07/82	ANDREW J FLECKENSTEIN #1	CANOE	2.0	T M PHILLIPS GAS
-J & J ENTERPRISES INC					B M FRICK #1	SOUTH MAHONING	2.0	T M PHILLIPS GAS
8301989	15886	3706324399	108		BILLY LOUGHRY #1	E MAHONING	2.0	T M PHILLIPS GAS
8301985	15882	3706324393	108		C & Y SPORTSMEN'S CLUB #1	YOUNG	2.0	T M PHILLIPS GAS
8302001	15901	3706325570	108		C & Y SPORTSMEN'S CLUB #2	YOUNG	2.0	T M PHILLIPS GAS
8302018	16052	3706323943	108		C J VENESKEY #1	WHITE	2.0	PEOPLES NATURAL G
8302016	16050	3706324253	108		CHRISTIAN MISSION ALLIANCE CHUR #1	WHITE	2.0	PEOPLES NATURAL G
8302014	16048	3706324558	108		CLARENCE BOWSER-JEF-21861	WHITE	20.0	CONSOLIDATED GAS
8301997	15894	3706324383	108		DAVID L JOYCE #1	BURSELL	0.0	PEOPLES NATURAL G
8302007	16038	3706521861	108		ELIZABETH MUTH #1	HENDERSON	5.0	CONSOLIDATED GAS
8302011	16043	3706521984	108		ERNEST C FOMLER #2	WHITE	2.0	PEOPLES NATURAL G
8301996	15893	3706324946	108		ERNEST GOOD #1	WEST MAHONING	2.0	PEOPLES NATURAL G
8301999	15897	3706324567	108		FARMERS & MINERS TRUST CO #5	BANKS	2.0	T M PHILLIPS GAS
8302025	16061	3706323944	108		FARMERS & MINERS TRUST CO #7	BANKS	2.0	T M PHILLIPS GAS
8302019	16053	3706323949	108		FARMERS & MINERS TRUST CO #8	BANKS	2.0	T M PHILLIPS GAS
8302012	16046	3706323962	108		GEORGE KASCHAK #1	ARMSTRONG	7.5	T M PHILLIPS GAS
8302010	15899	3706324919	108		GLADYS B PENROD #1	WHITE	2.0	COLUMBIA GAS TRAN
8302015	16049	3706323981	108		JAMES B BASH #2	BELL	1.2	T M PHILLIPS GAS
8302002	15902	3712920969	108		JAMES E WILSON #1	ARMSTRONG	2.0	PEOPLES NATURAL G
8302008	16039	3706323813	108		JOHN M EBERHART #1	BELL	2.0	T M PHILLIPS GAS
8302004	15905	3706521585	108		KUNKLE-BERRY #1	WHITE	13.9	PEOPLES NATURAL G
8301998	15896	3706324653	108		L CLAWSON #2	BELL	2.0	T M PHILLIPS GAS
8301990	15687	3712920967	108		L E GEORGE ARM-22366	PLUM CREEK	0.0	PEOPLES NATURAL G
8302006	16037	3700522366	108		LESTER HANCOCK #1	YOUNG	8.0	PEOPLES NATURAL G
8302003	15903	3706324898	108		MAX E PIFER #1	HENDERSON	2.0	CONSOLIDATED GAS
8302023	16057	3706521680	108		OLIVER THOMPSON #8-3	BURNSIDE	2.0	CONSOLIDATED GAS
8302022	16056	3703320814	108		PAUL FULTON JR #1 (112A)	BURNSIDE	7.0	CONSOLIDATED GAS
8302167	15915	3703321337	103		R & P COAL CO #2 (150A)	WHITE	0.0	CONSOLIDATED GAS
8302021	16055	3706324975	108		R & P COAL CO #3 (150A)	WHITE	4.0	COLUMBIA GAS TRAN
8302020	16054	3706324974	108		R & P COAL CO #35 (595A)	WHITE	4.0	COLUMBIA GAS TRAN
8301984	15914	3706522562	103		R & P COAL CO #4 (150A)	WHITE	0.0	COLUMBIA GAS TRAN
8302024	16060	3706325199	108		RAYMOND BARRETT #1	WHITE	4.0	COLUMBIA GAS TRAN
8301986	15883	3703320764	108		RAYMOND BARRETT #2	BURNSIDE	0.0	T M PHILLIPS GAS
8301992	15889	3703320793	108		RAYMOND BARRETT #3	BURNSIDE	2.0	T M PHILLIPS GAS
8301993	15890	3703320794	108		RAYMOND BARRETT #4	BURNSIDE	2.0	T M PHILLIPS GAS
8301994	15891	3703320795	108		RAYMOND BARRETT #5	BURNSIDE	2.0	T M PHILLIPS GAS
8301991	15888	3703320796	108		RAYMOND BARRETT #6	BURNSIDE	2.0	T M PHILLIPS GAS
8301987	15884	3703320797	108		RAYMOND BARRETT #7	BURNSIDE	2.0	T M PHILLIPS GAS
8301988	15885	3703320771	108		RAYMOND BARRETT #8	BURNSIDE	2.0	T M PHILLIPS GAS
8301995	15892	3703320798	108					

JD NU	JA DKT	API NU	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8302063	15900	3706324284	108		RAYMOND EVANS #1	WHITE	10.0	T W PHILLIPS GAS
8301983	15898	3706326859	103		RICHARD J MCKEE #1 (10A)	ARMSTRONG	0.0	PEOPLES NATURAL G
8302009	16041	3700522417	108		ROY WIEGAND #2 (68A)	KITTANNING	2.0	PEOPLES NATURAL G
8302010	16042	3706324322	108		STUDENT COOP ASSN INC #1	WHITE	20.0	PEOPLES NATURAL G
8302013	16047	3706324323	108		STUDENT COOP ASSN INC #2	WHITE	20.0	PEOPLES NATURAL G
8302017	16051	3706324436	108		T L LONG #1	WASHINGTON	2.0	T W PHILLIPS GAS
-J C ENTERPRISES								
8301979	15865	3706500000	103	RECEIVED: 10/07/82	FRANK MOORE #186-1 JEF-22499	FROSTBURG	12.0	T W PHILLIPS OIL
8301981	15867	3706500000	103		GURDON MILLER #187-1 JEF-22523	FROSTBURG	270.0	T W PHILLIPS OIL
8301980	15866	3706500000	103		GURDON MILLER #188-2 JEF-22524	FROSTBURG	25.0	T W PHILLIPS OIL
-JAMES DRILLING CORP								
8302026	13919	3703921503	103	RECEIVED: 10/07/82	MICHAEL A LAMALFA #1	SPRING	36.0	NATIONAL FUEL GAS
8302027	13920	3703921503	107	-TF	MICHAEL A LAMALFA #1	SPRING	36.0	NATIONAL FUEL GAS
-KALITAS OIL CO								
8302029	13598	3704921679	103	RECEIVED: 10/07/82	DOUGLAS GIBBONS #1	NORTH EAST	15.0	COLUMBIA GAS TRAN
8302031	13395	3704921679	107	-RT	DOUGLAS GIBBONS #1	NORTH EAST	15.0	COLUMBIA GAS TRAN
8302028	13397	3704921629	103		JAMES PASIERB #2	NORTH EAST	9.0	COLUMBIA GAS TRAN
8302032	13396	3704921629	107	-RT	JAMES PASIERB #2	NORTH EAST	9.0	COLUMBIA GAS TRAN
8302030	15492	3704921730	103		JOSEPH WISNIEWSKI #1	NORTH EAST	16.0	COLUMBIA GAS TRAN
8302033	15488	3704921730	107	-TF	JOSEPH WISNIEWSKI #1	NORTH EAST	16.0	COLUMBIA GAS TRAN
-KEYSTONE ENERGY OIL & GAS PRODUCTION								
8301982	15868	3706326730	103	RECEIVED: 10/07/82	MITCHELL #2	SARAH MITCHELL	42.8	COLUMBIA GAS TRAN
-MID-EAST OIL CO								
8302035	15971	3706326409	103	RECEIVED: 10/07/82	CLYDE L WELLS #1	ERNEST	15.0	INDUSTRIAL ENERGY
8302036	02591	3706323531	108		JAMES AND FRANK CAMPBELL #3	BRUSH VALLEY	8.5	NATIONAL FUEL GAS
-MITCH-WELL ENERGY INC								
8302037	15756	3704921720	102	-2	RINNE #1	LEBOEUF POOL	35.0	COLUMBIA GAS TRAN
8302039	15757	3704921720	107	-TF	RINNE #1	LEBOEUF POOL	35.0	COLUMBIA GAS TRAN
8302038	15760	3704921721	102	-2	RINNE #2	WATERFORD POOL	35.0	COLUMBIA GAS TRAN
8302040	15761	3704921720	107	-TF	RINNE #2	WATERFORD POOL	35.0	COLUMBIA GAS TRAN
-NEA CROSS CO								
8302041	15265	3704921838	102	-2	BYRON BOWEN #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8302048	15264	3704921838	107	-TF	BYRON BOWEN #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8302046	15278	3704921853	102	-2	CONRAD KLEIN #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8302053	15279	3704921853	107	-TF	CONRAD KLEIN #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8302047	15416	3704921954	102	-2	HARRISON/KOVSCHAK #1	WATERFORD	10.0	NATIONAL FUEL GAS
8302054	15417	3704921954	107	-TF	HARRISON/KOVSCHAK #1	WATERFORD	10.0	NATIONAL FUEL GAS
8302045	15276	3704921835	102	-2	HULEWSKI/COON #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8302052	15277	3704921835	107	-TF	HULEWSKI/COON #1	LEBOEUF	10.0	NATIONAL FUEL GAS
8302043	15271	3704921871	102	-2	TIMOTHY MCCORMICK #2	LEBOEUF	10.0	NATIONAL FUEL GAS
8302050	15270	3704921871	107	-TF	TIMOTHY MCCORMICK #2	LEBOEUF	10.0	NATIONAL FUEL GAS
8302042	15266	3704921872	102	-2	VALENTINE OSTERMANN #3	LEBOEUF	10.0	NATIONAL FUEL GAS
8302049	15267	3704921872	107	-TF	VALENTINE OSTERMANN #3	LEBOEUF	10.0	NATIONAL FUEL GAS
8302044	15275	3704921834	102	-2	VICTOR & ROSE MALINOWSKI #2	WATERFORD	10.0	NATIONAL FUEL GAS
8302051	15274	3704921834	107	-TF	VICTOR & ROSE MALINOWSKI #2	WATERFORD	10.0	NATIONAL FUEL GAS
-NRM PETROLEUM CORPORATION								
8302056	15860	3704921590	102	-2	BLUSS #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8302060	15859	3704921590	107	-TF	BLUSS #1	NEW IRELAND	0.0	COLUMBIA GAS TRAN
8302058	15864	3704921491	102	-2	NIEMEYER #1	WATERFORD	0.0	COLUMBIA GAS TRAN
8302062	15863	3704921491	107	-TF	NIEMEYER #1	WATERFORD	0.0	COLUMBIA GAS TRAN
8302057	15862	3704921685	102	-2	NIEMEYER #2	WATERFORD	0.0	COLUMBIA GAS TRAN
8302061	15861	3704921685	107	-TF	NIEMEYER #2	WATERFORD	0.0	COLUMBIA GAS TRAN
8302055	15858	3704921624	102	-2	ROBERTSON #1	WATERFORD	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC (1)	SEC (2)	WELL NAME	PRUD	PURCHASER
8302059	15857	3704921624	107-TF			ROBERTSON #1	0.0	COLUMBIA GAS TRAN
-P & G EXPLORATION INC			RECEIVED:	10/07/82	JA: PA			
8302068	15421	3706325224	108			DARRELL EVANS #2 IND-25224	3.0	COLUMBIA GAS TRAN
8302064	15383	3706324697	108			RAPACH #1 IND-24697	5.0	COLUMBIA GAS TRAN
8302065	15385	3706324707	108			RAPACH #3 IND-24707	5.0	COLUMBIA GAS TRAN
8302066	15386	3706324889	108			RAPACH 1-TR1 IND-24889	5.0	COLUMBIA GAS TRAN
8302067	15392	3706325137	108			SHANK #1 IND-25137	4.0	COLUMBIA GAS TRAN
-R & E GAS & OIL CO			RECEIVED:	10/07/82	JA: PA			
8302139	15035	3703121014	103			R & E GAS & OIL CO-FLICK #1	14.6	COLUMBIA GAS OF P
-R & M WELL SERVICE INC			RECEIVED:	10/07/82	JA: PA			
8302140	15836	3712521147	102-2			CALVERT #1	30.0	COLUMBIA GAS TRAN
-S T JOINT VENTURE - 81-8			RECEIVED:	10/07/82	JA: PA			
8302142	1540	3703321338	103			HIMES #1		
8302141	15415	3703321327	102-2			HULLIHEN #1		
-SCOTT AND HUSSING			RECEIVED:	10/07/82	JA: PA			
8302143	16070	3712521333	108			PETE TYHONAS #1 #149		
-T M PHILLIPS GAS & OIL CO			RECEIVED:	10/07/82	JA: PA			
8302072	15728	3706320181	108			(H L NEAL) #2	1.5	T M PHILLIPS GAS
8302084	15927	3706320012	108			(H L NEAL) #3	0.3	T M PHILLIPS GAS
8302106	16003	3706300000	108			A C DODSON #2	1.9	T M PHILLIPS GAS
8302109	16006	3706300000	108			A L GIBSON #1	0.4	T M PHILLIPS GAS
8302108	16005	3706300000	108			A L GIBSON #2	0.9	T M PHILLIPS GAS
8302093	15936	3706500000	108			A R & W J CARBERRY #3	0.8	T M PHILLIPS GAS
8302113	16010	3706320375	108			ARON NEAL ATTORNEY #1	1.0	T M PHILLIPS GAS
8302100	15943	3706500493	108			ANNA L VANDERVORT #1	2.2	T M PHILLIPS GAS
8302092	15935	3706500000	108			ANNA L VANDERVORT #2	1.4	T M PHILLIPS GAS
8302130	16080	3706300000	108			ANNIE C GIBSON #1	1.0	T M PHILLIPS GAS
8302083	15926	3706500000	108			ANNIE L MOSER #1	1.5	T M PHILLIPS GAS
8302082	15925	3706520236	108			ARCHIE CAMPBELL #2	1.2	T M PHILLIPS GAS
8302080	15923	3706500000	108			ARCHIE CAMPBELL #3	1.8	T M PHILLIPS GAS
8302134	16084	3706500000	108			ARCHIE CAMPBELL #4	1.0	T M PHILLIPS GAS
8302118	16015	3706500000	108			ARMINTA YEAGER #1	0.8	T M PHILLIPS GAS
8302075	15733	3706500000	108			BROSIOUS & ENTERLINE #2	0.8	T M PHILLIPS GAS
8302081	15924	3706322563	108			BROSIOUS & ENTERLINE #3	1.7	T M PHILLIPS GAS
8302125	16022	3706520566	108			BYRON FRICK #1	2.6	T M PHILLIPS GAS
8302077	15784	3706500000	108			C L BAUGHMAN #1	1.3	T M PHILLIPS GAS
8302129	16079	3706500000	108			CALDERWOOD & WINSLOW #1	2.4	T M PHILLIPS GAS
8302120	16017	3706500000	108			CHARITY ENGLE #1	3.6	T M PHILLIPS GAS
8302123	16020	3706500000	108			CHARLES MOTTERN #1	2.9	T M PHILLIPS GAS
8302096	15939	3706500000	108			CLAYTON M BARR #3	1.0	T M PHILLIPS GAS
8302097	15940	3706500000	108			DANIEL EISENHART #1	2.0	T M PHILLIPS GAS
8302076	15781	3706500000	108			DANIEL GEIST #2	2.0	T M PHILLIPS GAS
8302069	15719	3706320930	108			DAVID L LOCKWOOD #1	3.4	T M PHILLIPS GAS
8302137	16091	3706500000	108			DAVID L LOCKWOOD #2	1.0	T M PHILLIPS GAS
8302124	16021	3706520288	108			DENNIS R SHAFFER #2	1.9	T M PHILLIPS GAS
8302085	15928	3706500000	108			DONALD P MCPHERSON JR #2	4.9	T M PHILLIPS GAS
8302135	16089	3706500000	108			E E BULLERS #1	1.7	T M PHILLIPS GAS
8302132	16082	3706500000	108			F L KUNSELMAN #1-103	1.1	T M PHILLIPS GAS
8302119	16016	3706500000	108			FLORENDA BOTTENHORN #1	2.1	T M PHILLIPS GAS
						FRANK MCNUTT #1	0.8	T M PHILLIPS GAS
						G A PIFER #2	0.7	T M PHILLIPS GAS
						G H LETTIE #2	0.4	T M PHILLIPS GAS
						H H BROSIUS #1	0.6	T M PHILLIPS GAS

JD NO	JA DKT	API NO	D SEC (1)	SEC (2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8302098	15941	3706500000	108		H S MILLER #1	WARSAM	1.3	T M PHILLIPS GAS
8302079	15786	3706500000	108		HOMER SNYDER #1	WINSLOW	0.9	T M PHILLIPS GAS
8302117	16014	3706500000	108		I F BURKEIT #1	OLIVER	1.3	T M PHILLIPS GAS
8302101	15998	3706300000	108		IDA ANDERSON #1	WEST MAHONING	0.7	T M PHILLIPS GAS
8302126	16023	3706520186	108		J B COULTER #1	OLIVER	0.5	T M PHILLIPS GAS
8302104	16001	3706300000	108		J C CORNMAN #1	WEST MAHONING	1.5	T M PHILLIPS GAS
8302103	16000	3706300000	108		J L BAUMMER #1	WEST MAHONING	1.2	T M PHILLIPS GAS
8302128	16078	3706500000	108		JAMES HAWTHORNE #1	OLIVER	0.8	T M PHILLIPS GAS
8302086	15929	3706520197	108		JOHN REINARD #3	KNOX	0.8	T M PHILLIPS GAS
8302087	15930	3706520183	108		JOHN STRAITWELL #1	KNOX	1.6	T M PHILLIPS GAS
8302112	16009	3706300000	108		JOSIAH NEAL #1	WEST MAHONING	0.6	T M PHILLIPS GAS
8302105	16002	3706300000	108		L B COLEMAN #2	WEST MAHONING	0.6	T M PHILLIPS GAS
8302131	16081	3706500000	108		M C KUNSELMAN #1	OLIVER	0.8	T M PHILLIPS GAS
8302174	15731	3706300000	108		M M GAHAGAN #2	WEST MAHONING	0.8	T M PHILLIPS GAS
8302133	16083	3706500000	108		M M KELLER & R E GEIST #1	OLIVER	0.3	T M PHILLIPS GAS
8302138	16092	3706500000	108		M M KELLER & R E GEIST #2	OLIVER	0.6	T M PHILLIPS GAS
8302114	16011	3706300000	108		MARTHA NEAL #1	OLIVER	0.6	T M PHILLIPS GAS
8302111	16008	3706300000	108		MRS E PERRIN #1	WEST MAHONING	0.9	T M PHILLIPS GAS
8302099	15942	3706500000	108		RUTH & EFFIE MC MILLEN #1	WARSAM	3.5	T M PHILLIPS GAS
8302115	16012	3706300000	108		S M BARTLETT #2	SOUTH MAHONING	0.1	T M PHILLIPS GAS
8302089	15932	3706500000	108		S S JORDAN #1	WARSAM	2.8	T M PHILLIPS GAS
8302136	16090	3706500000	108		S THOMAS SYPHRIT #1	OLIVER	1.2	T M PHILLIPS GAS
8302078	15785	3706321054	108		SAMUEL P BAYARD #1	WINSLOW	1.2	T M PHILLIPS GAS
8302070	15726	3706321056	108		SAMUEL P BAYARD #2	WINSLOW	0.2	T M PHILLIPS GAS
8302090	15933	3706500000	108		SARAH BOWER #1	CENTER	0.9	T M PHILLIPS GAS
8302071	15727	3706321594	108		STANLEY GRATOSKY #1	WARSAM	2.1	T M PHILLIPS GAS
8302122	16019	3706500000	108		THOMAS O ENTERLINE #1	CENTER	1.1	T M PHILLIPS GAS
8302121	16018	3706500000	108		THOMAS O ENTERLINE #2	CENTER	0.5	T M PHILLIPS GAS
8302102	15999	3706300000	108		W E BARRETT #1	OLIVER	0.4	T M PHILLIPS GAS
8302127	16077	3706320698	108		W L GOOD #1	OLIVER	0.6	T M PHILLIPS GAS
8302095	15938	3706500000	108		W S HAINES #2	WEST MAHONING	0.6	T M PHILLIPS GAS
8302094	15937	3706500000	108		WAYNE J CALDWELL #1	WEST MAHONING	0.4	T M PHILLIPS GAS
-TEMPLETON ENERGY INC					WAYNE J CALDWELL #2	OLIVER	1.7	T M PHILLIPS GAS
8301978	11811	3700522646	103	RECEIVED: 10/07/82	JA: PA	WARSAM	1.3	T M PHILLIPS GAS
-UNION DRILLING INC					EVA H & T LOWELL DEAN #5	SMELTZER	8.0	T M PHILLIPS GAS
8302146	15980	3706324671	108	RECEIVED: 10/07/82	JA: PA	RAYNE TOWNSHIP	2.0	PEOPLES NATURAL G
8302148	15985	3706325383	108		DALE KIRKLAND #1 0623	CHERRYHILL TOWNSHIP	20.0	COLUMBIA GAS TRAN
8302155	15993	3706324777	108		EDWARD SOKOL #1 0683	CENTER TOWNSHIP	16.0	COLUMBIA GAS TRAN
8302147	15981	3706323013	108		GAMBLE TRACT #1 0637	RAYNE TOWNSHIP	12.0	PEOPLES NATURAL G
8302150	15988	3706325487	108		HAER & FETTERMAN #1 0554	CENTER TOWNSHIP	13.0	COLUMBIA GAS TRAN
8302153	15991	3706325334	108		J A MCFEATERS #1 0684	CHERRYHILL TOWNSHIP	14.0	COLUMBIA GAS TRAN
8302152	15990	3706325438	108		JOHN LOCKMONIC #2 0675	WHITE TOWNSHIP	16.0	COLUMBIA GAS TRAN
8302151	15989	3706325431	108		PP & V CORP #1 0678	CHERRYHILL TOWNSHIP	7.0	COLUMBIA GAS TRAN
8302149	15987	3706325524	108		PP & V CORP #2 0679	CHERRYHILL TOWNSHIP	10.0	COLUMBIA GAS TRAN
8302156	15994	3706324779	108		RAYMOND HOUCK #2 0692	CHERRYHILL TOWNSHIP	19.0	COLUMBIA GAS TRAN
8302154	15992	3706325512	108		THORN DIXON TRACT #1 0635	CENTER TOWNSHIP	17.0	COLUMBIA GAS TRAN
8302157	15995	3706324417	108		WAYNE & MADE HELMAN #2 0643	RAYNE TOWNSHIP	17.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP					WILLIAM P DEEDS #1 0607	RAYNE TOWNSHIP	20.0	COLUMBIA GAS TRAN
8302144	15947	3712331133	102-2	RECEIVED: 10/07/82	JA: PA	COLUMBUS	20.0	COLUMBIA GAS TRAN
8302145	15946	3712331133	107-TF		C SAVKO #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
-VICTORY DEVELOPMENT CO					C SAVKO #1	COLUMBUS	20.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	U SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PRUD	PUCHASEK
8302166	16100	3706326694	103		BLAZOSKY #1 IND-26694	GRANT	36-0	ATLAS RESOURCES I
8302159	15974	3703321273	102-2		BOYCE #6 CLE-21273	BURNSIDE	36-0	COLUMBIA GAS TRAN
8302158	15973	3703321196	102-2		CHARLES & SAM BROTHERS #2 CLE-21196	BURNSIDE	36-0	COLUMBIA GAS TRAN
8302165	16099	3706326667	103		HARRY YARNAL #1 IND-26667	BRUSHVALLEY	36-0	COLUMBIA GAS TRAN
8302161	15976	3703321123	102-2		J MILCHAK #1 (L) CLE-21123	BURNSIDE	36-0	COLUMBIA GAS TRAN
8302160	15975	3703321286	102-2		J MILCHAK #6 (L) CLE-21286	BURNSIDE	36-0	COLUMBIA GAS TRAN
8302164	15979	3703321147	102-2		MCINTOSH (ELLINGER) #1 CLE-21147	BURNSIDE	36-0	COLUMBIA GAS TRAN
8302163	15978	3703321148	102-2		MCINTOSH (ELLINGER) #2 CLE-21148	BURNSIDE	36-0	COLUMBIA GAS TRAN
8302162	15977	3702120168	102-2		MCINTOSH (ELLINGER) #3 CBA-20168	SUSQUEHANNA	36-0	COLUMBIA GAS TRAN
WILLIAM S BURKLAND					RECEIVED: 10/07/82 JAS PA			
8301896	15873	3705120031	107-PE		WORK #1 PA O&G DIVISION FAY #37	MALTERSBURG	13-0	PEOPLES NATURAL G

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8344.

BILLING CODE 8717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential

under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir

102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 Feet or deeper
107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30770 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 768]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 3, 1982.

JD NO	JA DKT	API NO	U SEC (1)	SEC (2)	WELL NAME	FIELD NAME	PRDU	PURCHASER
***** TEXAS RAILROAD COMMISSION *****								
***** ADAMS EXPLORATION CO *****								
8302183	F-08-045940	4217331096	RECEIVED: 10/14/82		CURRIE #1	JAS: TX		
8302182	F-08-045939	4217331150	102-2	103	GLASS #1			54.6 PHILLIPS PETROLEU
8302184	F-08-047420	4217331187	102-2	103	GRIGSBY #1			13.0 PHILLIPS PETROLEU
***** ADDBE OIL & GAS CORPORATION *****								
8302418	F-8A-057865	4244531075	RECEIVED: 10/14/82		CLARE #10	JAS: TX		53.0 PHILLIPS PETROLEU
***** AMMOIL USA INC *****								
8302204	F-02-050826	4229732408	RECEIVED: 10/14/82		EL PASO NATURAL GAS CO #5 - L	JAS: TX		11.0 AMOCO PRODUCTION
8302203	F-02-050824	4229732408	102-4	103	EL PASO NATURAL GAS CO #5 - U			CHAPA EAST (HOSTETTER 1095.0 EL PASO NATURAL G
8302223	F-02-053310	4229732979	102-4	103	EL PASO NATURAL GAS CO #8			CHAPA EAST (9500) PRO 2555.0 EL PASO NATURAL G
***** AMXEX PETROLEUM INC *****								
8302321	F-03-057402	4214931373	RECEIVED: 10/14/82		LIVIA UNIT #1	JAS: TX		183.6 CLAJUN GAS CO
8302320	F-03-057401	4214931354	102-2	103	RENADA UNIT #1			GIDDINGS (AUSTIN CHAL 39.6 CLAJUN GAS CO
***** AMOCO PRODUCTION CO *****								
8302219	F-03-052434	4203931602	RECEIVED: 10/14/82		CAROLYN A CANNON #8	JAS: TX		7.2 AMOCO GAS CO
8302258	F-08-055781	4200333118	102-4	103	DAVID FASKEN #8R #1			0.3 AMOCO PRODUCTION
8302224	F-06-053325	4220330824	103	107-TF	DAVIS GAS UNIT #F #1			175.0 TEXAS GAS TRANSMI
8302298	F-04-057088	4247933308	102-4	103	107-TF KILLAM-HURD-AMOCO ALEXANDER #4			150.0 DELHI GAS PIPELIN
8302290	F-8A-056816	4244531058	RECEIVED: 10/14/82		PRENTICE NORTHEAST UNIT #149	JAS: TX		4.0 AMOCO PRODUCTION
***** ANDERSON PETROLEUM INC *****								
8302221	F-7C-052578	4210533774	RECEIVED: 10/14/82		JOE FRIEND ESTATE #A 1-25			200.0 OZONA PIPELINE CO
8302185	F-7C-048502	4210533711	103	107-TF	PEERY HOLMSLEY #A1 # 4-31			60.0 ANDERSON PIPELINE
***** ARCADIA REFINING CO *****								
8302269	F-06-056022	4240131447	RECEIVED: 10/14/82		A M MILKINS #1	JAS: TX		0.0 FERGUSON CROSSING
***** ARCO OIL AND GAS COMPANY *****								
8302193	F-04-050228	4240931552	RECEIVED: 10/14/82		WOMACK COUNTISS GAS UT #1-L	JAS: TX		232.0 VALERO TRANSMISSI
8302194	F-04-050229	4240931552	103	103	WOMACK COUNTISS GAS UT #1-U			550.0 VALERO TRANSMISSI
***** AUGUSTA OIL & GAS INC *****								
8302304	F-7B-057188	4225332215	RECEIVED: 10/14/82		HAMNER #1	JAS: TX		28.0 CONOCO INC
***** AUSTEX ENERGY CO INC *****								
8302292	F-7B-056855	4236332929	RECEIVED: 10/14/82		H DAVENPORT ESTATE #2	JAS: TX		90.0 SOUTHWESTERN GAS
***** BENNETT & GUINN INC *****								
8302243	F-09-054381	4207732379	RECEIVED: 10/14/82		C E SPEARS #1	JAS: TX		0.1 LUNE STAR GAS CO
***** BETTIS BOYLE & STOVALL *****								
8302212	F-04-051242	4240931460	RECEIVED: 10/14/82		STEINKRAUS F #2	JAS: TX		106.0 VALERO TRANSMISSI
***** BILLY M HODGES & CHARLIE L HARRIS *****								
8302456	F-08-057927	4237100000	RECEIVED: 10/14/82		H C COLE #1	JAS: TX		2.8 NORTHERN GAS PROD
8302455	F-08-057926	4237100000	108	108	U S M #1			2.8 NORTHERN GAS PROD
***** BOLING PRODUCTION CO INC *****								
8302314	F-03-057363	4248132115	RECEIVED: 10/14/82		L H COCKBURN #2-C	JAS: TX		100.0 DDM CHEMICAL CO
***** BRIDWELL OIL CO *****								

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	VOLUME	700	PAGE	002	PROD	PURCHASER
8302398	F-78-057796	4213333685	103		JACK G BISHOP #A# #1	EASTLAND COUNTY REGUL	4.0				4.0	NORTHERN GAS PROD
-C & K PETROLEUM INC			RECEIVED:	10/14/82	JA: TX							
8302271	F-08-056070	4232931032	102-4		PENROSE OLDHAM #1	MID-MAR EAST (FUSSELM	24.0				24.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	10/14/82	JA: TX							
8302198	F-03-050518	4205100000	102-2		JOHN W SPRINGER #2	GIDDINGS (AUSTIN CHAL	0.0				0.0	FERGUSON CROSSING
-CHAPAN & SCHNEIDER			RECEIVED:	10/14/82	JA: TX							
8302307	F-08-057253	4213533650	103		PARKER #1	HARPER	6.0				6.0	PHILLIPS PETROLEU
-CHARLES E CLAY			RECEIVED:	10/14/82	JA: TX							
8302325	F-09-057504	4223733746	102-4		CLAY-ROBERTS #2A	BOGEN (MISSISSIPPI)	47.0				47.0	SOUTHWESTERN GAS
-CITIES SERVICE COMPANY			RECEIVED:	10/14/82	JA: TX							
8302299	F-01-057101	4246530390	102-2		WEST-D #1	MASSIE (STRAWN)	219.0				219.0	INTRATEX GAS CO
-CLARION RESOURCES INC			RECEIVED:	10/14/82	JA: TX							
8302178	F-78-044471	4236300000	102-4	103	ADOLSON #1	ADOLSON (ATOKA)	49.0				49.0	NORTHERN GAS PROD
-COATES ENERGY TRUST			RECEIVED:	10/14/82	JA: TX							
8302246	F-04-054558	4224731471	102-4		CARREON-TREVINO #3	EL PEYOTE (CARREON)	22.0				22.0	
-COMANCHE ENERGY AGENCY			RECEIVED:	10/14/82	JA: TX							
8302329	F-78-057570	4205933832	102-4		BURT JONES #1	BOWNE (CADDO)	28.0				28.0	LONE STAR GAS CO
-CONOCO INC			RECEIVED:	10/14/82	JA: TX							
8302374	F-08-057736	4213533884	103		GIST UNIT #136 ID #19373	FOSTER	1.8				1.8	ODESSA NATURAL CO
-COPET INC			RECEIVED:	10/14/82	JA: TX							
8302259	F-01-055791	4232331673	103		N J CHITTIM #7214	SACATOSA (SAN MIGUEL	0.7				0.7	VALENTI TRANSMISSI
-CRAMFORD ENERGY			RECEIVED:	10/14/82	JA: TX							
8302285	F-09-056667	4219700000	102-4		WEST FUHRMAN MASCHO #56 ID #21220	FUHRMAN-MASCHO	1.0				1.0	PHILLIPS PETROLEU
-CREST RESOURCES & EXPL CORP			RECEIVED:	10/14/82	JA: TX							
8302286	F-09-056668	4219700000	102-4		WEST FUHRMAN MASCHO #33 ID #21220	FUHRMAN-MASCHO	0.8				0.8	PHILLIPS PETROLEU
-D & M PETROLEUM CO			RECEIVED:	10/14/82	JA: TX							
8302168	F-03-004828	4207130798	103		MOORE B#1	MOORE-(STRAWN 3540)	73.0				73.0	TEXAS UTILITIES F
-D H BRAMAN JR			RECEIVED:	10/14/82	JA: TX							
8302506	F-78-056061	4208332917	102-4		BOOTH CREEK #1 (ID NO 098120)	BROWN COUNTY REGULAR	10.8				10.8	LONE STAR GAS CO
-DAMSON OIL CORPORATION			RECEIVED:	10/14/82	JA: TX							
8302322	F-8A-057406	4222732557	103		KYLE #2	KYLE (3200) (PROPOSED)	365.0				365.0	LONE STAR GAS CO
-DELHI OIL CORP			RECEIVED:	10/14/82	JA: TX							
8302244	F-06-054445	4240131361	103		KYLE 1-A	KYLE (4200)	365.0				365.0	LONE STAR GAS CO
-DYNAMIC PRODUCTION INC			RECEIVED:	10/14/82	JA: TX							
8302375	F-03-057738	4214931352	102-2		FRANKLAND GU 1 #1 ID #77287	MAYES SOUTH (FRID 5)	150.0				150.0	WINNIE PIPELINE C
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	10/14/82	JA: TX							
8302462	F-10-057942	4242100000	108		O C BERTRAND #1 (18397)	MEHAFFY (GARDNER)	26.0				26.0	UNION TEXAS PETRU
-DIVIDEND PRODUCTION CO			RECEIVED:	10/14/82	JA: TX							
8302173	F-10-022239	4234100000	108-ER		T H HORTON #1	ACKERLY (DEAN SAND)	25.0				25.0	GELTY OIL CO
-DYNAMIC PRODUCTION INC			RECEIVED:	10/14/82	JA: TX							
8302294	F-78-057055	4204900000	108		107-TF KANGERGA GAS UNIT #1 #4	OAK HILL (COTTON VALL	300.0				300.0	DELHI GAS PIPELIN
-EL PASO NATURAL GAS COMPANY			RECEIVED:	10/14/82	JA: TX							
8302296	F-78-057057	4204900000	108		APPELL #8	GIDDINGS (EDWARD GAS)	183.0				183.0	PHILLIPS PETROLEU
-ENRICH OIL CORPORATION			RECEIVED:	10/14/82	JA: TX							
8302295	F-78-057056	4204900000	108		BIVINS ESTATE #1-35	TEXAS HUGOTON	7.0				7.0	
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302240	F-10-054314	4221131247	102-4		READ #D# #1	WEST PANHANDLE	14.0				14.0	INTER MURTH INC
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302332	F-7C-057731	4239932240	103		HERRING-32 #1-32	MOTLEY NORTH (ODOM LI	160.0				160.0	LONE STAR GAS CO
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302188	F-03-049538	4205100000	102-2	103	CHALOUKPA UNIT #1	GIDDINGS (AUSTIN CHAL	0.0				0.0	FERGUSON CROSSING
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302294	F-78-057055	4204900000	108		MCFARLANE #1 47631	BROWN COUNTY REGULAR	0.0				0.0	EL PASO HYDROCARB
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302296	F-78-057057	4204900000	108		MCFARLANE #4 11748	BROWN COUNTY REGULAR	0.0				0.0	EL PASO HYDROCARB
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302295	F-78-057056	4204900000	108		RAY #1 15065	DELRAY (MARBLE FALLS)	0.0				0.0	EL PASO HYDROCARB
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302240	F-10-054314	4221131247	102-4		GENE HOWE #6	HOWE RANCH SOUTH (MOK	365.0				365.0	EL PASO NATURAL G
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							
8302332	F-7C-057633	4206131116	103		BESSIE WALKER #2 (07697)	BLOODWORTH N (CANYON	29.0				29.0	SUN GAS CO
-FERGUSON CROSSING			RECEIVED:	10/14/82	JA: TX							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ENSRCH	EXPLORATION INC								
8302256	F-05-05720	4221300000		RECEIVED:	10/14/82	JA: TX	TRI-CITIES	576.0	LONE STAR GAS CO
8302218	F-09-05237	4249700000	103			BEN MCGEE #2	BOONSVILLE (BCG)	100.0	LONE STAR GAS CO
8302222	F-7C-053194	4213700000	103	107-TF		C M B BULLARD #2	SAWYER	120.0	LONE STAR GAS CO
8302189	F-09-049776	4249700000	103			MIERS "B" #29	BOONSVILLE (BCG)	0.0	LONE STAR GAS CO
-ESENJAY	PETROLEUM CORP					WALTER DEMBRE #2			
8302232	F-02-054007	4246931892	102-4	RECEIVED:	10/14/82	JAI: TX	INEZ S (5700)	189.0	HOUSTON PIPE LINE
-EXXON	CORPORATION					EDWIN T CHARBULA #1			
8302377	F-03-057748	4237330526	103	RECEIVED:	10/14/82	JA: TX	LIVINGSTON (MILCON)	18.6	UNITED TEXAS TRAM
8302333	F-03-057642	4207131341	103			C B GRANBURY A/C 4 #85	ANAHUAC	91.3	HOUSTON PIPELINE
8302300	F-04-057107	4226130693	102-4			C G JOHNSON A/C 1 55	CANDELARIA (H-60)	10.0	NATURAL GAS PIPEL
8302311	F-08-057328	4227327219	103			C M ARMSTRONG 69-F (ID PENDING)	MOORE (WOLFCAFP)	3.0	
8302308	F-06-057261	4236531283	103	107-TF		EUNICE HOMAN #1	CARTHAGE (COTTON VALL	750.0	TEJAS GAS CORP
8302457	F-08-057928	4200333119	103			J S MEANS A/C4 #330	MEANS SOUTH (WOLFCAFP	5.0	
8302356	F-04-057695	4227331682	102-4			K K MORGAN M-83 (100460)	STRATTON (U-11)	526.0	ARMCO STEEL CORP
8302283	F-04-056412	4204731065	102-4			RJK JR TR ZACH PAST STATE 13 #09642	VIBORAS (G-59 VIII)	1.8	ARMCO STEEL CORP
8302310	F-8A-057326	4216532352	103			ROBERTSON CLEARFORK UNIT 3301	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8302309	F-8A-057325	4216532357	103			ROBERTSON CLEARFORK UNIT 3401	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8302376	F-04-057740	4204730614	102-4			SANTA FE RANCH 38-D (100863)	SANTA FE (C-47)	438.0	ARMCO STEEL CORP
8302355	F-04-057694	4204730814	102-4			SANTA FE RANCH 61-D (100463)	SANTA FE (G-49)	237.0	ARMCO STEEL CORP
-FLORIDA	GAS EXPLORATION COMPANY								
8302213	F-7C-051489	4243532669	103	RECEIVED:	10/14/82	JA: TX	PHYLIS SONORA	0.0	INTRATEX GAS CO
8302237	F-7C-054263	4243532681	103	107-TF		FLORENCE 29 #1	PHYLIS SONORA	0.0	INTRATEX GAS CO
-FRANK	CASS					HUNT 33-#3			
8302238	F-7C-054280	4243532619	103	RECEIVED:	10/14/82	JA: TX	SAWYER (CANYON)	96.0	EL PASO NATURAL G
-G E M &	ASSOCIATES INC								
8302174	F-7B-030029	4213300000	102-2	107-TF		ALLISON-MIERS 7902	EASTLAND COUNTY REG A	109.5	LONE STAR GAS CO
-GEODYNE	RESOURCES INC					HOGAN #1			
8302319	F-10-057400	4229531146	103	RECEIVED:	10/14/82	JA: TX	MAMMOTH CREEK N (CLEV	250.0	INTERNORTH INC
8302318	F-10-057399	4229531130	102-4			J M SCHULTZ #1	FRASS S E (PROPOSED)	250.0	INTERNORTH INC
-GETTY	OIL COMPANY					KEMP #1			
8302261	F-03-055828	4205100000	102-2	RECEIVED:	10/14/82	JA: TX	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8302251	F-03-055212	4205100000	102-2			NADA HOMBLE #2	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GHR	ENERGY CORP					SEALY-SMITH #7			
8302242	F-04-054332	4247933164	102-4	RECEIVED:	10/14/82	JA: TX	VAQUILLAS RANCH (WILC	700.0	VALERO TRANSMISSI
-GLENCO	OIL & GAS CO					AMANDO #2			
8302297	F-01-057060	4216331789	103	RECEIVED:	10/14/82	JA: TX	PEARSALL (AUSTIN CHAL	4.0	TIPPERARY CORP
-GULF	OIL CORPORATION								
8302346	F-03-057683	4204130513	102-2	RECEIVED:	10/14/82	JA: TX	KURTEN (BUDA)	13.6	
8302347	F-03-057684	4204130436	102-2			A J YEAGER UNIT I #1	KURTEN (WOODBINE)	1.0	PRODUCER'S GAS CO
8302279	F-08-056248	4231731118	108			ANDERT UNIT I #1	SPRABERRY TREND AREA	1.0	ADOBE OIL CO
8302216	F-08-052099	4247532083	103			G W GLASS "B" TR D #6	HARD-ESTES NORTH	9.0	CABOT CORP
8302361	F-08-057717	4247532634	103			HUTCHINGS STOCK ASSN #1087	HARD-ESTES NORTH	57.0	CABOT CORP
8302363	F-08-057719	4247532631	103			HUTCHINGS STOCK ASSN #1170	HARD-ESTES NORTH	7.0	CABOT CORP
8302364	F-08-057720	4247532636	103			HUTCHINGS STOCK ASSN #1192	HARD-ESTES NORTH	10.0	CABOT CORP
8302461	F-03-057940	4204130677	103			HUTCHINGS STOCK ASSN #1194	KURTEN (BUDA)	23.0	PRODUCER'S GAS CO
8302270	F-04-056042	4250531449	103	107-TF		LANG UNIT I #2	J C MARTIN (LOBO)	342.0	TENNESSEE GAS PIP
8302431	F-03-057888	4204130731	102-2			MARTIN-SANCHEZ UNIT I #2	KURTEN (GEORGETOWN)	0.0	
8302345	F-03-057682	4204130513	102-2			MAUDE LOCKE #1	KURTEN (BUDA)	39.4	
8302360	F-7C-057716	4210533958	103			ROBERT KELLER UNIT I #1	FARMER (SAN ANDRES)	30.0	
8302362	F-7C-057718	423832219	103			STATE "B" #1	FARMER (SAN ANDRES)	10.0	
8302381	F-08-057768	4210300961	108			STATE "B" #1	DUNE	0.4	
8302389	F-08-057776	4210300984	108			W N MADDELL #157	DUNE	0.7	
						W N MADDELL #180			

JD NO	JA DKT	API NO	U	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8302388	F-08-057775	4210301004	108		W N MADDELL #202	DUNE	1.4		
8302387	F-08-057774	4210300105	108		W N MADDELL #248	DUNE	0.2		
8302386	F-08-057773	4210300111	108		W N MADDELL #254	DUNE	0.5		
8302385	F-08-057772	4210301116	108		W N MADDELL #259	DUNE	0.2		
8302384	F-08-057771	4210301134	108		W N MADDELL #277	DUNE	0.2		
8302383	F-08-057770	4210301147	108		W N MADDELL #290	DUNE	0.9		
8302382	F-08-057769	4210301166	108		W N MADDELL #309	WADDELL	0.7		
8302365	F-08-057721	4210301170	108		W N MADDELL #313	DUNE	1.5		
8302366	F-08-057722	4210301172	108		W N MADDELL #320	WADDELL	1.8		
8302367	F-08-057728	4210301177	108		W N MADDELL #321	DUNE	0.2		
8302368	F-08-057724	4210301178	108		W N MADDELL #321	DUNE	0.4		
8302369	F-08-057725	4210301180	108		W N MADDELL #323	DUNE	3.5		
8302370	F-08-057728	4210301194	108		W N MADDELL #337	DUNE	0.2		
8302371	F-08-057729	4210301196	108		W N MADDELL #339	DUNE	0.3		
8302432	F-08-057889	4210301205	108		W N MADDELL #349	DUNE	0.5		
8302436	F-08-057893	4210301211	108		W N MADDELL #356	DUNE	0.7		
8302435	F-08-057892	4210301215	108		W N MADDELL #361	DUNE	0.6		
8302434	F-08-057891	4210301216	108		W N MADDELL #362	DUNE	0.4		
8302433	F-08-057890	4210301224	108		W N MADDELL #370	DUNE	1.0		
8302442	F-08-057899	4210301514	108		W N MADDELL #378	DUNE	0.4		
8302443	F-08-057900	4210301518	108		W N MADDELL #382	DUNE	0.6		
8302444	F-08-057901	4210301236	108		W N MADDELL #392	WADDELL	1.6		
8302445	F-08-057902	4210301269	108		W N MADDELL #425	DUNE	0.8		
8302446	F-08-057903	4210301289	108		W N MADDELL #445	DUNE	0.6		
8302379	F-08-057766	4210301022	108		W N MADDELL #45	DUNE	0.1		
8302447	F-08-057905	4210301308	108		W N MADDELL #464	WADDELL	0.6		
8302380	F-08-057767	4210301018	108		W N MADDELL #48	DUNE	0.5		
8302439	F-08-057896	4210301328	108		W N MADDELL #484	DUNE	0.9		
8302440	F-08-057897	4210301363	108		W N MADDELL #529	DUNE	0.4		
8302441	F-08-057898	4210301378	108		W N MADDELL #545	DUNE	0.5		
8302437	F-08-057894	4210301396	108		W N MADDELL #563	DUNE	0.7		
8302438	F-08-057895	4210301397	108		W N MADDELL #575	DUNE	0.7		
8302448	F-08-057908	4210301409	108		W N MADDELL #577	DUNE	1.9		
8302465	F-08-057946	4210301512	108		W N MADDELL #580	DUNE	1.2		
8302463	F-08-057944	4210301413	108		W N MADDELL #584	DUNE	1.1		
8302464	F-08-057945	4210301531	108		W N MADDELL #584	DUNE	0.6		
-H-M OIL CO				RECEIVED:	10/14/82	JA: TX			
8302373	F-02-057732	4223931689	102-4	103	WILLIE GRACE STAFFORD #1 ID #098061	GRACE (FRIO 4450)	0.0	TRUNKLINE GAS CO	
-HAILEY ENERGY				RECEIVED:	10/14/82	JA: TX			
8302478	F-78-057988	4213333956	102-4	103	MASSENGILL #2 (100987)	LOYCE (STRAWN)	335.0	LONE STAR GAS CO	
-HANLEY COMPANY				RECEIVED:	10/14/82	JA: TX			
8302273	F-7C-056220	4238331989	103	103	UNIVERSITY 2-26D (7C-09490)	WELL #1 SPRABERRY (TREND AREA)	5.0	INTER NORTH INC	
-HARRISON INTERESTS LTD				RECEIVED:	10/14/82	JA: TX			
8302250	F-7C-055128	4210533940	103	107-1F	VADA BEAN G U 2 #4	OZONA (CANYON SAND)	910.0	INTRATEX GAS CO	
-HILLIN PRODUCTION CO				RECEIVED:	10/14/82	JA: TX			
8302172	F-08-009023	4236900000	108-ER	103	B L SMITH #1	SO SANTA ROSA (CLEARF)	0.0	EL PASO NATURAL G	
-HOME PETROLEUM CORPORATION				RECEIVED:	10/14/82	JA: TX			
8302284	F-03-056578	4228730784	103	103	B P MITCHELL #1	GIDDINGS (AUSTIN CHAL)	0.0	CLAJON GAS CO	
-HOPEHILL PETROLEUM CO INC				RECEIVED:	10/14/82	JA: TX			
8302293	F-78-056867	4215100000	102-4	103	GARTMAN BOB #2	HOPEHILL (CANYON 4150)	1700.0	TEXAS UTILITIES F	
-HUMBLE EXPLORATION CO INC				RECEIVED:	10/14/82	JA: TX			
8302179	F-03-044841	4214900000	102-2	103	LA NELL K #1	GIDDINGS (AUSTIN CHAL)	0.0	PHILLIPS PETROLEU	
8302190	F-03-049895	4228731049	102-2	103	MOZELLE HANCOCK #1	GIDDINGS (AUSTIN CHAL)	81.4	PHILLIPS PETROLEU	

JD NO	JA DKT	API NU	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PRDU	PURCHASER
8302247	F-10-054602	4223300000	108		PHILLIPS C #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8302343	F-7C-057680	4238301162	108		STOUT A #2	SPRABERRY (TREND AREA	21.0	INTERNORTH INC
8302344	F-08-057681	4200304674	108		TEX UNIV M #7	FULLERTON SOUTH (WOLF	15.0	EL PASO NATURAL G
-PICKARD & KIRKPATRICK	OIL CO		103	RECEIVED:	10/14/82	COLOGNE (4100)	0.0	TENNESSEE GAS PIP
8302331	F-02-057613	4246931846	103		ROSS & HALL #1			
-PTL PRODUCTION INC			103	RECEIVED:	10/14/82	GENESIS (3050)	150.0	SUN GAS TRANSMISS
8302466	F-09-057947	4250335036	103		CAUDILL "238" #095577			
-R A M ENERGY CORP			102-4	RECEIVED:	10/14/82	KESSLER (3980)	0.0	SOUTHWESTERN GAS
8302245	F-7B-054498	4236332914	102-4		LASATER #1 RRC # NOT ASSIGNED	CABBAGE PATCH (BIG SA	30.0	EMPIRE PIPELINE C
8302192	F-7B-049973	4236700000	102-4		SAVAGE #1-L	BOYCE/BECKLAW	1.5	UNITED GAS PIPE L
-RAGARS OIL & GAS CO			108	RECEIVED:	10/14/82	THROCKMORTON SW (FLIP	377.0	HST GATHERING SYS
8302305	F-02-057190	4217500000	108		ALTMAN WM ID 098996	THROCKMORTON SW (SAUD	130.0	HST GATHERING SYS
-RYDER SCOTT OIL CO			102-4	RECEIVED:	10/14/82	FARMER (SAN ANDRES)	0.9	INTER NORTH INC
8302502	F-7B-058022	4244731734	102-4		DAVIS "G" #10 #062572	FARMER (SAN ANDRES)	0.0	INTER NORTH INC
8302503	F-7B-058624	4244731744	102-4		MONTGOMERY #10 RRC #082571	FARMER (SAN ANDRES)	2.9	INTER NORTH INC
-SAGE ENERGY CO			103	RECEIVED:	10/14/82	FARMER (SAN ANDRES)	1.5	INTER NORTH INC
8302357	F-7C-057702	4238332315	103		UNIVERSITY 16 #2 RRC #07556	FARMER (SAN ANDRES)	0.0	INTER NORTH INC
8302226	F-7C-053331	4238300000	103		UNIVERSITY 19-G RRC #09434	FARMER (SAN ANDRES)	0.0	INTER NORTH INC
8302274	F-7C-056222	4210500000	103		UNIVERSITY 23-C #1 RRC #09620	FARMER (SAN ANDRES)	0.0	INTER NORTH INC
8302358	F-7C-057703	4210534097	103		UNIVERSITY 47-3 #3 RRC #09605	FARMER (SAN ANDRES)	0.0	INTER NORTH INC
8302225	F-7C-053330	4238300000	103		UNIVERSITY 48-13 RRC #09445	FARMER (SAN ANDRES)	0.0	INTER NORTH INC
-SAXON OIL COMPANY			103	RECEIVED:	10/14/82	SPRABERRY (TREND AREA	16.4	PHILLIPS PETROLEU
8302170	F-7C-008452	4238330800	103		UNIVERSITY "1" #A #1	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
8302169	F-7C-008451	4238330802	103		UNIVERSITY "2" #A #1	SPRABERRY (TKEND AREA	13.0	PHILLIPS PETROLEU
8302171	F-7C-008483	4238330803	103		UNIVERSITY "2" #A #2	BOROCK (TANNEY HILL)	47.1	
-SCANDRILL CO			102-4	RECEIVED:	10/14/82	YOUNG COUNTY REGULAR	91.3	SUN GAS TRANSMISS
8302181	F-7B-045683	4220731120	102-4		H T WILKINSON #1	YOUNG COUNTY REGULAR	79.6	SUN GAS TRANSMISS
-SCANDRILL INC			103	RECEIVED:	10/14/82	BRYSON EAST	19.7	TEXAS UTILITIES F
8302211	F-09-051165	4250334033	103		SEWELL #7	BRYSON EAST	12.8	TEXAS UTILITIES F
8302207	F-09-051127	4250335057	103		1ST STATE BANK #2	BRYSON EAST	26.3	TEXAS UTILITIES F
8302209	F-09-051159	4223733916	103		1ST STATE BANK #3	PINEHILL SE (PETIT L	16.5	UNITED GAS PIPE L
8302210	F-09-051163	4223734204	103		1ST STATE BANK #5	YOUNG COUNTY REGULAR	2.0	GAS ASSOCIATED SY
8302208	F-09-051142	4223734205	103		1ST STATE BANK #5	WILDCAT MAGNOLIA CITY	35.0	ESPERANZA TRANSMI
-SEAGULL INTERNATIONAL EXPLORATION			102-4	RECEIVED:	10/14/82	CARTHAGE	19.0	TEXAS GAS TRANSMI
8302287	F-06-056674	4236531202	102-4		JAMES E BRADY UNIT #1 -U	BIG WELLS (SAN MIGUEL	64.0	HOUSTON PIPELINE
-SHAH EXPLORATION CO INC			103	RECEIVED:	10/14/82	LEVELLAND	2.0	AMOCU PRODUCTION
8302467	F-09-057956	4250300000	103		SHAH-YCA 899-C	LEVELLAND	2.0	AMOCU PRODUCTION
-SPARKMAN PRODUCING CO			102-4	RECEIVED:	10/14/82	CENTRAL LEVELLAND UNIT #237	19.0	SUN GAS TRANSMISS
8302205	F-04-050830	4224900000	102-4		GALLIMORE & LINDER #3	CENTRAL RANGER #1201 J L HARRISON I	0.2	AMOCU PRODUCTION
-SUN EXPL. & PROD. CO.			108-ER	RECEIVED:	10/14/82	COMDEN NORTH	6.0	AMOCU PRODUCTION
8302176	F-06-038450	4236500000	108-ER		J R KYLE #1	LEVELLAND	0.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO			103	RECEIVED:	10/14/82	NIX SOUTH	0.0	
8302278	F-01-056232	4212723252	103		BIG WELLS (SAN MIGUEL) UT #1027	LEAGUE CITY (STEWART	0.0	
8302277	F-8A-056231	4221933295	103		C V NEWSON #5	GIDDINGS (AUSTIN CHAL	0.0	
8302276	F-8A-056225	4221932746	103		CENTRAL LEVELLAND UNIT #237	HOWARDS CREEK (PENN)	0.0	
8302288	F-7B-056683	4213300000	108		CENTRAL RANGER #1201 J L HARRISON I			
8302342	F-08-057672	4200300000	103		U B HOLT-GRAYBURG #2-15			
8302275	F-8A-056224	4221933213	103		SOUTHEAST LEVELLAND UNIT #264			
-SUPERIOR OIL CO			103	RECEIVED:	10/14/82			
8302257	F-08-055724	4200333215	103		LOCKHART & BROWN 17-B #2			
8302186	F-03-049141	4216730868	102-4	103	MANN OSCAR #1			
8302281	F-03-056302	4228731251	102-2	103	UNIVERSITY 19-33 #1			
8302230	F-7C-053834	4210533875	103					

JD NO	JA DKT	API NO	U SEC(1) SEC(2) MELL NAME	RECEIVED:	10/14/82	JA: TX	FIELD NAME	PAGE	CUB
-TARTAN OIL & GAS	8302323	F-03-057408	4215700000	102-4	10/14/82	LESTER PESTAL UNIT #1	MOORES ORCHARD (YEGUA	70.0	UNITED TEXAS TRAN
-TAYLOR OPERATING COMPANY	8302352	F-78-057919	4222100000	102-4	10/14/82	JA: TX	RAWLS (MARBLE FALLS)	84.0	SOUTHWESTERN GAS
8302348	F-09-057686	4223700000	103	10/14/82	RAWLS #2 (099943)	WALSH-RUNDELL #1 (100983)	BOONSVILLE (BEND CONG	182.5	NATURAL GAS PIPE
-TEMPLETON ENERGY INC	8302378	F-04-057752	4250331448	103	10/14/82	JA: TX	ZAPATA (REKLAM #300)	80.0	INTRASTATE GATHER
-TEXACO INC	8302252	F-08-052522	4232931069	102-4	10/14/82	JA: TX	BRADFORD	0.0	EL PASO NATURAL G
8302392	F-08-057781	4210900000	108	10/14/82	A A BRADFORD ESTATE #M #1	GERALDINE (FORD)	1.4	CUNUCO INC	
8302394	F-08-057783	4210900000	108	10/14/82	CULBERSON #M FEE #11	GERALDINE (FORD)	1.9	CUNUCO INC	
8302395	F-08-057784	4210900000	108	10/14/82	CULBERSON #M FEE #2	GERALDINE (FORD)	1.0	CUNUCO INC	
8302396	F-08-057785	4210900000	108	10/14/82	CULBERSON #M FEE #5	GERALDINE (FORD)	1.0	CUNUCO INC	
8302393	F-08-057782	4210900000	108	10/14/82	CULBERSON #M FEE #6	GERALDINE (FORD)	1.2	CUNUCO INC	
8302236	F-08-054195	4232931068	102-4	10/14/82	JACWIL #2	BRADFORD RANCH	235.0	EL PASO NATURAL G	
8302291	F-10-056842	4206500000	108	10/14/82	S B BURNETT NCT-2 #8	PANHANDLE CARSON CO	3.5	PHILLIPS PETROLEU	
8302481	F-10-057994	4206500000	108	10/14/82	T J BONEY NCT-1 #1	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302483	F-10-057996	4206500000	108	10/14/82	T J BONEY NCT-1 #29	PANHANDLE CARSON CO	4.1	GETTY OIL CO	
8302494	F-10-057008	4206500000	108	10/14/82	T J BONEY NCT-1 #30	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302490	F-10-058004	4206500000	108	10/14/82	T J BONEY NCT-1 #33	PANHANDLE CARSON CO	1.7	GETTY OIL CO	
8302499	F-10-058013	4206500000	108	10/14/82	T J BONEY NCT-1 #34	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302497	F-10-058011	4206500000	108	10/14/82	T J BONEY NCT-1 #4	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302496	F-10-058010	4206500000	108	10/14/82	T J BONEY NCT-1 #40	PANHANDLE CARSON CO	1.3	GETTY OIL CO	
8302495	F-10-058009	4206500000	108	10/14/82	T J BONEY NCT-1 #45	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302493	F-10-058007	4206500000	108	10/14/82	T J BONEY NCT-1 #47	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302491	F-10-058005	4206500000	108	10/14/82	T J BONEY NCT-1 #48	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302500	F-10-058014	4206500000	108	10/14/82	T J BONEY NCT-1 #49	PANHANDLE CARSON CO	6.7	GETTY OIL CO	
8302501	F-10-058015	4206500000	108	10/14/82	T J BONEY NCT-1 #51	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302484	F-10-057997	4206500000	108	10/14/82	T J BONEY NCT-1 #55	PANHANDLE CARSON CO	0.6	GETTY OIL CO	
8302485	F-10-057999	4206500000	108	10/14/82	T J BONEY NCT-1 #56	PANHANDLE CARSON CO	1.5	GETTY OIL CO	
8302359	F-10-057708	4206500000	108	10/14/82	T J BONEY NCT-2 #59	PANHANDLE CARSON CO	18.2	GETTY OIL CO	
8302390	F-10-057778	4206500000	108	10/14/82	T J BONEY NCT-2 #60	PANHANDLE CARSON CO	1.5	GETTY OIL CO	
8302391	F-10-057779	4206500000	108	10/14/82	T J BONEY NCT-2 #61	PANHANDLE CARSON CO	1.7	GETTY OIL CO	
8302482	F-10-057995	4206500000	108	10/14/82	T J BONEY NCT-2 #62	PANHANDLE CARSON CO	2.0	GETTY OIL CO	
8302498	F-10-058012	4206500000	108	10/14/82	T J BONEY NCT-2 #63	PANHANDLE CARSON CO	1.9	GETTY OIL CO	
8302489	F-10-058003	4206500000	108	10/14/82	T J BONEY NCT-2 #66	PANHANDLE CARSON CO	2.0	GETTY OIL CO	
8302486	F-10-058000	4206500000	108	10/14/82	T J BONEY NCT-2 #67	PANHANDLE CARSON CO	2.0	GETTY OIL CO	
8302488	F-10-058002	4206500000	108	10/14/82	T J BONEY NCT-2 #68	PANHANDLE CARSON CO	1.5	GETTY OIL CO	
8302487	F-10-058001	4206500000	108	10/14/82	T J BONEY NCT-2 #69	PANHANDLE CARSON CO	1.5	GETTY OIL CO	
-TEXAS CRUDE INC	8302249	F-02-054878	4229700000	102-4	10/14/82	JA: TX	OAKVILLE	0.0	HOUSTON PIPELINE
8302272	F-8A-056215	4207300000	102-4	10/14/82	P P CRUCKER #1	WHITE OAK CREEK	70.0	DELMI GAS PIPELIN	
-THE DOM CHEMICAL COMPANY	8302353	F-7C-057691	4210532827	103	10/14/82	SALLIE D WHITEMAN #1 098684	UZONA S W (STRAWN)	72.0	
8302352	F-7C-057690	4210233137	103	10/14/82	JOHN W HENDERSON III #8	UZONA S W (STRAWN)	72.0		
8302351	F-7C-057689	4210533136	103	10/14/82	JOHN W HENDERSON III #13	UZONA S W (STRAWN)	22.0		
8302354	F-7C-057692	4210533616	103	10/14/82	JOHN W HENDERSON III #16	UZONA S W (STRAWN)	72.0		
8302350	F-7C-057688	4210533616	103	10/14/82	JOHN W HENDERSON III #14	UZONA S W (STRAWN)	96.0		
-THROCKMORTON GAS SYSTEMS	8302328	F-78-057527	4244733084	102-2	10/14/82	JA: TX	THROCKMORTON COUNTY K	0.0	WARREN PETROLEUM
8302327	F-78-057524	4244733084	102-2	10/14/82	PUTNAM #11	THROCKMORTON COUNTY K	0.0	WARREN PETROLEUM	
8302248	F-78-054789	4244733004	102-2	10/14/82	SULLIVAN #12	THROCKMORTON COUNTY K	0.0	WARREN PETROLEUM	

JD NO	JA DKT	API NO	U SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TRANSCONTINENTAL OIL CORP					JGS (PETTIT LOWER)	26.0	CLAJON GAS CO
8302468	F-06-057958	4256531359	RECEIVED: 10/14/82	WHB EXPL JIM G SEALEY #1	PAHANDLE GRAY COUNTY	8.0	TRANSWESTERN PIPE
-TRAVELERS OIL CO					PAHANDLE GRAY COUNTY	9.0	TRANSWESTERN PIPE
8302268	F-10-055994	4217900000	RECEIVED: 10/14/82	KATE #1 05012			
8302267	F-10-055993	4217900000	RECEIVED: 10/14/82	MORGAN #1 05014			
-TRINITY EXPLORATION CO							
8302266	F-7B-055990	4213300000	RECEIVED: 10/14/82	BENNETT #1	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GAS
8302200	F-04-050648	4213300000	RECEIVED: 10/14/82	CHILDERS #3	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL GAS
8302263	F-7B-055927	4213300000	RECEIVED: 10/14/82	DUDLEY #1	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GAS
8302262	F-7B-055926	4213300000	RECEIVED: 10/14/82	DUDLEY A-1	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GAS
8302289	F-7B-056777	4213300000	RECEIVED: 10/14/82	DUDLEY B #1	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GAS
8302265	F-7B-055929	4213300000	RECEIVED: 10/14/82	MAULE #1	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GAS
8302264	F-7B-055928	4213300000	RECEIVED: 10/14/82	TOWNSEND #1	GREEN SHOW (UPPER CAD	0.0	ODESSA NATURAL GAS
-TXO PRODUCTION CORP							
8302201	F-02-050723	4239131516	RECEIVED: 10/14/82	FAGAN "K" #7	FAGAN (5630)	0.0	DELHI GAS PIPELIN
8302202	F-04-050784	4250531409	RECEIVED: 10/14/82	VEKGARA #5	LOSMOGOTES N (WILCOX	0.0	NATURAL GAS PIPEL
-UNITED CO							
8302417	F-8A-057858	4207931411	RECEIVED: 10/14/82	MARTY WRIGHT #26 099880	LEVELLAND (SAN ANDRES	42.0	EL PASO NATURAL G
8302317	F-8A-057389	4207931432	RECEIVED: 10/14/82	SLAUGHTER ESTATE "I" #1 098921	LEVELLAND (SAN ANDRES	80.3	EL PASO NATURAL G
-M B D OIL & GAS CO							
8302451	F-10-057914	4234130823	RECEIVED: 10/14/82	JONATHAN #1	PAHANDLE MOORE	0.0	PHILLIPS PETROLEU
8302414	F-10-057820	4234130824	RECEIVED: 10/14/82	JONATHAN #2 05148	PAHANDLE MOORE	0.0	PHILLIPS PETROLEU
8302450	F-10-057912	4234130826	RECEIVED: 10/14/82	JONATHAN #4	PAHANDLE MOORE	0.0	PHILLIPS PETROLEU
-W L BRUCE OPERATOR							
8302458	F-10-057930	4217900000	RECEIVED: 10/14/82	DOSS #1 (ID#05149)	PAHANDLE GRAY	110.0	GETTY OIL CO
-M P FOSTER							
8302228	F-7B-053606	4213333857	RECEIVED: 10/14/82	TRUETT BEEN #1	FOSTER (MARBLE FALLS)	0.0	ODESSA NATURAL CO
-W R HUGHEY OPERATING CO							
8302217	F-06-052193	4220330940	RECEIVED: 10/14/82	107-IF COOK GAS UNIT 1-A PERMIT NO 148082	BLOCKER	150.0	EAST TEXAS INDUST
8302227	F-06-033538	4220330953	RECEIVED: 10/14/82	107-TF WILLIAMS GAS UNIT 1A PERMIT 154728	BLOCKER	150.0	EAST TEXAS INDUST
-WAGNER & BROWN							
8302316	F-03-057387	4243130990	RECEIVED: 10/14/82	FLINT "B" #10-26	CONGER (PENN)	158.1	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL							
8302280	F-08-056250	4210305697	RECEIVED: 10/14/82	E N SNUDDGRASS #9	WADDELL	1.0	EL PASO NATURAL G
8302330	F-08-057591	4210333246	RECEIVED: 10/14/82	J V TEKRILL "A" #12	SAND HILLS (TUBB)	0.1	EL PASO NATURAL G
-WESLEY SENKEL INC							
8302313	F-09-057351	4250336059	RECEIVED: 10/14/82	O B HEARNE "B" #2	SENKEL (CADDO 4600) F	28.0	SOUTHWESTERN GAS
-WILBROOK EXPLORATION INC							
8302425	F-7B-057876	4213332075	RECEIVED: 10/14/82	806 KARROLL #1 (15685)	JOSHUA (CONGL)	90.0	LONE STAR GAS CO
8302424	F-7B-057875	4213332440	RECEIVED: 10/14/82	808 KARROLL #2 (15685)	JOSHUA (CONGL)	20.0	LONE STAR GAS CO
8302429	F-7B-057880	4214330604	RECEIVED: 10/14/82	EBERHART-JACKSON #1 (087548)	MORGAN HILL (MARBLE F	1000.0	SOUTHWESTERN GAS
8302426	F-7B-057877	4213332255	RECEIVED: 10/14/82	HALEY-HUNTER #1 (100490)	JOSHUA (CONGL)	12.0	LONE STAR GAS CO
8302428	F-7B-057879	4213331731	RECEIVED: 10/14/82	HANCOCK #1 (15003)	MASSENGALE (DUFFER)	44.0	LONE STAR GAS CO
8302420	F-7B-057868	4213331900	RECEIVED: 10/14/82	HANCOCK #3 (084795)	MASSENGALE (DUFFER)	187.0	LONE STAR GAS CO
8302422	F-7B-057870	4213331967	RECEIVED: 10/14/82	JUANITA MASSENGALE -A- #1 (16189)	MASSENGALE (DUFFER)	45.0	LONE STAR GAS CO
8302421	F-7B-057869	4213332112	RECEIVED: 10/14/82	JUANITA MASSENGALE -A- #2 (100320)	LEHMAN (BEND CONGLOME	10.0	LONE STAR GAS CO
8302423	F-7B-057871	4213332066	RECEIVED: 10/14/82	JUANITA MASSENGALE -B- #1 (15594)	MASSENGALE (DUFFER)	120.0	LONE STAR GAS CO
8302427	F-7B-057878	4213331859	RECEIVED: 10/14/82	JUANITA MASSENGALE #1 (15155)	MASSENGALE (DUFFER)	130.0	LONE STAR GAS CO
8302419	F-7B-057867	4213331949	RECEIVED: 10/14/82	PINK HAILEY #1 (15450)	JOSHUA (CONGL)	40.0	LONE STAR GAS CO
-WILLIAM PERLMAN							
8302220	F-7C-052552	4243532485	RECEIVED: 10/14/82	107-TF AUA CAUTHURN #503	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
-WINDSOR GAS CORP							
8302416	F-04-057856	4213100000	RECEIVED: 10/14/82	AGNES N MARSHALL #1 ID 045108	CONCEPTION (TINNEY)	0.0	VALLEY GAS TRANSM
-WY-VEL CORP							
8302449	F-10-057911	4217931099	RECEIVED: 10/14/82	DENNIS (05147) #1	PAHANDLE-GRAY COUNTY	140.0	GETTY OIL CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART-WEISMAN (NTIS) AT (703) 487-4608, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8344.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative

determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the

extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 835 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir

102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressed brine
107-CB: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30771 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 3, 1982.

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PUKHAUSEN

KANSAS CORPORATION COMMISSION								

RECEIVED: 10/14/82 JA: KS								
8302639	502857	1516520843	108-ER		BASGALL C #4	ARTEMUS HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302646	502854	1516520541	108-ER		HANHARDT A #1	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302636	502854	1516500000	108-ER		HARTMAN A #1	ARTEMUS-HIMYAR	1.5	0.0 KANSAS NEBRASKA N
8302651	502869	1516500000	108-ER		TORRY #2	ARTEMUS-HIMYAR	1.5	0.0 KANSAS NEBRASKA N
8302660	502867	1516500000	108-ER			ARTEMUS-HIMYAR	0.0	0.0 KANSAS NEBRASKA N
8302643	502861	1516500000	103			ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N
8302645	502863	1516500000	103			ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N
8302650	502868	1516500000	103			ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302638	502856	1516500000	103			ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N
8302641	502859	1516500000	103			ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N
8302642	502860	1516500000	103			ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N
8302644	502862	1516500000	103			ARTEMUS-HIMYAR	6.2	0.0 KANSAS NEBRASKA N
8302646	502858	1516500000	103			ARTEMUS-HIMYAR	54.8	0.0 KANSAS NEBRASKA N
8302637	502855	1516500000	103			ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302648	502866	1516500000	103			ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302647	502865	1516500000	103			ARTEMUS-HIMYAR	1.7	0.0 KANSAS NEBRASKA N
8302652	502870	1516500000	103			ARTEMUS-HIMYAR	36.5	0.0 KANSAS NEBRASKA N

RECEIVED: 10/12/82 JA: KY								
KENTUCKY DEPARTMENT OF MINES & MINERALS								

RECEIVED: 10/12/82 JA: KY								
8302589	502756	1619300000	108		C A MILLS #1	ARTEMUS HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302592	502759	1619300000	108		C A MILLS #2	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302588	502755	1619300000	108		CAMMIE GRAY #1	ARTEMUS-HIMYAR	1.5	0.0 KANSAS NEBRASKA N
8302590	502757	1619300000	108		CLYDE HAMMONS #CH-1	ARTEMUS-HIMYAR	1.5	0.0 KANSAS NEBRASKA N
8302587	502754	1619300000	108		DAN GREEN #G-1	ARTEMUS-HIMYAR	0.0	0.0 KANSAS NEBRASKA N
8302591	502758	1619300000	108		DUANE OWENS #O-2	ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N

RECEIVED: 10/12/82 JA: KY								
COLUMBIA GAS TRANSMISSION CORP								

RECEIVED: 10/12/82 JA: KY								
8302635	502802	1619533039	107-DV		ED KINNINGHAM #K-3	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N

RECEIVED: 10/12/82 JA: KY								
EQUITABLE LIFE ASSURANCE SOCIETY								

RECEIVED: 10/12/82 JA: KY								
8302512	502667	1606145333	107-DV		G T MILLS #1	ARTEMUS-HIMYAR	6.2	0.0 KANSAS NEBRASKA N
8302611	502778	1608545335	107-DV		L T VALENTINE #V-2	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302511	502666	1608545334	107-DV		L T VALENTINE #V-3	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N

RECEIVED: 10/12/82 JA: KY								
GILBERT IMPORTED HARDWOODS INC								

RECEIVED: 10/12/82 JA: KY								
8302586	502753	1615900000	107-DV		LLOYD GREGORY #G-1	ARTEMUS-HIMYAR	109.5	0.0 KANSAS NEBRASKA N

RECEIVED: 10/12/82 JA: KY								
BERT T COMBS								

RECEIVED: 10/12/82 JA: KY								
8302589	502756	1619300000	108		R E MILLS #1	ARTEMUS-HIMYAR	6.2	0.0 KANSAS NEBRASKA N
8302592	502759	1619300000	108		SUSIE PARKER #P-1	ARTEMUS-HIMYAR	54.8	0.0 KANSAS NEBRASKA N
8302588	502755	1619300000	108		SUSIE PARKER #P-2	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302590	502757	1619300000	108		TEU CAMPBELL #C-2	ARTEMUS-HIMYAR	27.0	0.0 KANSAS NEBRASKA N
8302587	502754	1619300000	108		TED CAMPBELL #C-5	ARTEMUS-HIMYAR	1.7	0.0 KANSAS NEBRASKA N
8302591	502758	1619300000	108		TED CAMPBELL #4	ARTEMUS-HIMYAR	36.5	0.0 KANSAS NEBRASKA N

RECEIVED: 10/12/82 JA: KY								
COLUMBIA GAS TRANSMISSION CORP								

RECEIVED: 10/12/82 JA: KY								
8302635	502802	1619533039	107-DV		BILL OWENS #1 PERMIT #9865	HARDBURLEY	13.4	KENTUCKY WEST VIR

RECEIVED: 10/12/82 JA: KY								
EQUITABLE LIFE ASSURANCE SOCIETY								

RECEIVED: 10/12/82 JA: KY								
8302512	502667	1606145333	107-DV		IDA DAVIDSON #2 PERMIT #4946	HARDBURLEY	9.4	KENTUCKY WEST VIR
8302611	502778	1608545335	107-DV		M A PETREY #1 PERMIT #6834	HARDBURLEY	13.4	KENTUCKY WEST VIR
8302511	502666	1608545334	107-DV		PAUL PETREY #1 PERMIT 10538	HARDBURLEY	13.4	KENTUCKY WEST VIR

RECEIVED: 10/12/82 JA: KY								
GILBERT IMPORTED HARDWOODS INC								

RECEIVED: 10/12/82 JA: KY								
8302586	502753	1615900000	107-DV		PAUL PETREY #3 PERMIT #6006	HARDBURLEY	13.4	KENTUCKY WEST VIR

RECEIVED: 10/12/82 JA: KY								
COLUMBIA GAS TRANSMISSION CORP								

RECEIVED: 10/12/82 JA: KY								
8302635	502802	1619533039	107-DV		PETREY & NAPIER #1 PERMIT #4059	HARDBURLEY	13.4	KENTUCKY WEST VIR

RECEIVED: 10/12/82 JA: KY								
EQUITABLE LIFE ASSURANCE SOCIETY								

RECEIVED: 10/12/82 JA: KY								
8302512	502667	1606145333	107-DV		J S CLINE 820534	KENTUCKY AREA C	7.2	COLUMBIA GAS TRAN
8302611	502778	1608545335	107-DV		EQUITABLE/DENVIL JOHNSON #2	SHREWSBERRY GAS FIELD	14.5	MIDWESTERN PIPELI
8302511	502666	1608545334	107-DV		EQUITABLE/IDA LIKINS #1	READY GAS FIELD	11.0	

RECEIVED: 10/12/82 JA: KY								
GILBERT IMPORTED HARDWOODS INC								

RECEIVED: 10/12/82 JA: KY								
8302586	502753	1615900000	107-DV		EQUITABLE/MOORMAN JOHNSON #1	SHREWSBERRY GAS FIELD	11.0	

RECEIVED: 10/12/82 JA: KY								
COLUMBIA GAS TRANSMISSION CORP								

RECEIVED: 10/12/82 JA: KY								
8302635	502802	1619533039	107-DV		C F & CHRISTINE SHEWEY #1	LAUREL FORK	20.0	COLUMBIA GAS TRAN

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VOLUME 769

JD NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	RECEIVED:	JA: KY	FIELD NAME	PROD	PURCHASER
-J M KINZER										
8302514	502669	1619300000	107-DV	10/12/82	MONTGOMERY COAL #1 BLOCK #11	107-DV	JA: KY	BULL CREEK	0.0	COLUMBIA GAS TRAN
8302513	502668	1619300000	107-DV	10/12/82	MONTGOMERY COAL MELL #1 BLOCK 8	107-DV	JA: KY	BULL CREEK	0.0	COLUMBIA GAS TRAN
-KENTUCKY WEST VIRGINIA GAS CO										
8302531	502686	1611500000	107-DV		B F RICE - #7188	107-DV		KENTUCKY EAST	9.6	
8302526	502681	1619500000	107-DV		BEE WHITTS #1641	107-DV		KENTUCKY EAST	5.8	
8302560	502715	1619500000	107-DV		BLAIR FORK COAL CO #1712	107-DV		KENTUCKY EAST	2.9	
8302561	502716	1619500000	107-DV		C W PREECE #5556	107-DV		KENTUCKY EAST	38.1	
8302580	502740	1615900000	103		C W PREECE #5556	103		KENTUCKY EAST	8.9	
8302546	502701	1613100000	107-DV		CHESTER A DIXON - #1643	107-DV		KENTUCKY EAST	33.7	
8302553	502708	1619500000	107-DV		EUGENE MILLER #1693	107-DV		KENTUCKY EAST	8.8	
8302525	502680	1613100000	107-DV		FORDSON COAL CO - #1622	107-DV		KENTUCKY EAST	26.1	
8302527	502682	1613300000	107-DV		FORDSON COAL CO - #1669	107-DV		KENTUCKY EAST	21.9	
8302575	502735	1613300000	103		FORDSON COAL CO #1669	103		KENTUCKY EAST	7.0	
8302547	502702	1611900000	107-DV		GOODLCE BROTHERS - #1660	107-DV		KENTUCKY EAST	10.7	
8302558	502713	1611900000	107-DV		GOODLCE BROTHERS CO INC #1708	107-DV		KENTUCKY EAST	6.3	
8302565	502720	1619500000	107-DV		H G CHARLES #7255	107-DV		KENTUCKY EAST	15.0	
8302564	502719	1619500000	107-DV		H G CHARLES #7258	107-DV		KENTUCKY EAST	8.8	
8302567	502722	1619500000	107-DV		H K MARRIS - #7273	107-DV		KENTUCKY EAST	8.8	
8302533	502688	1619300000	107-DV		HARRISON COMBS - #7216	107-DV		KENTUCKY EAST	12.3	
8302529	502684	1619500000	107-DV		HARVEY RATLIFF-#6222	107-DV		KENTUCKY EAST	3.9	
8302534	502689	1619300000	107-DV		HIRAM LEWIS - #7218	107-DV		KENTUCKY EAST	36.9	
8302569	502724	1613300000	107-DV		JAMES AKEMON - #7287	107-DV		KENTUCKY EAST	5.8	
8302583	502766	1613300000	103		JAMES AKEMON - #7287	103		KENTUCKY EAST	11.5	
8302528	502683	1619500000	107-DV		JAMES GIBSON #6157	107-DV		KENTUCKY EAST	4.1	
8302581	502741	1619500000	103		JAMES GIBSON #6157	103		KENTUCKY EAST	4.1	
8302536	502691	1613300000	107-DV		JEFF TSCN - #7223	107-DV		KENTUCKY EAST	8.8	
8302562	502717	1619300000	107-DV		JOHN ADAMS - #7195	107-DV		KENTUCKY EAST	13.0	
8302563	502718	1619500000	107-DV		JOHN W GOFF - #7252	107-DV		KENTUCKY EAST	4.4	
8302537	502692	1619300000	107-DV		KENTUCKY UNION CO #7250	107-DV		KENTUCKY EAST	18.8	
8302520	502675	1613100000	107-DV		KYCOGA LAND CO - #1593	107-DV		KENTUCKY EAST	4.4	
8302521	502676	1613100000	107-DV		KYCOGA LAND CO - #1607	107-DV		KENTUCKY EAST	15.0	
8302524	502679	1613300000	107-DV		KYCOGA LAND CO - #1615	107-DV		KENTUCKY EAST	17.4	
8302550	502705	1613100000	107-DV		KYCOGA LAND CO #1687	107-DV		KENTUCKY EAST	12.1	
8302576	502736	1613100000	103		KYCOGA LAND CO #1687	103		KENTUCKY EAST	7.3	
8302551	502706	1613100000	107-DV		KYCOGA LAND CO #1688	107-DV		KENTUCKY EAST	4.7	
8302577	502737	1613100000	103		KYCOGA LAND CO #1688	103		KENTUCKY EAST	14.9	
8302554	502709	1613100000	107-DV		KYCOGA LAND CO #1688	107-DV		KENTUCKY EAST	8.8	
8302578	502738	1613100000	103		KYCOGA LAND CO #1694	103		KENTUCKY EAST	277.1	
8302556	502711	1613100000	107-DV		KYCOGA LAND CO #1697	107-DV		KENTUCKY EAST	8.8	
8302579	502739	1613100000	103		KYCOGA LAND CO #1697	103		KENTUCKY EAST	16.6	
8302585	502752	1613100000	103		KYCOGA LAND CO #1697	103		KENTUCKY EAST	76.2	
8302516	502671	1611900000	107-DV		LILY FENDRIX - NO 7275	107-DV		KENTUCKY EAST	10.7	
8302548	502703	1613300000	107-DV		MARION HUNTER - #1540	107-DV		KENTUCKY EAST	7.6	
8302518	502673	1613300000	103		MELDIE CAMPBELL - #1662	103		KENTUCKY EAST	15.0	
8302532	502687	1619500000	107-DV		MELDIE CAMPBELL #1662	107-DV		KENTUCKY EAST	8.0	
8302568	502723	1613300000	107-DV		MONROE SMITH - #1570	107-DV		KENTUCKY EAST	11.5	
8302582	502745	1613300000	103		MOSES ISON - #7202	103		KENTUCKY EAST	24.7	
8302522	502677	1611900000	107-DV		MOSES ISON - #7283	107-DV		KENTUCKY EAST	6.3	
8302517	502672	1611900000	107-DV		MOSES ISON - #7283	107-DV		KENTUCKY EAST	31.4	
8302545	502700	1619500000	107-DV		NANCY ASHLEY - #1611	107-DV		KENTUCKY EAST	8.8	
8302523	502678	1619500000	107-DV		NOLA FRANCIS - #1561	107-DV		KENTUCKY EAST	3.0	
					POMPEY COAL & COKE - #1591			KENTUCKY EAST	8.8	
					POMPEY COAL & COKE CO #1613			KENTUCKY EAST	8.5	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
83025 59	502714	1613300000	107-DV	107-DV	ROBERT COLLINS JR #1709	KENTUCKY EAST	16.4	KENTUCKY WEST VIR	
83025 19	502674	1619500000	107-DV	107-DV	ROBERT WILLIAMS - #1585	KENTUCKY EAST	15.3	KENTUCKY WEST VIR	
83025 49	502704	1619500000	107-DV	107-DV	ROBERT WILLIAMS #1682	KENTUCKY EAST	4.4	KENTUCKY WEST VIR	
83025 52	502707	1619500000	107-DV	107-DV	ROBERT WILLIAMS #1691	KENTUCKY EAST	4.4	KENTUCKY WEST VIR	
83025 30	502685	1611500000	107-DV	107-DV	S J SHCRT-#6927	KENTUCKY EAST	3.9	KENTUCKY WEST VIR	
83025 15	502670	1612700000	107-DV	107-DV	STELLA S MOORE - #1187	KENTUCKY EAST	6.0	KENTUCKY WEST VIR	
83025 35	502690	1613300000	107-DV	107-DV	T B WATTS - #7220	KENTUCKY EAST	14.2	KENTUCKY WEST VIR	
83025 55	502710	1611900000	107-DV	107-DV	THE ARIC CORP #1695	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83025 57	502712	1611900000	107-DV	107-DV	THE ARIC CORP #1701	KENTUCKY EAST	7.3	KENTUCKY WEST VIR	
83025 66	502721	1619300000	107-DV	107-DV	WILLIAM BREMER - #7265	KENTUCKY EAST	21.3	KENTUCKY WEST VIR	
83025 70	502725	1613100000	107-DV	107-DV	WILLIAM CRESS - #7293	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83025 84	502747	1613100000	103	103	WILLIAM CRESS - #7293	KENTUCKY EAST	39.0	KENTUCKY WEST VIR	
-KEPOT INC									
83026 02	502769	1613100000	103	103	RECEIVED: 10/12/82	KENTUCKY EAST	1.0	KENTUCKY WEST VIR	
83026 18	502785	1611900000	107-DV	107-DV	A B SPELL #K348-7325	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83025 93	502760	1611900000	103	103	ARIO CORP - #K330-1719	KENTUCKY EAST	12.3	KENTUCKY WEST VIR	
83025 98	502765	1611900000	103	103	ARIO CORP - KP-4	KENTUCKY EAST	3.6	KENTUCKY WEST VIR	
83026 10	502777	1611900000	107-DV	107-DV	ARIO CORP #K1306	KENTUCKY EAST	10.6	KENTUCKY WEST VIR	
83025 44	502699	1611900000	107-DV	107-DV	ARIO CORPORATION - #K332-1736	KENTUCKY EAST	13.7	KENTUCKY WEST VIR	
83026 16	502783	1611900000	107-DV	107-DV	BEATRICE COLLINS - #K321-1772	KENTUCKY EAST	15.2	KENTUCKY WEST VIR	
83026 21	502788	1611980000	107-DV	107-DV	D B & IDA PATRICK #K1393	KENTUCKY EAST	75.3	KENTUCKY WEST VIR	
83025 38	502693	1619500000	103	103	D M STEWART #K63-1711	KENTUCKY EAST	5.8	KENTUCKY WEST VIR	
83025 72	502728	1613100000	103	103	D T LEWIS - #KF367	KENTUCKY EAST	2.2	KENTUCKY WEST VIR	
83025 99	502766	1613100000	103	103	D T LEWIS #KF56	KENTUCKY EAST	56.4	KENTUCKY WEST VIR	
83026 04	502770	1613100000	103	103	DEWEY LEWIS #K335-1742	KENTUCKY EAST	1.0	KENTUCKY WEST VIR	
83026 03	502771	1613300000	103	103	ELKHORN COAL CO INC - #K1350	KENTUCKY EAST	6.9	KENTUCKY WEST VIR	
83026 04	502771	1613300000	103	103	ELKHORN COAL CO INC #K1351	KENTUCKY EAST	6.9	KENTUCKY WEST VIR	
83025 39	502694	1613300000	107-DV	107-DV	ELKHORN COAL CO INC - #K67-1716	KENTUCKY EAST	8.9	KENTUCKY WEST VIR	
83026 06	502773	1613100000	103	103	FELIX G TURNER - #KF357	KENTUCKY EAST	6.9	KENTUCKY WEST VIR	
83026 05	502772	1613100000	103	103	FELIX G TURNER #KF355	KENTUCKY EAST	4.4	KENTUCKY WEST VIR	
83026 05	502772	1613100000	103	103	FORDSCN COAL CO #K120	KENTUCKY EAST	47.7	KENTUCKY WEST VIR	
83025 94	502761	1613100000	103	103	FORDSCN COAL CO #K121	KENTUCKY EAST	15.2	KENTUCKY WEST VIR	
83025 95	502762	1613100000	103	103	FORDSCN COAL CO #K121	KENTUCKY EAST	17.4	KENTUCKY WEST VIR	
83026 12	502779	1613100000	107-DV	107-DV	FORDSCN COAL CO #K121	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83025 42	502697	1611900000	107-DV	107-DV	GOODLCE BROTHERS CO INC - #K82-1723	KENTUCKY EAST	38.0	KENTUCKY WEST VIR	
83026 20	502787	1607100000	107-DV	107-DV	H L MCCRE # KL363	KENTUCKY EAST	5.8	KENTUCKY WEST VIR	
83026 07	502774	1607100000	103	103	H L MCCRE #K1363	KENTUCKY EAST	6.3	KENTUCKY WEST VIR	
83026 01	502768	1613100000	103	103	HAYES LEWIS #K337-1747	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83026 19	502786	1613100000	107-DV	107-DV	HAYES LEWIS #K337-1747	KENTUCKY EAST	19.4	KENTUCKY WEST VIR	
83026 14	502761	1607100000	107-DV	107-DV	HELEN MARTIN #K1315	KENTUCKY EAST	23.1	KENTUCKY WEST VIR	
83026 15	502782	1611900000	107-DV	107-DV	ISAAC HICKS #KF319	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83025 40	502695	1619500000	107-DV	107-DV	ISAAC MOORE - #K72-7326	KENTUCKY EAST	5.0	KENTUCKY WEST VIR	
83025 71	502727	1619500000	103	103	ISAAC MOORE - #K72-7326	KENTUCKY EAST	5.8	KENTUCKY WEST VIR	
83025 43	502698	1619500000	107-DV	107-DV	J M TAYLOR - #K83-1735	KENTUCKY EAST	47.7	KENTUCKY WEST VIR	
83026 13	502780	1611900000	107-DV	107-DV	JOHN CALHOUN #KF48	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83026 08	502775	1607100000	107-DV	107-DV	M A DAVIDSON - #KL41	KENTUCKY EAST	8.8	KENTUCKY WEST VIR	
83025 96	502763	1607100000	103	103	M A DAVIDSON #KL41	KENTUCKY EAST	21.5	KENTUCKY WEST VIR	
83025 97	502764	1607100000	103	103	M A DAVIDSON #KL47	KENTUCKY EAST	19.1	KENTUCKY WEST VIR	
83026 09	502776	1607100000	107-DV	107-DV	M A DAVIDSON #KL47	KENTUCKY EAST	12.3	KENTUCKY WEST VIR	
83025 41	502696	1619500000	107-DV	107-DV	NORMA CORNETT - #K76-1729	KENTUCKY EAST	17.4	KENTUCKY WEST VIR	
83026 17	502784	1611900000	107-DV	107-DV	SHERWOOD OSBORNE - #KL327	KENTUCKY EAST	100.0	KENTUCKY WEST VIR	
-REEF PETROLEUM CORP									
83026 22	502789	1610744276	RECEIVED: 10/12/82	102-4	RECEIVED: 10/12/82	BELL'S FERRY			
-ROBINSON ENGINEERING									
83026 22	502789	1610744276	102-4	102-4	ALBERTA CORUM #1	BELL'S FERRY			

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J D NO	JA DKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASED
8302626	502793	1610709557	108		ALICE M SIDMAN #3	OAK HILL WEST	7.0	ORBIT GAS CO
8302625	502792	1610709520	108		C P FERGUSON #4	OAK HILL WEST	2.0	ORBIT GAS CO
8302624	502791	1610712271	108		HERBERT L CARROLL #2	OAK HILL WEST	12.0	ORBIT GAS CO
8302623	502790	1610713028	108		NORTON COAL CO #3	OAK HILL WEST	12.0	ORBIT GAS CO
-TRYAND INC					RECEIVED: 10/12/82			
8302573	502730	1613100000	103		JA: KY	HYDEN WEST	200.0	TEXAS EASTERN TPA
-WALWELLS OIL & GAS CO					KEEN PEIRS #2			
8302509	502664	1615900000	108		RECEIVED: 10/12/82	APPALACHIAN	7.5	COLUMBIA GAS TRAN
8302510	502665	1615900000	108		WARD PEIRS #1	APPALACHIAN	7.5	COLUMBIA GAS TRAN
-WISER OIL CO					WARD PEIRS #2			
8302630	502797	1612100000	108		RECEIVED: 10/12/82	GRAY	4.0	DELTA NATURAL GAS
8302627	502794	1613100000	108		JA: KY	LESLIE COUNTY FIELD	0.3	DELTA NATURAL GAS
8302634	502801	1613100000	108		BRAFFORD COMMUNITY #1	LESLIE COUNTY FIELD	10.5	DELTA NATURAL GAS
8302629	502796	1612100000	108		C A DIXON #1	GRAY FIELD	3.0	DELTA NATURAL GAS
8302632	502799	1613100000	108		C A DIXON #11	LESLIE COUNTY FIELD	1.7	DELTA NATURAL GAS
8302631	502798	1613100000	108		NANCY GRAY #1	LESLIE COUNTY	3.9	DELTA NATURAL GAS
8302633	502800	1613100000	108		NIELD PEIRS - U S GOVERNMENT #5	LESLIE COUNTY	11.7	DELTA NATURAL GAS
8302628	502795	1612100000	108		NIELD-MITCHELL HEIRS #1	GRAY FIELD	5.9	DELTA NATURAL GAS
					U S GOVERNMENT 107 AG #2			
					W P BRAFFORD #1			

MONTANA BOARD OF OIL & GAS CONSERVATION								

-LUFF EXPLORATION CO								
8302656	12-81-260	2508321495	103		RECEIVED: 10/12/82	NORTH SIOUX PASS	54.0	TRUF OIL CO
8302655	12-81-261	2508321533	103		FEDERAL #1-17	MIDDLE SIOUX PASS	29.0	TRUF OIL CO

NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION								

-ECLIPSE ENERGY CORP					STATE #2-27			
8302653	3994	3101317645	107-TF		RECEIVED: 10/14/82	LAKE SHORE	0.0	NATIONAL FUEL GAS
8302654	3995	3101317656	107-TF		COTTON #1	LAKE SHORE	0.0	NATIONAL FUEL GAS

MARTIN #2								

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PCRT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8366.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Categories within each NGPA section

are indicated by the following codes:
 Section 102-1: New OCS lease
 102-2: New well (2.5 mile rule)
 102-3: New well (1,000 ft rule)
 102-4: New onshore reservoir
 102-5: New reservoir on old OCS lease
 Section 107-DP: 15,000 feet or deeper
 107-GB: Geopressed brine
 107-CS: Coal seams
 107-DV: Devonian shale
 107-PE: Production enhancement
 107-TF: New tight formation
 107-RT: Recompletion tight formation

Section 108: Stripper well
 108-SA: Seasonally affected
 108-ER: Enhanced recovery
 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-30772 Filed 11-9-82; 8:45 am]

BILLING CODE 6717-01-M

**Notice of Cases Filed; Week of
 October 15 through October 22, 1982**

Office of Hearings and Appeals

During the week of October 15

through October 22, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

November 2, 1982.

George b. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 15 through October 22, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 1, 1982	Office of Special Counsel/Gulf Oil Corporation, Washington, D.C.	HRZ-0103	Interlocutory Order. If granted: Pursuant to the January 21, 1982 (Case No. HRD-0003) and the March 5, 1982 (Case No. HRX-0015) Decision and Orders issued to the Office of Special Counsel, Gulf Oil Corporation would be compelled to produce certain documents.
Oct. 15, 1982	American Satellite Company, Rockville, Maryland	HFA-0090	Appeal of an Information Request Denial. If granted: The DOE would provide American Satellite Company an opportunity to review certain DOE documents relating to a contract proposal of the firm prior to release to other parties.
Oct. 18, 1982	Ben Shimek, San Francisco, California	HRH-0013 and HRD-0083	Request for Evidentiary Hearing and Motion for Discovery. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Ben Shimek in response to the Proposed Remedial Orders (Case Nos. BRO-1417-BRO-1422) issued to Ben Shimek.
Oct. 18, 1982	FASGO, Incorporated, Washington, D.C.	HRD-0085 and HRH-0085	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by FASGO, Inc. in response to the June 2, 1982, Proposed Remedial Order (Case No. HRO-0073) issued to FASGO, Inc.
Oct. 19, 1982	Crown Central Petroleum Corporation, Baltimore, Maryland	HRZ-0102	Interlocutory Order. If granted: A Proposed Remedial Order issued to Crown Central Petroleum Corporation (Case No. HRO-0072) would be dismissed.
Oct. 19, 1982	Associated Service Corporation, Indianapolis, Indiana	HEE-0046	Exception to the Reporting Requirements. If granted: Associated Service Corporation would not be required to file form EIA-9A "No. 2 Distillate Price Monitoring Report."

Refund Applications Received

[Week of October 15 to October 22, 1982]

Date	Name of Refund Proceeding/Name of Refund Applicant	Case No.
Oct. 7, 1982	Vickers Oil Company/McPherson Oil Company	RL1-373
Oct. 19, 1982	Tenneco Oil Company/Alfred Friedman	RF7-103

[FR Doc. 82-30822 Filed 11-9-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140023 PH-FRC 2240-2]

JRB Associates, Inc.; Transfer of Data to Contractor**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA will transfer to its contractor, JRB Associates Inc. (JRB), of McLean, Virginia, information which has been or will be submitted by manufacturers and importers under sections 4, 5, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed confidential. JRB will review this information to assist EPA to develop alternative approaches to its design of industry reporting and recordkeeping rules and to provide analyses of alternatives for reducing reporting burdens.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW, Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: ((Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA is authorized to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment, and to take action with respect to chemical substances and mixtures that are imminent hazards. EPA is also charged with exercising its authority in such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation, while fulfilling its primary purpose of assuring against unreasonable risk.

Toward carrying out this dual responsibility, EPA is reviewing and analyzing its approach to design of reporting and recordkeeping rules and regulations under TSCA. To accomplish this, EPA has contracted with JRB, of McLean, Virginia (Contract No. 68-01-6709), to assist it in analyzing alternatives for responsibly reducing reporting burdens on industry.

Under 40 CFR 2.306(j), EPA has determined that it may need to disclose confidential business information to

JRB. Under the terms of the contract, EPA will provide JRB with information submitted to the Inventory of Chemical Substances under section 8(b) of TSCA. This information may include the identity of chemical manufacturers, the chemicals produced by these manufacturers, and the volumes of the chemicals produced. In addition, EPA may provide JRB with similar information on chemical substances obtained from test data submitted under section 4, premanufacture notices submitted under section 5(a), health and safety studies submitted under section 8(d), or from submissions under present and future section 8(a) rules.

Under the EPA Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manual, JRB has been authorized to have access to this information. EPA has approved JRB's security plan and has conducted the required inspection of the JRB facilities and found them to be in compliance with the provisions of the manual.

Since JRB will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of PMNs, section 4 test data, inventory data under section 8(b), and section 8(a) information, that JRB will have access to confidential business information from EPA. After completing the industry reporting and recordkeeping rules analyses, JRB will return all confidential business information to EPA.

JRB personnel will be required to sign a nondisclosure agreement before they are permitted access to such information. JRB is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual.

Dated: October 27, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-30319 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2517/T393; PH-FRL 2242-6]

(Z)-11-Hexadecenal; Extension of an Exemption From Requirement of a Tolerance**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has extended the temporary exemption from the

requirement of a tolerance for residues of the artichoke plume moth pheromone (Z)-11-hexadecenal in or on the raw agricultural commodity artichokes.

DATE: This temporary exemption from the requirement of a tolerance expires July 26, 1983.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the Federal Register of October 20, 1981 (46 FR 51470) that a temporary exemption from the requirement of a tolerance had been established for residues of the artichoke plume moth pheromone (Z)-11-hexadecenal when used as a pheromone on the raw agricultural commodity artichokes. This exemption from the requirement of a tolerance was established in response to pesticide petition (PP 1G2517), submitted by Health-Chemical Corporation, Hercon Division, 1107 Broadway, New York, NY 10010.

The company has requested a one-year extension of the temporary tolerance to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 8730-EUP-11 which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Health-Chem Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee or the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires July

26, 1983. Residues remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemption from the requirement of a tolerance. This temporary exemption from the requirement of a tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

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

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: November 3, 1982.

Douglas D. Camp, Jr.

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-30886 Filed 11-9-82; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[FCC 82-452; File No. 26006-CL-P-(17)-82; CC Docket No. 82-721, et. al.]

Advance Mobile Phone Service, Inc. et al.; Memorandum Opinion and Order Granting Application and Designating Applications for Hearing

Adopted: October 21, 1982.

Released: November 1, 1982.

In re application of Advanced Mobile Phone Service, Inc., for a construction permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Chicago, Illinois, modified Standard Metropolitan Statistical Area, File No. 26006-CL-P-(17)-82; and In re applications of Rogers Radiocall, Inc. and Cellular Mobile Systems of Illinois, Inc. for a construction permit to establish a cellular system operating on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Chicago, Illinois, modified Standard

Metropolitan Statistical Area, CC Docket No. 82-721, File No. 26040-CL-P-(18) File No. 26181-CL-P-(34)-82, designation of applications for consolidated hearing on stated issues.

1. Presently before the Commission are the captioned applications of Rogers Radiocall, Inc. (Rogers), Cellular Mobile Systems of Illinois, Inc. (CMS) and Advanced Mobile Phone Service, Inc. (AMPS). AMPS, CMS and Rogers propose to construct cellular systems to serve the Chicago, Illinois, Standard Metropolitan Statistical Area (SMSA).¹ CMS and Rogers filed Petitions to Deny each other's applications. No petitions to deny were filed against the AMPS application.² Responsive pleadings were filed.

2. Because we find that the public interest would be served thereby, we are granting the AMPS application.³ As discussed below, we find that the Rogers and CMS petitions fail to raise any substantial and material issues requiring designation for hearing. However, the CMS and Rogers applications are electrically mutually exclusive, and accordingly, we are designating those applications for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified, Memorandum Opinion and Order on Reconsideration*, 89 FCC 2d 58 (1982), and *further modified Memorandum Opinion and Order on Further Reconsideration*, 90 FCC 2d 571 (1982). We are also requiring that CMS modify its application as set forth below.

Rogers Application

3. In its Petition to Deny, CMS alleges that Rogers did not comply with Section 22.913(a)(5)⁴ of the Rules and that it

¹ As noted in the captions, AMPS, a wholly-owned subsidiary of the American Telephone and Telegraph Company (AT&T), is requesting the wireline allocation (frequency block B) and both Rogers and CMS are requesting the non-wireline allocation (frequency block A) in the Chicago market.

² Petitions to defer Commission action on the AMPS application have been filed by Rogers and CMS. See paragraph 16, *infra*.

³ Section 22.901 of our Rules requires that cellular service be provided by an AT&T affiliate only through a separate subsidiary. AMPS has demonstrated in its application that it has met this requirement. Our Rules also require that AMPS submit a cellular capitalization plan for Commission approval. AMPS did submit its plan on May 25, 1982. Our decision here is subject to, and conditioned on, action on the capitalization plan. See para. 18, *infra*. We recognize that further approval may be required when ownership in AMPS in Chicago is changed pursuant to the AT&T reorganization.

⁴ CMS alleges Rogers did not adequately describe its basis for determining system congestion as required by our Rules.

failed to demonstrate that it is financially qualified. CMS argues that Rogers failed to demonstrate that the bank loan on which it relies to finance construction and first year operating expenses will actually be available and that the letter of commitment from the bank does not describe the terms and conditions of the loan.⁵ CMS further alleges that Rogers failed to provide reasonable assurance that Metromedia will be able to meet its commitment to Rogers.

4. We have reviewed the application, the pleadings and Rogers' reply.⁶ We find that Rogers complied with Section 22.913(a)(5) of the Rules. See Volume I of Application, "Response to Section 22.913(a)(5)," and "Technical Response to Petition to Deny," both of which fully address system congestion and cell-splitting. Rogers estimates the cost of construction and first year operating costs to be \$19,027,100 which are more than covered by a loan of \$20 million from the First National Bank of Chicago. We have reviewed the terms of the First National Bank of Chicago commitment letter and find that, under the applicable precedent, Rogers has shown reasonable assurance that this loan will be available to it. *Multi-State Communications Inc. v. FCC*, 590 F.2d 1117 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 959 (1979); *Las Vegas Valley Broadcasting v. FCC*, 589 F.2d 594 (D.C. Cir. 1978); *Merrimack Valley Broadcasting Inc.*, 82 FCC 2d 166 (1980).⁷ Therefore, Rogers has demonstrated its financial ability regardless of potential contributions from Metromedia.⁸

⁵ CMS also alleges that the letter of commitment from the First National Bank of Chicago refers to Rogers Radio Communications Service (RRCS) and not to Rogers Radiocall, and it makes no reference to the impending acquisition of RRCS by Metromedia. RRCS and Metromedia, Inc. are 50% owners of Rogers.

⁶ Rogers submitted an amendment to its financial showing with its Reply on August 10, 1982. This amendment was returned on August 23, 1982, as unacceptable for filing. On September 13, 1982, Rogers filed a Petition for Reconsideration of this action and resubmitted the amendment. The Petition for Reconsideration is hereby dismissed. Our Rules provide that reconsiderations of interlocutory actions by delegated authority will not be entertained. See §§ 1.102, 1.106. In any event, as discussed in the order, Rogers has adequately established its financial qualifications in its original exhibits.

⁷ We see no merit to CMS's allegation that the letter is addressed to RRCS and not to Rogers, since the letter specifically refers to the proposed cellular telephone system.

⁸ Metromedia states that it has allocated \$20 million of its cash resources and other credit facilities to support its Chicago proposal. We do not need to rely on that statement here because Rogers has fully satisfied our financial requirements without reliance on the Metromedia commitments.

CMS Application

5. In its Petition to Deny the CMS application, Rogers alleges that CMS is not financially qualified. Rogers argues that the loan commitment from Graphic Scanning Corporation (Graphic)⁹ to finance its construction does not provide reasonable assurance that its parent company has sufficient funds since Graphic has numerous applications pending before the Commission in various communication services¹⁰ and has overcommitted its funds in those applications. In addition, Rogers alleges that a \$200 million equity offering is not acceptable for demonstrating financial ability and, in the alternative, information concerning the ability of the future stockholders to meet their commitments should be required. Rogers also alleges CMS understated its costs for construction and operation of the proposed facility. Allegations against the financial ability of Graphic and its subsidiaries have been raised in virtually all of the top-30 markets.

6. We first dispose of Roger's argument that Graphic has overcommitted its available funds in view of the numerous non-cellular applications it or its affiliates have pending before the Commission. The simple answer is that Graphic has made the specific un rebutted statement that none of its cellular funds have been allocated for any other project. We do not require more. See § 22.917(b). Thus, this is not a case like those where we have designated issues for hearing when it appeared that an applicant had already committed funds for another project.¹¹ As for Rogers' more specific allegations concerning the funds available for the CMS cellular ventures, although we here deal specifically with Chicago, we will consider broadly Graphic's ability to finance construction of all 30 systems for which it has applied at a total initial investment of \$337 million.¹² The standards we apply are

those we have historically used in analogous cases both in the mobile and broadcast areas. As a matter of procedural efficiency and fairness, it is our intention that the following analysis and conclusions put to rest issues concerning Graphic's basic financial qualifications for the top-30 markets to the extent that the issues raised in others are similar to the issues raised here by Rogers. Any financial issues relevant to specific markets will, of course, be resolved in subsequent orders.

7. CMS estimates its construction and operating costs for one year to be \$15,487,000 and relies on a letter commitment for \$17,200,000 from Graphic to finance its proposal (Exh. VIII, App. VIII-C). Graphic, in turn, relies on three sources of funds to finance construction of 30 systems by its wholly-owned subsidiaries: (1) Its own cash and marketable securities in current asset accounts; (2) a commitment from a group of banks; and (3) an offer by E. F. Hutton to serve as managing underwriter for a public offering of equity and equity-related financings. Although Graphic has explicitly offered CMS financing from internal funds, it is reasonable to assume that Graphic will ultimately choose that combination of sources which best serves the interests of its stockholders and subsidiary companies. We therefore turn to each of these sources.

8. *Internal Funds.* Graphic claims to have "cash and marketable securities in excess of \$132 million, of which \$100 million has been specifically earmarked by Graphic for cellular development and operation" (Exh. VIII, p. 2). The long-standing Commission standard, however, is not current assets but net liquid assets, that is, the excess of current assets over current liabilities. *Central Texas Broadcasting Co.*, 74 FCC 2d 393, 401-02 (1979); *Merrimack Valley Broadcasting, Inc.*, 82 FCC 2d 166, 168-69, 174-75 (1980); *WVOC, Inc.*, 32 FCC 2d 765, 769 (Rev. Bd. 1971); *The Tuscarawas Broadcasting Co.*, 4 FCC 2d 466, 468 (Rev. Bd. 1966). Exhibit VIII, Appendix VIII-E, contains Graphic's quarterly Securities and Exchange Commission Form 10-Q for the quarter ended March 31, 1982. The total of cash and marketable securities is \$132.9 million,¹³ and the total of current

liabilities is \$25.9 million, yielding about \$107 million in net liquid assets. Accordingly, we conclude that Graphic's net liquid assets are sufficient to satisfy its commitment of \$100 million to its cellular subsidiaries.

9. *Bank letter.* The Commission requires reasonable assurance that a loan or similar financing will be available to the applicant if it secures a construction permit. *Multi-State Communications, Inc. v. FCC*, supra; *Las Vegas Valley Broadcasting Co. v. FCC*, supra. Exhibit VIII, App. VIII-E, of CMS' application is a letter from a vice-president of Chemical Bank acting on behalf of itself and six other named lending institutions. The letter states that the banks "have established credit facilities aggregating up to \$200 million, for use in connection with Graphic Scanning Corp.'s planned establishment through appropriate subsidiaries of cellular mobile communications systems * * *." The letter goes on to state that funds will initially be made available upon the grant of any of Graphic's cellular applications in the form of a revolving credit arrangement convertible to a term loan, whose provisions are stated explicitly. Finally, the letter states that the formal agreement "will include covenants, conditions of availability and security provisions, and will require such documentation, as are customarily included in such agreements." Under the *Multi-State* test, this letter is acceptable as "reasonable assurance" that \$200 million will be available to Graphic for cellular construction. The only unknown elements are the specific "customary" conditions. Under *Multi-State*, this lack of specificity does not negate the validity of the commitment.

10. *Equity Financing.* We contemplated that applicants might need or want to obtain equity financing. See § 22.917(e) of the Rules. Nevertheless, the proposal before us is one of first impression. We are unable to find any other case in which an applicant proposed a public offering, as opposed to a private placement of stock in a closely-held company, to support its financial showing. Of course, we have never before licensed such costly terrestrial radio facilities; even the largest VHF television station rarely costs more than \$4 or \$5 million to build. We believe, therefore, that Graphic's proposal warrants careful analysis.

11. CMS' Exhibit VIII, App. VIII-F, is a letter from the Senior Vice President of E. F. Hutton offering to act as "managing underwriter for \$200 million in equity and equity related financings." In addition, CMS appended to its

⁹ CMS is a subsidiary of Graphic.

¹⁰ Graphic has applications pending before the Commission for a Direct Broadcast Satellite System and in the Digital Electronic Message Service, among other.

¹¹ Contrast *Jay Sadow*, 39 FCC 2d 808 (Rev. Bd. 1973), and *Key Broadcasting*, 43 FCC 2d 255 (Rev. Bd. 1973). Of course, to the extent that Graphic must show financial qualifications for the non-cellular licenses for which it has or will apply, it may not rely on the funds committed here for cellular.

¹² It should be noted that Graphic has already announced settlement agreements in Indianapolis and Milwaukee. Thus, in all likelihood it will not incur the full projected cost of those two systems (\$5.5 and \$6.3 million, respectively). There may well be more settlements, which will further reduce initial capital outlays. Moreover, it is unlikely—though admittedly not impossible—that Graphic will win every comparative hearing. We recognize, therefore, that our financial analysis here is a

"worst-case" analysis, albeit one which is required by our Rules and by principles of fairness to all parties to these proceedings.

¹³ Graphic's large amount of cash results primarily from its successful sale of \$105 million of 10 percent convertible subordinated debentures in December 1981. See Note 3 to Form 10-Q Report.

Opposition to Petition to Deny a second letter from E. F. Hutton explaining in further detail how E. F. Hutton reached the conclusions expressed in its first letter. We find that these letters, expressing the expert opinions of a large and experienced investment banking firm, constitute reasonable assurance that a successful public offering can be made. We rely on the following specific representations.

12. First, E. F. Hutton has managed three successful financings on behalf of Graphic in the past two-and-one-half years. It is, therefore, familiar with the marketplace's reaction to Graphic's offerings. Second, E. F. Hutton has carefully analyzed Graphic's financial position, current capitalization and future business plans, among other things. On the basis of its analysis, E. F. Hutton is "convinced of Graphic's financial strength and its ability to successfully develop addition, sophisticated communications services including, in particular, cellular mobile radio." Finally, E. F. Hutton states in its second letter that the \$200 million figure was the product of careful analysis and professional judgment and that it was determined with knowledge of Graphic's \$200 million financing arrangement with the seven banks. Based on these representations, and the absence of any expert opinion to the contrary, we find that Graphic's proposed public offering is a valid method of demonstrating its financial qualifications.

13. *Other Financial Issues.* Rogers also argues that CMS has underestimated the cost of its Chicago proposal. We have long found that the general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue in hearing.¹⁴ Furthermore, CMS' estimates are not unreasonable on their face, and Rogers has failed to raise any serious questions that have not been adequately explained by CMS in its Opposition.¹⁵

14. *Conclusion.* We find that Graphic and its cellular subsidiaries have provided reasonable assurance that \$500 million will be available to cover the \$337 million cost of construction of 30 cellular systems in the top-30 markets. The amount committed is sufficiently in excess of the estimated costs to allow for considerable error in the estimates. Accordingly, we conclude that no financial issue should be designated for

hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems.

15. *Extension of CGSA.* CMS' proposed Cellular Geographic Service Area (CGSA) extends into the central Rockford SMSA. Pursuant to Rule 22.903(a) a CGSA may not extend into another central SMSA. Therefore, we will require that CMS file a conforming amendment to bring the nonconforming CGSA and 39 dBu contour for cell IL 011028 into compliance with the rules. The amended 39 dBu contour shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumstance, brief extensions of time may be granted at the discretion of the administrative law judge.¹⁶

AMPS Application

16. Petitions to defer Commission action on the AMPS application have been filed by Rogers and CMS. We find that it is premature to rule on these petitions at this time. We are not yet in a position to know who will be awarded a license for the nonwireline block of cellular frequencies in this market, and thus to assess what, if any, injury to the public interest may occur as a result of AMPS beginning to provide service before its nonwireline competitor. In addition, petitioners will not be prejudiced by our decision not to address the petitions for deferral at this time so long as those petitions are considered prior to granting a covering license to AMPS to provide cellular service. Consequently, we will not resolve the deferral petitions at this time, but will do so prior to granting a covering license. In reaching this decision, we have considered the effect of Section 119 of the Communications Amendments Act of 1982, Pub. L. 97-259, which amended Section 319(d) of the Act. The new law dispenses with the two-step (construction permit-license) radio authorization process for common carrier stations. However, under the new law the Commission may retain the process if we determine that the public interest, convenience and necessity so require. In cellular radio, we find that maintaining the two-step process, at least for the present, would be in the public interest regardless of our ultimate disposition of other public mobile radio

services. The two-step process will allow us to deal effectively with the head-start issue in particular cases and will enable us to monitor more closely the construction and development of these systems. We believe it is important to oversee the implementation of cellular, and the existing regulatory procedures will facilitate our doing so.

Conclusions

17. Based on our analysis of the applications and our resolution of the contested issue in this order, we find the applicants to be legally, technically, financially and otherwise qualified¹⁷ to construct and operate their proposed cellular systems. As indicated in our previous discussions, the captioned CMS application does not comply with one of the cellular rules. Due to the new regulatory scheme adopted, neither applicants nor the Commission's staff has had a great deal of experience under the rules. Under these circumstances, we believe that inflexible application of the rules would not be in the public interest. Accordingly, we are requiring CMS to bring its application into conformance with the rules as specified in this order. We emphasize that the amendment ordered here may not be used to give CMS a comparative advantage in the hearing proceeding. In markets for which applications have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications. We further find that the grant of the AMPS application will serve the public interest, convenience and necessity.

18. Accordingly, it is ordered that the application of Advanced Mobile Phone Service, Inc., File No. 26006-CL-P-(17)-82, is granted, conditioned upon the Commission's action on the AT&T Cellular Capitalization Plan submitted on May 25, 1982, as provided by Section 22.901(d)(3) of the Commission's Rules.¹⁸

19. It is further Ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Rogers Radiocall, Inc. File No. 26040-CL-P-(18)-82, and

¹⁷ Although no party has raised the issue here, we recognize that the qualifications of Graphic, CMS' parent, may be in issue in CC Docket Nos. 82-587, *et al.* See note 19, *infra*, for our disposition of this issue.

¹⁸ The authorization also will be conditioned upon AMPS obtaining the appropriate antenna structure clearances. AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license to cover. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. AMPS' authorization (FCC Form 463) will reflect these conditions.

¹⁴ *E.g.*, Salem Broadcasting Co., Inc., 37 FCC 2d 115, 117, (Rev. Bd. 1972).

¹⁵ *E.g.*, Eastern Broadcasting Corp., 28 FCC 2d 28, 29 (Rev. Bd. 1971). The only arguably serious question involves the number of cellular switches, which are expensive, but CMS has fully responded to Roger's allegations.

¹⁶ On September 13, 1982, CMS resubmitted two amendments to modify its Cellular Geographic Service Area (CGSA). Since we are directing a specific amendment to cover this problem, we are returning the amendments under separate cover.

Cellular Mobile Systems of Illinois, Inc., File No. 26181-CL-P-(34)-82, are designated for hearing in a consolidated proceeding upon the following issues:¹⁹

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;²⁰ to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated

¹⁹ There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC2d 469, 501-02 (1981). We have found both of the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Illinois, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., et al. (ASD), FCC 82-391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing.

Because of the extreme importance and unequivocal finding of immediate need for cellular service, 86 FCC 2d at 489-90, we are unwilling to delay these proceedings until we take final action in ASD. In recognition of the importance of ASD, we plan to direct the ALJ to resolve it in an expedited manner and to require that exceptions to the initial decision be taken directly to the Commission. Contrast Questions Concerning Basic Qualifications of Broadcast Applicants, 28 RR 2d 705 (1973), Grayson Enterprises, Inc., 79 FCC 2d 936 (1980), and the applicability of Grayson in Little Rock Telephone Company, Inc., 89 FCC 2d 400 (1982). As set forth in para. 26, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Illinois, Inc. to hold a cellular license should ASD be resolved adversely to any of CMS's affiliate or parent companies or to any of their principals. Accord, Satellite Television Corporation, FCC 82-427, related October 13, 1982, at para. 95-6. To implement our decision, we direct the administrative law judges in this and other cellular proceedings in which Graphic's affiliates are involved to condition any award to take account of any action the Commission may take. The administrative law judges are further directed to disregard the ASD proceeding for all other purposes in these cellular dockets. In this connection, we note that Rogers is already a party in ASD and can adequately protect its interests there.

²⁰ For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. See 86 FCC 2d at 502.

increasing demand for local and roamer service;²¹

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);²² and

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

20. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.²³

21. It is further ordered that the applicants shall file written notices of appearances under Section 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the Federal Register.

22. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an administrative law judge to be specified in a later order.

23. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

24. It is further ordered that Cellular Mobile Systems of Illinois, Inc. is directed to file the conforming

²¹ In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. See 86 FCC 2d at 502-03.

²² See 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

²³ Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. See Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); Section 1.1221 of the Commission's Rules.

amendment specified in this order within 15 days after publication of this order in the Federal Register and that all applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 45 rather than 30 days after publication of this order in the Federal Register.

25. It is further ordered that the Petitions to Deny filed by Rogers Radio Call, Inc. and Cellular Mobile Systems of Illinois, Inc. are denied, and the Petition for Reconsideration filed by Rogers is dismissed.

26. It is further ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in A.S.D.

Answering Service, Inc., et al., FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

27. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances and Canadian coordination where needed.

28. The Secretary shall cause a copy of this order to be published in the Federal Register.

Federal Communications Commission.*
William J. Tricarico,
Secretary.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Cellular Mobile Radio Applications to Serve Chicago, Illinois

With this Memorandum Opinion and Order the Commission demonstrates its commitment to providing cellular mobile radio service to the American public as quickly as possible.

The Commission has delegated to our Common Carrier Bureau the authority to act on all other pending cellular applications, including the authority to issue construction permits in those markets where no mutual exclusivities are present. With this delegated authority the Bureau is now in a position to act swiftly on the remaining top-30 market applications and on the applications to be filed for the rest of the nation's cellular markets. Pursuant to this procedure, it is expected that all applications in the top-30 markets will be acted upon, either by grant or by hearing designation, no later than the end of this year.

I take this opportunity again to urge negotiation and settlement by mutually

*See attached separate statement of Commissioner Joseph R. Fogarty, concurring statement of Commissioner Anne P. Jones and concurring statement of Commissioner Stephen A. Sharp.

exclusive cellular applicants to avoid the delay of comparative hearings—delay which will only work to the detriment of the consumer and public interest in the expeditious provision of cellular service. As quickly as complete market settlements are reached—on either side of the split frequency allocation—and filed with the Commission, just as quickly will the Commission act to make the requisite finding that such settlements are in the public interest and to grant construction permits. Our policy favoring strong competition between wireline and non-wireline cellular systems, as well as our objective of expediting the offering of cellular service to the consumer, will be served best by mutually exclusive applicant settlements.

October 28, 1982.

Concurring Statement of Commissioner Anne P. Jones

In Re: Cellular Mobile Radio Applications to Serve Chicago, Illinois

Cellular communications systems promise the American consumer a new dimension in telephone service. They will make portable telephone communications for both business and personal use more widely available than heretofore possible, with a substantial improvement in the quality of service. Cellular systems will provide business and industry an important tool for improving the productivity of decisionmakers who must travel extensively in their work, and also make it easier for families to remain in touch.

Since the potential benefits of cellular systems for both business and personal use appear so substantial, the Commission has placed a high priority on making this new telephone service available to the public as rapidly as possible.²⁴ To achieve this objective, the Commission decided that two 20 MHz cellular systems should be authorized per market, with one block of frequencies authorized for the local wireline carrier(s) and the other block for non-wireline carriers. This allocation plan will presumably speed delivery of cellular service, since comparative hearings for the wireline frequency blocks can probably be avoided in most cases. While such a frequency allocation plan may confer a head-start advantage on wireline carriers, the Commission believed that this problem could be addressed on an *ad hoc* basis through a brief moratorium on cellular service provided by wireline carriers in cases where such a moratorium was justified. In brief, the Commission found and affirmed that " * * * the immediate need for cellular service outweighed the possible anticompetitive effects of allowing wireline carriers to enter a market before non-wireline carriers."²⁵ Thus, while the Commission in its cellular policy has attempted to introduce a modicum of facilities-based competition into cellular communication markets, it has also made the deliberate decision that expedited delivery of cellular service to the American public by wireline carriers justifies the risk of handicapping competitive entry by non-wireline carriers.

²⁴ Cellular Communications Systems (Reconsideration), 89 FCC 2d at 70 (1982).

²⁵ *Ibid.*, p. 89.

By its decision to grant a construction permit, but not operating authority, to Advanced Mobile Phone Service, Inc. (AMPS) in this case, the Commission has subjected AMPS in the Chicago modified Standard Metropolitan Statistical Area to the possibility of additional procedural delay. Having denied the petitions for deferral at this time, the Commission must consider the merits of such petitions when it considers the grant of operating authority to AMPS. However, Section 119 of the Communications Amendments Act of 1982 allows the Commission to dispense with the two-step radio authorization process for common carrier stations. By granting both construction and operating authority as permitted by this provision, the Commission could have cleared the final procedural obstacle blocking rapid introduction of cellular service to the people of Chicago. To remain consistent with its goal of speeding introduction of cellular service to the public, the Commission should have granted AMPS both construction and operating authority simultaneously, rather than bifurcate the licensing procedure.

Therefore, I concur with the Commission's decision to grant AMPS construction authority. I remain concerned, however, that the Commission's two-step licensing procedure may compromise the expedition of cellular service, a goal that a majority of the Commission has consistently supported in this important proceeding.

October 28, 1982

Concurring Statement of Commissioner Stephen A. Sharp

Re: Cellular Mobile Radio Applications to Serve Chicago, Illinois

In this proceeding, the Commission has time and again expressed the overriding need to bring cellular mobile radio service to the public as quickly as possible. This perception of the public need was the basis both for the set-aside of frequencies for exclusive use by wireline carriers and for its not too subtle "suggestion" that multiple applicants should settle their competing applications through mergers or buy outs. Thus, there is a need for the Commission to be both consistent and forceful in its determination that expedition is a matter of the highest priority; the need for expedition outweighs any fears over the effect of headstarts on the competitive posture of applicants for the non-wireline frequencies who have been unable or unwilling to settle their differences.

Today, however, the Commission retreats from its commitment to bring cellular mobile service to the public as quickly as possible by delaying consideration of the headstart issue in the Chicago market to an unspecified future date when the wireline applicant files an application for a license to cover the construction permit we have granted it today.²⁶ By doing so, the Commission

²⁶ The Commission indicated that it would consider a temporary moratorium on wireline cellular service upon a specific showing why a wire line carrier's headstart would not be in the public interest. See Cellular Communications Systems, 86 FCC 2d 469, 491 n. 57 (1981), *recon.* 89 FCC 2d 58, 72 (1982).

introduces new uncertainties which have the potential for delaying cellular service to the public.

First, the refusal to deal with the headstart issue now undercuts the Commission's position that the need for service outweighs competitive concerns raised by the wireline carrier's early entry into the market for cellular communications. Second, it creates an incentive not to settle among those carriers whose applications are mutually exclusive and thus subject to a comparative hearing since it holds out the possibility that the wireline's entry into the market will be delayed. This is the wrong incentive since the Commission should do everything possible to encourage settlements. Third, it creates uncertainties for the wireline carrier who must commit millions of dollars to finance a full-scale, commercial cellular system without knowing whether it will be able to begin to recover its investment once construction is complete.²⁷

An additional problem is created by the use of the covering license application as the procedural vehicle for reaching policy issues which should be resolved either in the decision to grant or deny the construction permit or in response to a petition for special relief. For good reason a license has been granted routinely where a transmitter has been constructed in accordance with the specifications approved in the construction permit and has been tested to demonstrate such conformity. The "two-step" process established by section 319 never contemplated two separate proceedings for consideration of substantive issues.²⁸ The Commission will regret the delays created by injecting another step into the process of delivering service to the public, a step wisely eschewed over the past 50 years. To suggest that this new step will speed service to the public is little more than wishful thinking.

[FR Doc. 82-30638 Filed 11-9-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

First Midwest Bancorp, Inc.; Formation of Bank Holding Company

First Midwest Bancorp, Inc., Joliet, Illinois, has 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 a bank holding company by acquiring 80 percent or more of the voting shares of twenty banks: Union National Bank and Trust Company of Joliet, Joliet, Illinois;

²⁷ If a moratorium were imposed upon issuance of the construction permit, the carrier would not draw down construction funds until the moratorium expires and construction begins. A moratorium imposed after construction forces the carrier to continue to pay interest on funds expended and other overhead costs, needless waste which will be paid for ultimately by the consumer.

²⁸ A grant of a construction permit is a final agency order subject to judicial review. By adding substantive issues to the decision to issue a license that order also will be subject to judicial review.

Citizens Bancorp., Inc., Waukegan, Illinois, and thereby indirectly The Citizens National Bank of Waukegan, Waukegan, Illinois; First Security Bancorp., Inc., Moline, Illinois, and thereby indirectly Moline National Bank, Moline, Illinois; Danville Bancshares, Inc., Danville, Illinois, and thereby indirectly The Second National Bank of Danville, Danville, Illinois; National Bank of Joliet, Joliet, Illinois; Streator Bankcorp., Inc., Streator, Illinois, and thereby indirectly The Streator National Bank, Streator, Illinois; The First National Bank of Morris, Morris, Illinois; First National Bank and Trust Company of Quincy, Quincy, Illinois; Bank of Galesburg, Galesburg, Illinois; Midwest National Bank of Lake Forest, Lake Forest, Illinois; National Bank of North Chicago, North Chicago, Illinois; First Farmers National Bank of Knoxville, Knoxville, Illinois; Bank of Danville, Danville, Illinois; Community State Bank, Seneca, Illinois; Bank of Zion, Zion, Illinois; State Bank of Braidwood, Braidwood, Illinois; Community National Bank of Quincy, Quincy, Illinois; Bradley Bank, Bradley, Illinois; Bank of Lakehurst, Waukegan, Illinois; First Wyant Investment Corporation, Galesburg, Illinois, and thereby indirectly The First National Bank of Wyant, Wyant, Illinois. 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)).

First Midwest Bancorp., Inc., Joliet, Illinois, has also 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 voting shares of Midwest Insurance Company, Joliet, Illinois.

Applicant states that the proposed subsidiary would perform the activity of reinsuring credit life, accident, and health insurance. These activities would be performed from offices of Applicant's subsidiary in Joliet, Will County, Illinois, and the geographic areas to be served are all areas served by the banks to be acquired. 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 views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 3, 1982.

Board of Governors of the Federal Reserve System, November 4, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30854 Filed 11-9-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; 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 section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to 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. *Manufacturers Hanover Corporation*, New York, New York (financing and insurance activities; United States and Puerto Rico): To retain the shares of Finance One of Colorado, Inc. ("Finance One") after Finance One expands the service area of its office located in Denver, Colorado. Finance One has prior Federal Reserve approval to engage in activities of arranging, making, or acquiring for its own account or the account of others extensions of credit such as would be made by a finance company and the sale as agent or broker of credit life and credit accident and health insurance directly related to extensions of credit by Finance One. Finance One proposed to expand the service area of this office to include the entire United States and Puerto Rico. Comments on this application must be received not later than December 4, 1982.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostain, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Maybaco Company*, Baltimore, Maryland (money orders; Maryland and southern Delaware): To engage, indirectly through its subsidiary Equitable Bancorporation, Baltimore, Maryland and its subsidiary banks, in the sale of money orders having a face value of less than \$1,000. This activity will be conducted from offices in Baltimore, Maryland, servicing Maryland and southern Delaware. Comments on this application must be received not later than November 26, 1982.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. *Valley Capital Corporation*, Las Vegas, Nevada (insurance activities; Nevada): To engage, through its subsidiary, Valley Capital Life Insurance Company, in the sale of credit life insurance and credit accident and health insurance which is directly related to the extensions of credit by the bank holding company system. These activities would be conducted from the main office and branches of Valley Bank of Nevada, serving the entire State of Nevada. Comments on this application

must be received not later than December 4, 1982.

Board of Governors of the Federal Reserve System, November 4, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30852 Filed 11-9-82; 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 § 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 Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Citizens Bancshares, Inc.*, Salineville, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Banking Company, Salineville, Ohio. Comments on this application must be received not later than December 3, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Stonington Banc Shares, Inc.*, Stonington, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Stonington Community Bank, Stonington, Illinois. Comments on this application must be received not later than December 3, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *SVB&T Corporation*, French Lick Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Springs Valley Bank & Trust Company, French Lick, Indiana. Comments on this application must be

received not later than December 3, 1982.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *New Germany Bancshares, Inc.*, New Germany, Minnesota; to become a bank holding company by acquiring 86.8 percent of the voting shares of First State Bank of New Germany, New Germany, Minnesota. Comments on this application must be received not later than December 3, 1982.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *California City Bancorp*, Orange, California; to become a bank holding company by acquiring 100 percent of the voting shares of California City Bank, N.A., Orange, California. Comments on this application must be received not later than December 3, 1982.

Board of Governors of the Federal Reserve System, November 4, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30853 Filed 11-9-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Preservation of Current Holdings Subcommittee and the Executive Committee of the National Archives and Records Service Advisory Committee on Preservation will meet on December 7, 1982 from noon to 4:00 p.m., and December 8, 1982 from 9:00 a.m. to 4:00 p.m. in Room 105, National Archives Building, Washington, D.C. This meeting will be devoted to an assessment of the conservation needs at the National Archives.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: November 1, 1982.

G. N. Scaboo,

Acting Archivist of the United States.

[FR Doc. 82-30846 Filed 11-9-82; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859-22869, May 27, 1975, as amended most recently at 47 FR 23024, May 26, 1982), is amended to reflect the following changes: (1) revise the functional statement for the National Institute of General Medical Sciences to more accurately reflect the mission and the language of the legislation establishing the Institute; (2) revise the functional statement of the Intramural Research Program (IRP), National Institute of Dental Research to reflect the accurate identification of current program content; and (3) revise the functional statements for the Division of Extramural Activities (DEA), and the Office of Administrative Management (OAM), National Cancer Institute.

Sec. HN-B, Organization and Functions is amended as follows: (1) Under the heading *National Institute of General Medical Sciences (HN-S)*, delete the statement for the Institute (NH-S) in its entirety and substitute the following:

National Institute of General Medical Sciences (NH-S). Administers, fosters, and supports research in the basic and general medical sciences and in related natural or behavioral sciences, which have significance for two or more other institutes, or are outside the general area of responsibility of any other institute. Programs are carried out through: (1) grants and contracts to, and cooperative agreements with, scientific institutions, commercial organizations, and individuals for the support of both basic biomedical research and applied research and development, including broad multi-disciplinary research programs; and (2) individual and institutional research training awards.

(2) Under the heading *National Institute of Dental Research (NH-P)*, delete the statement for the *Intramural Research Program (NH-P2)* in its entirety and substitute the following:

Intramural Research Program (NH-P2). (1) Plans and conducts the Institute's basic and clinical research program, which encompasses research efforts directed toward improvements in the diagnosis, prevention and treatment of caries, periodontal and oral soft tissue diseases, oral tumors, congenital abnormalities and diseases, orafacial

pain, and diabetes; (2) provides dental care for selected inpatients and ambulatory patients of Institutes conducting clinical research in the Warren Grant Magnuson Clinical Center; (3) provides data processing facilities and services for the Institute's research and clinical programs; (4) evaluates research efforts and establishes program priorities; (5) allocates funds, space, and personnel ceilings to insure maximum utilization of available resources in the attainment of Institute objectives and integrates new research activities into the program structure; (6) collaborates with other NIH Institutes and external research institutions and maintains an awareness of national research efforts in program areas; (7) provides advice on intramural research and science in general to the Institute Director.

(3) Under the heading *National Cancer Institute (HNC)*, make the following changes:

a. Delete the statement for the *Division of Extramural Activities (HNC5)* in its entirety and substitute the following:

Division of Extramural Activities (HNC5). (1) Administers and directs the Institute's grant and contract review activities; (2) provides initial technical and scientific merit review of grants and contracts for the Institute; (3) represents the Institute on overall NIH extramural and collaborative program policy committees, coordinates such policy for the review and administration of grants and contracts; (4) coordinates the Institute's review of research grant and training programs with the National Cancer Advisory Board and the President's Cancer Panel; (5) coordinates the implementation of committee management policies within the Institute and provides the Institute's staff support for the National Cancer Advisory Board and the President's Cancer Panel; (6) monitors and coordinates the operation of the divisional Boards of Scientific Counselors to assure uniformity and timeliness of the concept review of projects to be developed under contract or in response to RFAs; (7) coordinates program planning and evaluation in the extramural area; (8) provides scientific reports and analyses to the Institute's grant and contract programs; and (9) recommends funding levels of extramural programs to the Director, NCI.

b. Delete the statement for the *Office of Administrative Management (HNC13)* in its entirety and substitute the following:

Office of Administrative Management (HNC13). (1) Directs and conducts

administrative management activities of the Institute by providing services in areas of financial management, contract management, grant management, personnel management and administrative services; (2) advises the Director of the Institute on developments in administrative management and administrative management activities of the Divisions of the Institute; (3) provides financial and data analyses on grants and contracts; and (4) develops policies on administrative management and prepares and issues procedures and guidelines for implementation of administrative policies and requirements.

Dated: November 2, 1982.

Richard S. Schweiker,
Secretary.

[FR Doc. 82-30885 Filed 11-9-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Social Security Administration

Social Security; Average of the Total Wages for 1981, Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1983

The Secretary has determined—

(1) The average of the total wages for 1981 to be \$13,773.10;

(2) The Social Security contribution and benefit base to be \$35,700 for remuneration paid in 1983 and self-employment income earned in taxable years beginning in 1983;

(3) The amount of earnings a person must have to be credited with a quarter of coverage in 1983 to be \$370; and

(4) The monthly exempt amount under the Social Security retirement test for taxable years ending in calendar year 1983 to be \$550 for beneficiaries age 65 and over and \$410 for beneficiaries under age 65.

The formulas we use to compute the benefits for a worker and his or her family who first become eligible for benefits in 1983 are also described below.

Finally, a table reflecting the new higher average monthly wage and related benefit amounts made possible by the higher contribution and benefit base is also published. The table will be used primarily to compute the retirement benefits of workers who reached age 62 before 1979.

FOR FURTHER INFORMATION CONTACT: Eli Donkar, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-3365.

SUPPLEMENTARY INFORMATION: Sections 203(f)(8), 213(d) and 230(a) of the Social Security Act (42 U.S.C. 403(f)(8), 413(d) and 430(a)) require the Secretary of Health and Human Services to publish in the *Federal Register* on or before November 1, 1982, the contribution and benefit base, the amount of earnings required for a quarter of coverage, and the retirement test exempt amounts, for calendar year 1983. In addition, section 215(a)(1)(D) requires that the Secretary publish by November 1, 1982 the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1983, and section 203(a)(2)(c) requires that the Secretary publish by November 1, 1982, the formula for computing a family's maximum benefits for families of workers who first become eligible for old-age benefits or die in 1983.

Average of the Total Wages for 1981

The determination of the average wage figure for 1981 is based on the 1980 average wage figure of \$12,513.46 announced in the *Federal Register* on October 30, 1981 (46 FR 53791) along with the percentage increase in average wages from 1980 to 1981 measured by annual wage data tabulated by the Internal Revenue Service (IRS). The average amounts of wages calculated directly from IRS data were \$12,850.89 and \$14,144.50 for 1980 and 1981, respectively. To determine an average wage figure for 1981 at a level that is consistent with the series of average wages for 1951-1977 (published December 29, 1978 at 43 FR 61016), we multiplied the 1980 average wage figure of \$12,513.46 by the percentage increase in average wages from 1980 to 1981 (based on IRS data) as follows (with the result rounded to the nearest cent):
Average wage for 1981 = \$12,513.46 × 1.14450 ÷ 1.14450 = \$13,773.10. Therefore, the average wage for 1981 is determined to be \$13,773.10.

Contribution and Benefit Base

General. The 1983 contribution and benefit base is \$35,700.

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which Social Security taxes are paid.

(2) It is the maximum annual amount used in figuring a person's Social Security Benefits.

Computation. Section 230(c) of the Social Security Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Social Security Act contains a formula for determining the contribution and benefit base. Under the prescribed formula, the contribution and benefit base for 1983 shall be equal to the 1982 base of \$32,400 multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year 1981 to (2) the average amount of those wages for the calendar year 1980. Section 230(b) further provides that if the amount so determined is not a multiple of \$300, it shall be rounded to the nearest multiple of \$300.

Average Wages. The average wage for calendar year 1980 was previously determined to be \$12,513.46. The average wage for calendar year 1981 has been determined to be \$13,773.10, as stated herein.

Amount. The ratio of the average wage for 1981, \$13,773.10, compared to that for 1980, \$12,513.46, is 1.1006628. Multiplying the 1982 contribution and benefit base of \$32,400 by the ratio 1.1006628 produces the amount of \$35,661.47 which must then be rounded to \$35,700. Accordingly, the contribution and benefit base for 1983 is \$35,700.

Quarter of Coverage Amount

General. The 1983 amount of earnings required for a quarter of coverage is \$370. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of \$50 or more were paid, or for which \$100 or more of self-employment income were credited, to the individual. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95-216) amended section 213(d) of the Social Security Act to provide that a quarter of coverage would be credited for each \$250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Section 213(d) also provides that this amount shall be redetermined each year and any change published in the Federal Register no later than November 1 of the year preceding the year for which the change is effective.

Computation. Under the prescribed formula, the quarter of coverage amount for 1983 shall be equal to the 1978

amount of \$250 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1981 to (2) the average amount of those wages reported for calendar year 1978. The section further provides that if the amount so determined is not a multiple of \$10, it shall be rounded to the nearest multiple of \$10.

Average Wages. The average wage for calendar year 1978 was previously determined to be \$9,226.48. This was published in the Federal Register on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1981 has been determined to be \$13,773.10 as stated herein.

Quarter of Coverage Amount. The ratio of the average wage for 1981, \$13,773.10, compared to that for 1978, \$9,226.48, is 1.492779. Multiplying the 1978 quarter of coverage amount of \$250 by the ratio of 1.492779 produces the amount of \$373.19 which must then be rounded to \$370. Accordingly, the quarter of coverage amount for 1983 is \$370.

Retirement Test Exempt Amounts

(a) Beneficiaries Aged 70 or Over. Beginning with months after December 1982, there is no limit on the amount an individual aged 70 or over may earn and still receive Social Security benefits. The age at which the retirement test ceases to apply is reduced from age-72 to age 70 by Pub. L. 97-35, which amended section 203(c)(1) of the Social Security Act.

(b) Beneficiaries Aged 65 Through 69. The retirement test monthly exempt amount for beneficiaries over age 65 is stated in the Social Security Act at section 203(f)(8)(D) for years 1978 through 1982. The stated monthly exempt amount for 1982 is \$500. A formula is provided in section 203(f)(8)(B) for computing the exempt amount applicable for years after 1982. Under the formula, the exempt amount for 1983 shall be the 1982 exempt amount multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1981 to (2) the average amount of those wages for calendar year 1980. The section further provides that if the amount so determined is not a multiple of \$10, it shall be rounded to the nearest multiple of \$10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1981, \$13,773.10 compared to that for 1980, \$12,513.46, is 1.1006628.

Exempt Amount for Beneficiaries Aged 65 Through 69. Multiplying the 1982 retirement test monthly exempt amount of \$500 by the ratio of 1.1006628

produces the amount of \$550.33. This must then be rounded to \$550. The retirement test monthly exempt amount for beneficiaries ages 65 through 69 is determined to be \$550 for 1983. The corresponding annual retirement test exempt amount for these beneficiaries is \$6,600.

(c) Beneficiaries Under Age 65. Section 203 of the Social Security Act provides that beneficiaries aged 65 and over have a higher retirement test monthly exempt amount than those beneficiaries under age 65. The exempt amount for beneficiaries under age 65 is determined by a formula provided in section 203(f)(8)(B) of the Social Security Act. Under the formula, the monthly exempt amount for beneficiaries under age 65 is \$370 for 1982. The formula provides that the exempt amount for 1983 shall be the 1982 exempt amount for beneficiaries under age 65 multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1981 to (2) the average amount of those wages for calendar year 1980. The section further provides that if the amount so determined is not a multiple of \$10, it shall be rounded to the nearest multiple of \$10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1981, \$13,773.10 compared to that of 1980, \$12,513.46 is 1.1006628.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1982 retirement test monthly exempt amount of \$370 by the ratio 1.1006628 produces the amount of \$407.25. This must then be rounded to \$410. The retirement test monthly exempt amount for beneficiaries under age 65 is determined to be \$410 for 1983. The corresponding annual retirement test exempt amount for these beneficiaries is \$4,920.

Computing Benefits After 1978

The Social Security Amendments of 1977 changed the formula for determining an individual's primary insurance amount after 1978. This basic new formula is based on "wage indexing" and was fully explained with interim regulations published in the Federal Register on December 29, 1978 at 43 FR 60877. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. This formula uses the worker's earnings after they have been adjusted, or "indexed," in proportion to the increase in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance

amount, using the worker's "average indexed monthly earnings" and also adjust the computation formula to reflect changes in general wage levels.

Average Indexed Monthly Earnings.

To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during their working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1983, we divide the average of the total wages for 1981, \$13,773.10, by the average of the total wages for each year prior to 1981 in which the worker had earnings. We then multiply the actual wages and self-employment income credited for those years by this ratio to obtain the worker's adjusted earnings for that year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollar amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1983.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first \$180, the amount between \$180 and \$1,085, and the amount over \$1,085. The amounts for 1983 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1981, \$13,773.10, and for 1977, \$9,779.44. These results are then rounded to the nearest dollar. For 1983 the ratio is 1.408373. Multiplying the 1979 amounts of \$180 and \$1,085 by 1.408373 produces the amounts of \$253.51 and \$1,528.08. These must then be rounded to \$254 and \$1,528. Accordingly, the portions of the average indexed monthly earnings to be used in 1983 are determined to be the first \$254, the amount between \$254 and \$1,528, and the amount over \$1,528.

Consequently, for individuals who first become eligible for old-age

insurance benefits or disability insurance benefits in 1983 or who die in 1983 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first \$254 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over \$254 and through \$1,528, plus

(c) 15 percent of the average indexed monthly earnings over \$1,528.

This amount is then rounded to the next lower multiple of \$.10 if it is not already a multiple of \$.10. This formula and the adjustments we have described are contained in section 215(a) of the Social Security Act (42 U.S.C. 415(a)) as amended by Public Law 97-35.

Maximum Benefits Payable to a Family

The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The 1980 Amendments (Pub. L. 96-265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980 and who first become eligible for these benefits after 1978. The new formula was explained in a Final Rule published in the *Federal Register* on May 8, 1981 at 46 Fr 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first \$230, the amount between \$230 and \$332, the amount between \$332 and \$433, and the amount over \$433. The amounts for 1983 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1981,

\$13,773.10, and the average for 1977, \$9,779.44. This amount is then rounded to the nearest dollar. For 1983, the ratio is 1.408373. Multiplying the amounts of \$230, \$332, and \$433 by 1.408373 produces the amounts of \$323.93, \$467.58, and \$609.83. These amounts are then rounded to \$324, \$468, and \$610. Accordingly, the portions of the primary insurance amounts to be used in 1983 are determined to be the first \$324, the amount between \$324 and \$468, the amount between \$468 and \$610, and the amount over \$610.

Consequently, for the family of a worker who becomes age 62 or dies in 1983, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first \$324 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over \$234 through \$468, plus

(c) 134 percent of the worker's primary insurance amount over \$468 through \$610, plus

(d) 175 percent of the worker's primary insurance amount over \$610.

This amount is then rounded to the next lower multiple of \$.10 if it is not already a multiple of \$.10. This formula and the adjustments we have described are contained in section 203(a) of the Social Security Act (42 U.S.C. 403(a)) as amended by Public Law 97-35.

Extension of Benefit Table Effective January 1983

The following is an extension of the Table for Determining Primary Insurance Amount and Maximum Family Benefits provided in section 215(a)(5) of the Social Security Act. This extension reflects the higher average monthly wage and related benefit amounts now possible under the increased contribution and benefit base published by this Notice effective January 1983 in accordance with section 215(i) of the Social Security Act. The extended portion of the benefit table shown here will apply primarily to benefits based on earnings of workers who reached age 62 before 1979.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802-13.805, and 13.807 Social Security Programs)

Dated: November 4, 1982.

Richard S. Schweiker,
Secretary of Health and Human Services.

BILLING CODE 4190-11-M

Table for Determining Primary Insurance Amount and Maximum Family Benefits
Beginning January 1983

I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount effective for June 1981)		III (Average monthly wage)		IV (Primary insurance amount)		V (Maximum family benefits)	
If an individual's primary insurance benefit (as determined under subsec.(d)) is--		Or his primary insurance amount (as determined under subsec. (c)) is--		Or his average monthly wage (as determined under subsec. (b)) is--		The amount referred to in the preceding paragraphs of this subsection shall be--		And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be--	
At least--	But not more than--	At least--	But not more than--	At least--	But not more than--	At least--	But not more than--	At least--	But not more than--
		2701		2705		1366.80		2391.90	
		2706		2710		1367.80		2393.60	
		2711		2715		1368.80		2395.40	
		2716		2720		1369.80		2397.10	
		2721		2725		1370.80		2398.90	
		2726		2730		1371.80		2400.60	
		2731		2735		1372.80		2402.40	
		2736		2740		1373.80		2404.10	
		2741		2745		1374.80		2405.90	
		2746		2750		1375.80		2407.60	
		2751		2755		1376.80		2409.40	
		2756		2760		1377.80		2411.10	
		2761		2765		1378.80		2412.90	
		2766		2770		1379.80		2414.60	
		2771		2775		1380.80		2416.40	
		2776		2780		1381.80		2418.10	
		2781		2785		1382.80		2419.90	
		2786		2790		1383.80		2421.60	
		2791		2795		1384.80		2423.40	
		2796		2800		1385.80		2425.10	
		2801		2805		1386.80		2426.90	
		2806		2810		1387.80		2428.60	
		2811		2815		1388.80		2430.40	
		2816		2820		1389.80		2432.10	
		2821		2825		1390.80		2433.90	
		2826		2830		1391.80		2435.60	
		2831		2835		1392.80		2437.40	
		2836		2840		1393.80		2439.10	
		2841		2845		1394.80		2440.90	
		2846		2850		1395.80		2442.60	
		2851		2855		1396.80		2444.40	
		2856		2860		1397.80		2446.10	
		2861		2865		1398.80		2447.90	
		2866		2870		1399.80		2449.60	
		2871		2875		1400.80		2451.40	
		2876		2880		1401.80		2453.10	
		2881		2885		1402.80		2454.90	
		2886		2890		1403.80		2456.60	
		2891		2895		1404.80		2458.40	
		2896		2900		1405.80		2460.10	
		2901		2905		1406.80		2461.90	
		2906		2910		1407.80		2463.60	
		2911		2915		1408.80		2465.40	
		2916		2920		1409.80		2467.10	
		2921		2925		1410.80		2468.90	
		2926		2930		1411.80		2470.60	
		2931		2935		1412.80		2472.40	
		2936		2940		1413.80		2474.10	
		2941		2945		1414.80		2475.90	
		2946		2950		1415.80		2477.60	
		2951		2955		1416.80		2479.40	
		2956		2960		1417.80		2481.10	
		2961		2965		1418.80		2482.90	
		2966		2970		1419.80		2484.60	
		2971		2975		1420.80		2486.40	

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****Endangered Species Permit; Receipt of Applications**

The applicants listed below wish to conduct specific activities with endangered species:

Applicant: Dr. Elliott Jacobson, University of Florida, Gainesville, FL PRT 2-9764

The applicant requests a permit to import tissue samples and dead specimens of the following crocodiles for scientific research: mugger crocodile (*Crocodylus palustris*), saltwater crocodile (*C. porosus*), and gavia (*Gavia gangeticus*). All specimens or tissues will be of captive bred animals:

Applicant: Cincinnati Zoo, Cincinnati, OH PRT 2-9773

The applicant requests a permit to import four captive-bred black-footed cats (*Felis nigripes*) from West German Zoological Parks for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: November 5, 1982.

Robert J. Batky,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-30874 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[A-17379]

Arizona; Realty Action Competitive Sale of Public Land in Graham County

FR Doc. 82-28056 appearing on pages 45084 and 45085 in the issue of Wednesday, October 13, 1982, is amended by adding a paragraph before the final paragraph in column 2, page 45085 which reads:

Publication of this Notice will segregate the subject land from all appropriations under the public land

laws including the mining laws but not the mineral leasing laws. Segregation will terminate upon the issuance of patent or two years after the date of this Notice.

Dated: November 2, 1982.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 82-30858 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contracting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau's clearance officer and the Office of Management and Budget's reviewing official, Mr. Richard Otis at (202) 395-7340.

Title: 43 CFR 4120.6-2, Cooperative

Agreement for Range Improvements

Bureau Form Number: 4120-6

Frequency: Occasionally

Description of Respondents: Permittees or lessees authorized to graze livestock on the public lands

Annual Responses: 600

Annual Burden Hours: 102

Bureau Clearance Officer (alternate): Linda Gibbs (202) 653-8853

Dated: October 15, 1982.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 82-30861 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contracting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis at 202-395-7340.

Title: 43 CFR 4120.6-2, Certified Actual Use Grazing Report

Bureau Form Number: 4130-5

Frequency: Occasionally

Description of Respondents: Permittees or lessees authorized to graze livestock on the public lands

Annual Responses: 15,000

Annual Burden Hours: 7,500

Bureau Clearance Officer (alternate): Linda Gibbs (202) 653-8853

Dated: October 15, 1982.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 82-30862 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-84-M

Butte Districts' Grazing Advisory Boards; Meeting

November 2, 1982.

This notice cancels the combined meeting of the Miles City, Lewistown, and Butte Districts' Grazing Advisory Boards which was to be held on December 6, 1982 at the Northern Hotel in Billings, Montana. The original notice of the meeting, published October 28, 1982, 47 FR 4794, is hereby canceled.

Ray Brubaker,

District Manager.

[FR Doc. 82-30859 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-84-M

[Exchange I-18580]**Idaho Falls District; Public Lands in Fremont County, Idaho**

The following described public lands have been determined to be suitable for disposal by exchange under Sec. 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 8 N., R. 37 E.,

Sec. 25: SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 26: NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$.

Containing 240 acres.

In exchange for all these lands, the Federal Government will acquire the following described land from Richard Egbert of Tetonia, Idaho:

Boise Meridian, Idaho

T. 10 N., R. 41 East,

Sec. 8: SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 17: NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{4}$.

Containing 160 acres.

The purpose of the exchange is to acquire the non-Federal lands which will provide critical wildlife habitat for a rapidly growing elk herd which uses the subject lands for spring and fall forage areas. The subject non-Federal lands adjoin public lands and State land which is specifically managed for this purpose by the Idaho Department of Fish and Game. The non-Federal lands

are located within the Sand's Habitat Management Plan which was developed to protect and provide habitat for this elk herd as well as other important wildlife species. The exchange is consistent with the Bureau's planning for the lands involved. County and State officials have been consulted concerning the exchange proposal. The Idaho Department of Fish and Game fully supports the proposal. The public interest would be well served by this exchange.

The values and objectives of the Federal lands to be conveyed are significantly less than the values and objectives that will be acquired with the non-Federal lands.

A final appraisal assessing the fair market value of the lands involved has been made. The value of the selected Federal lands was appraised at \$6,400 more than the value of Mr. Egbert's private lands. Mr. Egbert will equalize the values by making a payment of \$6,400 to the United States prior to completion of the land exchange.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The public lands will be subject to valid existing rights including any right-of-way, easement and lease of record.

3. All minerals will be reserved to the United States. Publication of this notice in the *Federal Register* will segregate the public lands, described above, from appropriation under the public land laws, including mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first.

The non-Federal lands described above are subject to prior Federal reserved minerals. The prior Federal interests are hereby segregated to the extent that such interests will not be subject to appropriation under the mining laws until a notice pursuant to 43 CFR 2200.3(a) is published in the *Federal Register*.

Detailed information concerning the exchange, including the environmental assessment and the record of public contact is available for review at the Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401.

For a period of 45 days from the date of this notice interested parties may submit comments to the Idaho Falls District Manager at the above address. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, 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 of the Interior.

Dated: November 2, 1982.

O'dell A. Frandsen,
District Manager,

[FR Doc. 82-30860 Filed 11-9-82; 8:45 am]
BILLING CODE 4310-84-M

[F-19329-A, F-19329-B]

Alaska Native Claims Selection

Correction

In FR Doc. 82-27241 beginning on page 43975 in the issue of Monday, October 4, 1982, make the following changes:

1. On page 43796, second column, fourth line from the bottom, the plat number should read "plat No. 71-09758"; third column, under T.115., R.16E., Sec. 20, the third line should be removed.

2. On page 43797, first column, second line should read "and F-010195".

BILLING CODE 1505-01-M

Grand Junction District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on Thursday, December 9, 1982.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office at 50629 West Highway 6 and 24, Glenwood Springs, Colorado. The agenda for the meeting will include: (1) Minutes of the previous meeting, (2) draft allotment categorization criteria, (3) grazing fee study, (4) range improvement maintenance transfer policy, (5) draft environmental statement proposals for livestock use in the Glenwood Springs Resource Area, (6) use of advisory board funds for predator control, (7) advisory board range improvement projects and funding, (8) Fiscal Year 83 Range Improvement Program, (9) advisory board election, (10) approval of draft resolution on use of county mineral material funds and (11) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 1:00 and 1:30 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by December 8, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243-6552.

David A. Jones,
District Manager.

[FR Doc. 82-31600 Filed 11-9-82; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Boston National Historical Park Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Boston National Historical Park Advisory Commission. The matters to be discussed at this meeting include:

1. Tour of USS Constitution Museum.
2. Subcommittees reports.
 - (a) Site Liaison.
 - (b) Education.
 - (c) Commandant's House Use.
 - (d) Community involvement.
 - (e) Budgeting and priorities.
3. Plans for Freedom Trail signing, striping, and litter control.
4. Evaluation of 1982 visitor season.
5. Massport plans for Hoosac Pier.
6. Discussion of other Navy Yard concerns and activities including USS Cassin Young, Water-Chelsea Connector, and opening of gate 4.
7. Report on Boston African American National Historic Site.
8. Report on Dorchester Heights National Historic Site.
9. Review and discussion of park administration.

DATE: December 2, 1982, 11 a.m. to 3 p.m.

ADDRESS: USS Constitution Museum, Building 22, Charlestown Navy Yard, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Hugh D. Gurney, Superintendent, Boston National Historical Park, 15 State Street, Boston, Massachusetts 02109 (617 242-5644).

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463. The Commission was established by Pub. L. 93-431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

Dated: November 1, 1982.

Herbert S. Cables, Jr.,
Regional Director,
North Atlantic Region.

[FR Doc. 82-30889 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-70-M

Hampton National Historic Site; Public Review Period and Meetings

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of draft general management plan and notice of public review period (November 8-December 17, 1982) and public meetings.

SUMMARY: The Draft General Management Plan for Hampton National Historic Site is now available for public review. The Draft Plan outlines a program for visitor use, resource management and protection, and general development for the next 10 to 15 years. Issues addressed include natural and cultural resource protection, land protection, interpretation and visitor use, and facility development.

Copies of the Draft Plan may be obtained at the site, Hampton National Historic Site, Towson, Md. 21204; at the Towson Public Library; and at the Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, Pa. 19106. The public Meetings will be held to discuss the plan's recommendations and to receive public comment.

Dates and Locations

December 1, 1:30 p.m.: Hampton National Historic Site, 535 Hampton Lane, Towson, Md. 21204.

December 1, 7 p.m.: Towson United Methodist Church, 501 Hampton Lane, Towson, Md. 21204.

Written comments are encouraged and should be forwarded to the Regional Director, Mid-Atlantic Regional Office, by December 17, 1982.

FOR FURTHER INFORMATION CONTACT:

Adam Karalius, Site Manager, Hampton National Historic Site, Towson, Md. 21204.

Dated: November 1, 1982.

Don H. Castleberry,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82-30888 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through December 1982

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1261), the Department of the Interior must afford the affected public an opportunity to be aware of and to provide comments on water service and repayment contract negotiations being conducted by the Bureau of Reclamation. Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the *Federal Register* February 22, 1982, Vol. 47, page 7763, and the Reclamation Reform Act, a tabulation is provided below of proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November, or December of 1982. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commission of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Some of the actions listed have been publicized in the *Federal Register* previously. When this is the case, the date of publication is given. Individual notice of intent to negotiate, and other appropriate announcements, will be made in the *Federal Register* for those actions found to have widespread public interest. In addition, a wide variety of local publicity resources are being used selectively to inform the public affected by a specific contract proposal.

Acronym Definitions Used Herein

(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation projects Act
(SOFAR) Southern Fork American River

Pacific Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334-9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; *Federal Register* notice published April 7, 1980, Vol. 45, page 23531.
2. Potholes Reservoir Bank Storage Pumpers, Columbia Basin Project, Washington; Long-term irrigation water service contract not to exceed 320 acres or 1,000 acre-feet of water annually for a term of up to 40 years; *Federal Register* notice published November 3, 1981, Vol. 46, page 54648.
3. Northwest Land and Investment, Inc., Columbia Basin Project, Washington; Temporary water service contract for 40 acre-feet.
4. Okanogan, ID, Okanogan Project, Washington; R&B loan repayment contract; \$10,792,000 proposed obligation.
5. Miscellaneous Water Users, Pacific Northwest Region, Idaho, Oregon, and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.
6. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; \$5 per acre-foot or \$20 minimum per annum, not to exceed 320 acres of 1,000 acre-feet of water per contractor for terms up to 40 years.
7. City of Hillsboro, Tualatin Project, Oregon; Repayment contract to repay \$368,000 estimated costs of channel improvement at Spring Hill Pumping Plant.
8. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; \$1.25 per acre-foot or \$20 minimum per annum, not to exceed 320 acres of 1,000 acre-feet of water annually per contractor for terms up to 40 years.

9. Outlook ID, Yakima Project, Washington; R&B loan repayment contract; \$2,487,000 proposed obligation; **Federal Register** notice published February 4, 1982, Vol. 47, page 5363.

10. Sunnyside Valley, ID, Yakima Project, Washington; R&B loan repayment contract; \$13,221,000 proposed obligation.

11. Granger ID, Yakima Project, Washington; R&B loan repayment contract; \$1,111,000 proposed obligation.

12. Sunnyside Valley Board of Control, Yakima Project, Washington; R&B loan repayment contract; \$15,901,000 proposed obligation.

13. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 32,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Creston Powerplant; **Federal Register** notice published December 11, 1981, Vol. 46, page 60658.

14. Boise Project Board of Control, Boise Project, Idaho-Oregon; Short-term irrigation water service contract for 1982; 22,800 acre-feet of stored water in Arrowrock Reservoir at \$1.00 per acre-foot.

15. Bridgeport Public Schools, Chief Joseph Dam Project, Washington; Irrigation water service contract for 25 acres for a term of 40 years.

Mid-Pacific Region

Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484-4680.

1. El Dorado ID, CVP, California; Coordinated CVP/SOFAR Project operations and water service contract; 20,000 acre-feet with construction of Auburn Dam.

2. 4-E Water District, CVP, California; Water service contract; 80 acre-feet; **Federal Register** notice published October 3, 1979, Vol. 44, page 56991.

3. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; **Federal Register** notice published July 25, 1979, Vol. 44, page 43535.

4. Stockton-East Water District, CVP, California; Interim water service contract; 75,000 acre-feet from New Melones Reservoir; **Federal Register** notice published February 5, 1982, Vol. 47, page 5473.

5. Central San Joaquin Water Conservation District, CVP, California; Water service contract; 49,000 acre-feet firm supply and 39,000 acre-feet interim supplies from New Melones Reservoir; **Federal Register** notice published February 5, 1982, Vol. 47, page 5473.

6. Tuolumne Regional Water District, CVP, California; Water service contract;

9,000 acre-feet from New Melones Reservoir; **Federal Register** notice published February 5, 1982, Vol. 47, page 5473.

7. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; **Federal Register** notice published February 5, 1982, Vol. 47, page 5473.

8. Colusa County Water District, CVP, California; Amendatory water service and repayment contract to provide for delivery of M&I water.

9. Solano Irrigation District, CVP, California; Amendatory loan contract providing for reconveyance and M&I water supply delivery.

10. Hills Valley ID, CVP, California; Amendatory water service contract; additional 400 acre-feet.

11. Carson-Truckee Water Conservancy District, Washoe Project, California/Nevada; Interim water service contract; 10,000 acre-feet; **Federal Register** notice published May 14, 1981, Vol. 46, page 26705.

12. Miscellaneous Water Users, Mid-Pacific Region, California, Oregon and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

13. Arvin-Edison Water Storage District, CVP, California; Amendatory loan repayment contract to provide for delivery of M&I water.

Upper Colorado Region.

Bureau of Reclamation, P.O. Box 11568, (125 South State Street) Salt Lake City, UT 84147, telephone (801) 524-5435.

1. Southern Ute Indian Tribe, Florida Project, Colorado; Amendatory contract to Contract No. 14-06-400-3038 of May 7, 1963; An administrative action to provide for delivery of 181 acre-feet of water presently delivered outside the terms of the existing contract.

2. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

3. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado; Water service contract; 26,500 acre-feet per year for M&I use; 3,300 acre-feet per year for irrigation; **Federal Register** notice published April 17, 1981, Vol. 46, page 22474.

4. Ute Mountain Ute Indian Tribe, Animas-La Plata Project, Colorado and New Mexico; Water service contract; 6,000 acre-feet per year for M&I use; 26,600 acre-feet per year for irrigation; **Federal Register** notice published April 17, 1981, Vol. 46, page 22474.

5. Navajo Tribal Utility Authority, Animas-La Plata Project, New Mexico; M&I water service contract; 7,600 acre-feet per year; **Federal Register** notice published April 17, 1981, Vol. 46, page 22474.

6. Springville ID-Mapleton ID, Strawberry Valley Project, Utah; Repayment contract for R&B program loan obligation not to exceed \$228,000; **Federal Register** notice published June 3, 1982, Vol. 47, page 24227. Submitted to Congress on September 22, 1982, for consideration.

7. Ute Mountain Ute Tribe and Bureau of Indian Affairs, Dolores Project, Colorado; Repayment contract; 1,000 acre-feet per year for M&I use; 22,900 acre-feet per year for irrigation; **Federal Register** notice published September 10, 1980, Vol. 45, page 59642.

8. Fontenelle (Chevron) State of Wyoming, Seedskaadee Project, Wyoming; Water supply contract for 22,500 acre-feet per year for industrial use.

Lower Colorado Region.

Bureau of Reclamation, P.O. Box 427, (Nevada Highway and Park Street) Boulder City, NV 89005, telephone (702) 293-8536.

1. Imperial ID, Boulder Canyon Project, Arizona; Transfer of O&M function for Imperial Dam and related works; Administrative action.

2. Rainbow Municipal Water District, Fallbrook, California; SRPA loan amendatory contract; \$9,090,800 cost escalation adjustment; **Federal Register** notice published May 24, 1979, Vol. 44, page 30173.

3. Lake Havasu IDD for Horizon Six and Ansazi Pueblo, Boulder Canyon Project, Arizona; M&I water service contracts for 170 and 131 acre-feet per year, respectively. Contract execution pending approval and/or request for negotiating sessions by Lake Havasu IDD and submission of subcontracts for Bureau approval.

4. City of Yuma, Boulder Canyon Project, Arizona; Amendatory M&I water service contract; 3,613 acre-feet.

5. Agricultural and M&I water users, Central Arizona Project, Arizona; Water service subcontractors; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet for M&I use.

6. City of Needles, California; Contract for Miscellaneous Present Perfected Rights; Pursuant to Supreme Court Decree of March 9, 1964, in *Arizona v. California* as supplemented on January 9, 1979, for 1,500 acre-feet; Contract submitted to city for review and approval.

7. Cibola IDD, Boulder Canyon Project, Arizona; Water service contract for 22,560 acre-feet per year.

8. Hillander "C" ID, Boulder Canyon Project, Arizona; Pursuant to the Colorado River Basin Salinity Control Act, as amended; Temporary water service contract for water service not to exceed 10,000 acre-feet per year.

9. Hillander "C" ID, Boulder Canyon Project, Arizona; Pursuant to the Colorado River Basin Salinity Control Act, as amended; Permanent water service contract for water service not to exceed 28,000 acre-feet per year.

Southwest Region:

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378-5430.

1. Village of Questa, San Juan-Chama Project, New Mexico; M&I water service contract for 200 acre-feet annually; **Federal Register** notice published January 25, 1980, Volume 45, page 6178.

2. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually; **Federal Register** notice published April 26, 1982, Vol. 47, Page 1782.

3. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use; **Federal Register** notice published August 13, 1982, Vol. 46, page 40940.

4. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S. 956 and H.R. 3208.

5. Harlingen ID, Lower Rio Grande Valley, Texas; Repayment contract for R&B program; Estimated cost is \$3 million.

6. Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding \$2 million, pursuant to Pub. L. 96-550.

7. City of Albuquerque, San Juan-Chama and Rio Grande Projects, New Mexico; A water storage contract to hold a portion of the city's San Juan-Chama Project water in Elephant Butte Reservoir for potential resale to the

French Wine Growers Association to irrigate 4,200 acres near Elephant Butte Reservoir.

8. State of Oklahoma, McGee Creek Project, Oklahoma; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89-72), as amended.

9. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89-72), as amended; **Federal Register** notice published February 12, 1982, Vol. 47, page 6493.

10. Arch Hurley Conservancy District, Tucumcari Project, New Mexico; R&B of project irrigation distribution system primarily dedicated to lining canals to conserve water.

Upper Missouri Region

Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657-6413.

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, Canyon Ferry Unit, P-SMBP, Montana; Irrigation water service contracts not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wyoming Water Association), Keyhole Unit, P-SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acre-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; **Federal Register** notice published August 21, 1980, Vol. 45, Page 55842.

4. Belle River Pumpers Association, Keyhole Unit, P-SMBP, Wyoming; Repayment contract for irrigation storage; 3 percent (presently 5,500 acre-feet) of Keyhole Reservoir storage space; **Federal Register** notice published March 29, 1982, Vol. 47, Page 13234.

5. Montana Power Company, Yellowtail Unit, P-SMBP, Montana;

Industrial Water service contract; 6,000 acre-feet of water annually for Colstrip Power Complex; **Federal Register** notice published February 3, 1981, Vol. 46, Page 10544.

6. City of Riverton, Boysen Unit, P-SMBP, Wyoming; M&I water service contract; Up to 4,000 acre-feet of water annually; **Federal Register** notice published October 5, 1981; Vol. 46, Page 48996.

7. West River Conservancy Sub-District, Shadehill Unit, P-SMBP, South Dakota; Irrigation water service contract; 5,808 acre-feet of water or 3 acre-feet per acre for 1,936 acres.

8. Bill Larson, Arrowwood Golf Course, Canyon Ferry Unit, P-SMBP, Montana; Municipal water service contract for irrigation of golf course; Up to 490 acre-feet annually.

9. Deaver ID, Shoshone Project, Wyoming; R&B loan repayment contract; Up to \$1.6 million; **Federal Register** notice published April 21, 1982, Vol. 47, Page 17118.

10. Nokota Company, Lake Sakakawea, P-SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; **Federal Register** notice published May 5, 1982, Vol. 47, Page 19472.

11. Dean and Sue Batt, Boysen Unit, P-SMBP, Wyoming; Irrigation water service up to 15 acre-feet of water annually.

12. Hilde Construction Company, Canyon Ferry Unit, P-SMBP, Montana; Industrial water service contract; 25 acre-feet per year from Canyon Ferry Reservoir.

13. State of Wyoming, Buffalo Bill Dam Modifications, P-SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir.

14. WEB Rural Water Development Project, South Dakota; Grant and loan program for rural water facilities; To bring water to approximately 30,000 people and 50 rural communities.

Lower Missouri Region

Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234-3327.

1. H&RW ID, Frenchman-Cambridge Unit, P-SMBP, Nebraska; Amendatory water service contract; \$1,200,000 outstanding; **Federal Register** notice published February 5, 1982, Vol. 47, Page 5472.

2. City of Cheyenne, Kendrick Project, Wyoming; Interim water storage

contract; 10,000 acre-feet; Federal Register notice published April 28, 1982, Vol. 47, Page 18187.

3. Central Nebraska Public Power and ID, Glendo Unit, P-SMBP, Nebraska; Irrigation water service contract; 8,000 acre-feet; Federal Register notice published February 7, 1980, Vol. 45, Page 8364.

4. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1982; \$31,051.64 payment deferral.

5. Cedar Bluff ID No. 6, Cedar Bluff Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1982; \$18,820.10 payment deferral.

6. Webster ID No. 4, Webster Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1982; \$32,620.50 payment deferral.

7. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Amendatory repayment contract for extension of the development period and revision of the repayment determination methodology.

8. Frenchman-Cambridge ID, Frenchman-Cambridge Unit, P-SMBP, Nebraska; Amendatory R&B repayment contract; Increase current R&B program obligation of \$4.4 million to \$5.5 million.

9. Almena ID, Almena Unit, Kansas Division, P-SMBP, Kansas; Deferment of repayment obligation for 1982; \$16,002.50 payment deferral.

10. H&RW ID, Frenchman-Cambridge Division, P-SMBP, Nebraska; Deferment of repayment obligation for 1982; \$38,688 payment deferral.

11. Casper-Alcova ID, Kendrick Project, Wyoming; Amendatory contract to provide water service to subdivided district lands.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau of Reclamation with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public as observers unless otherwise publicly announced. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383, 5 U.S.C. 552), as amended.

(3) All written comments received and testimony presented at any public

hearing will be reviewed and summarized by regional staff for use by appropriate contract approving authority; i.e., Regional Director, Commissioner of Reclamation, or Secretary of the Interior.

(4) As specific proposed contracts become available for review and comment, copies may be obtained from the appropriate Regional Director identified above.

Dated: November 4, 1982.

R. N. Broadbent,
Commissioner of Reclamation.

[FR Doc. 82-30890 Filed 11-9-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Long-and-Short-Haul Applications for Relief (Formerly Fourth Section Applications)

November 5, 1982.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

Aggregate-of-Intermediates

No. 43981, Union Pacific Railroad Co., No. 144, rates on Lumber and Related Articles, carload minimum 85,000 pounds, from points in Idaho, Montana, Oregon and Washington to Mill Creek, Sugar House and West Jordan, UT, among other point in Idaho and Utah. Rates are to be published in Items 1020-B and 1030-C-series to Tariff ICC UP 4491. Grounds for relief—to meet motor carrier competition without use of such rates as factors in constructing combination rates.

Long-and-Short-Haul

No. 43980, Union Pacific Railroad Co., No. 143, rates on Lumber and Related Articles, carload minimum 85,000 pounds, from Idaho, Montana, Oregon and Washington, to Mill Creek, Sugar House and West Jordan, UT. Rates are to be published in Items 1020-B and

1030-C-series, to Tariff ICC UP 4491. Grounds for relief—Motor Carrier Competition.

By the Commission,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-30809 Filed 11-9-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278, or Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances 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 requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts 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 these contracts and to determine their lawfulness.

Sub No.	Name of railroad, contract No. and specifics	Re-view board	Decided date
357.....	Missouri-Kansas-Texas RR Co. Exemption for Contract Tariff ICC-MKT-C-0205 (Corn, Grain Sorghums, Soybeans and Wheat) via the Ports of Galveston and Houston, TX.	1	Nov. 4, 1982
358.....	Burlington Northern RR Co. Exemption for Contract Tariff ICC-BN-C-0175 (Grain and Grain Products) via BN Ports in the States of Oregon or Washington.	2	Nov. 4, 1982
359.....	Missouri Pacific RR Co. Exemption for Contract Tariff ICC-MP-C-0170 (Soda Ash).	3	Nov. 4, 1982
360.....	Soo Line RR Exemption for Contract Tariff ICC-SOO-C-0115 (Molten Sulphur).	3	Nov. 4, 1982

Sub No.	Name of railroad, contract No. and specifics	Re-view board ¹	Decided date
361.....	Pittsburgh and Lake Erie RR Co. Exemption for Contract Tariff ICC-PLC-C-21 (Bituminous Steam Coal) via Ports of Ashtabula Harbor, Ohio, and Conneaut, Ohio.		Nov. 4, 1982
362.....	Chicago and North Western Transportation Company Exemption for Contract Tariffs ICC-CNW-C-0358, 0359, and 0360 (Grain or Oil Seeds).	2	Nov. 4, 1982
363.....	Missouri Pacific RR Co. Exemption for Contract Tariff ICC-MP-C-0105 (Wheat Flour).	3	Nov. 4, 1982
364.....	Missouri Pacific RR Co. Exemption for Contract Tariff ICC-MP-C-0038 (Isobutylene).	1	Nov. 4, 1982

¹Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.) Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.
(49 U.S.C. 10505.)

By the Commission.
Agatha L. Mergenovich
Secretary.

[FR Doc. 82-30807 Filed 11-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82-28482 beginning on page 46382 in the issue of Monday, October 18, 1982, make the following correction:

On page 46383, middle column, under MC 150837 (Sub-2), Greenwood Trucking Ltd., in the fifth line from the bottom of the page, "LA" should have read "IA".

BILLING CODE: 1505-01-M

Motor Carrier, Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the *Federal Register* of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the *Federal Register* issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those

applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract-carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-195

Decided: November 3, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 14321 (Sub-16), filed October 29, 1982. Applicant: ENGEL VAN LINES, INC., 901 Julia St., Elizabeth, NJ 07201. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, (202) 785-0024. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with J. M. Huber Corporation, of Edison, NJ.

MC 19550 (Sub-14), filed October 29, 1982. Applicant: THE OBSERVER TRANSPORTATION COMPANY, a corporation, P.O. Box 34245, Charlotte, NC 28234. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, (901) 526-2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, SC, GA, FL, VA, TN and OH.

MC 140290 (Sub-5), filed October 28, 1982. Applicant: KESSEL TRUCKING CO., INC., 615 North Main, Blue Earth, MN 56013. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting *concrete and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Winnebago Concrete Products Company of Winnebago, MN.

MC 147470 (Sub-1), filed October 25, 1982. Applicant: RAY COBB TRANSPORTATION COMPANY, 130 Railroad Ave., Monrovia, CA 91016. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631, (714) 773-4111. Transporting *motor vehicles*, between points in the U.S. (except AK), under continuing contract(s) with persons who are engaged in business as manufacturers.

distributors, or dealers of motor vehicles.

MC 149431 (Sub-3), filed October 28, 1982. Applicant: HUDSON VALLEY BULK SERVICE, INC., Twinbrook Farm Road, East Chatham, NY 12060. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *salt*, between points in NY, on the one hand, and, on the other, points in VT and CT, under continuing contract(s) with International Salt Company, of Clarks Summit, PA.

MC 162951 (Sub-1), filed October 21, 1982. Applicant: TITAN TRANSPORTATION, INC., 15532 St., Rt. 12 East, Findlay, OH 45840. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except 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 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 163200, filed October 27, 1982. Applicant: THIGPEN'S ACE HARDWARE & BUILDING MATERIALS, INC., 3009 Dauphin Island Parkway, Mobile, AL 36605. Representative: Elizabeth A. Thigpen (same address as applicant), (205) 479-8501. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Mobile County, AL, on the one hand, and, on the other, points in FL, LA and MS, under continuing contract(s) with Everwood Treatment Company, Inc., of Theodore, AL.

MC 163210, filed October 25, 1982. Applicant: REV. OLLIE ROBINSON d.b.a. ROBINSON CHARTER LINES, 1118 Ingerson Ave., San Francisco, CA 94124. Representative: Rev. Ollie Robinson (same address as applicant). Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in San Francisco, San Mateo, Alameda and Santa Clara Counties, CA, and extending to points in Washoe and Storey Counties, NV.

MC 164461, filed October 28, 1982. Applicant: JOHN YOUNG McDANIEL d.b.a. McDANIEL TRUCKING, 906 North Washington, P.O. Box 166, Quitman, GA 31643. Representative: Thomas F.

Panebianco, P.O. Box 1200, Tallahassee, FL 32302, (904)-576-1221. Transporting *construction materials and such commodities* as are dealt in by home improvement, home furnishing and lumber stores, between points in FL, GA, AL, SC and NC.

MC 164480, filed October 29, 1982. Applicant: VARELA TRANSPORT, INC., 11971 S.W. 200th St., Miami, FL 33177. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305)-592-0036. Transporting *food and related products*, between points in FL, on the one hand, and, on the other, Philadelphia, PA, New York, NY, and DC, and points in NJ and Montgomery County, MD.

MC 164481, filed October 29, 1982. Applicant: LEON STEVENS d.b.a. L & S TRANSPORT, 1600 E. Truxtun Ave., Bakersfield, CA 93305. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872-1106. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of rubber or plastic products, between points in the U.S. (except AK and HI), under continuing contract(s) with Mobil Chemical Co., of Macedon, NY.

For the following, please direct status inquires to Team 2 at 202-275-7030.

Volume No. OP2-278

Decided: November 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 69052 (Sub-47), filed October 27, 1982. Applicant: REED TRUCKING CO., P.O. Box 216, Milton, DE 19968. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004, 202-628-4600. Transporting *food and related products*, between points in DE, MD, NJ, NY, OH, PA, VA, WV, and DC.

MC 110683 (Sub-201), filed October 28, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerney, 1000 16th St. NW., Washington, DC 20036, 202-783-8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with E.I. DuPont de Nemours & Company, Inc., of Wilmington, DE.

MC 143503 (Sub-37), filed October 19, 1982. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 210 W. Park Ave, Suite 1120, Oklahoma City, OK 73102, 405-232-9990. 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 Weberg Furniture, dba Weberg Enterprises, Inc., of Denver, CO.

MC 147492 (Sub-11), filed October 20, 1982. Applicant: MEL MOTOR EXPRESS, INC., P.O. Box 29058, New Orleans, LA 70189. Representative: James T. Harmon III (same address as applicant), 504-246-8221. Transporting *paper, paper products, plastic, plastic products, woodpulp, and wood building products*, between points in the U.S., (except AK and HI), under continuing contract(s) with Georgia-Pacific Corporation, of Darien, CT.

MC 153773 (Sub-3), filed October 29, 1982. Applicant: NDC TRUCKING COMPANY, P.O. Box 7364, Longview, TX 75601. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255-6279. Transporting (1) *chemicals and related products*, between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *food and related products*, between points in AR, CA, GA, IL, IN, KY, NJ, NY, PA and TN, on the one hand, and, on the other, points in TX.

MC 160242 (Sub-1), filed October 28, 1982. Applicant: NOAH ENTERPRISES, INC., Rte 1 Box 748, Yutan, NE 68073. Representative: James F. Crosby, Oak Park Office Bldg., Suite 210B, 7363 Pacific St., Omaha, NE 68114, (402) 397-9900. Transporting *food and related products*, between Omaha, NE and points in Madison and Dawson Counties, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163632, filed October 29, 1982. Applicant: STATE MATERIALS SERVICE, INC., 520 No. Webster, Jacksonville, IL 62650. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5488. Transporting (1) *petroleum products*, between points in Brown, LaSalle, and Pike Counties, IL on the one hand, and, on the other, points in IA, IN, MO, and WI; and (2) *liquid aqua ammonia*, between points in Brown and Pike Counties, IL, on the one hand, and, on the other, points in IA, IN, KY, MI, MO, AND WI.

MC 163932, filed October 28, 1982. Applicant: C. & J. TRUCKING COMPANY, 38 Killarney Drive, Union, KY 41091. Representative: Richard H. Brandon, 220 West Bridge St., P.O. Box 97, Dublin, OH 43017, 614-889-2531. Transporting *general commodities*,

(except classes A and B explosives, household goods, and commodities in bulk), between Cincinnati, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164013 (Sub-1), filed October 22, 1982. Applicant: MIKE BRUA TRUCKING, 1114 Milton Ave., Worthington, MN 56187. Representative: Michael a. Brua (same as applicant) (507)372-2693. Transporting *such commodities*, as are dealt in or used in the manufacture of printing ink pigment, between Ridgeway, PA, on the one hand, and, on the other, points in NJ, NY, CT, OH, IN, IL, IA, WI, MI, KY, SD and MN.

MC 164303, filed October 20, 1982. Applicant: SAM'S 24 HOUR TOWING SERVICE, INC., 9500 Franklin Ave., Franklin Park, IL 60131. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602, 312-782-6937. Transporting *disabled and replacement trucks, tractors, trailers*, between points in IL, IA, MI, WI, IN, OH, TN, MO, MN, SD, KY, PA, AR, KS, CO and FL.

MC 164432, filed October 27, 1982. Applicant: VERSINCO, INC., 2100 First National Bank Bldg., Dayton, OH 45402. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, 703-893-3050. Transporting *lumber and wood products, metal products, and machinery*, between Los Angeles, CA, points in Dade County, FL, Shelby County, OH, Pontotoc County, OK, and Windsor County, VT, on the one hand, and, on the other, 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. 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 2, Room 2379.

MC 164433, filed October 27, 1982. Applicant: JEWISH GIRL WITH TRUCK INC., TA/FURNITURE WAREHOUSE, 7657D Fullerton Rd., Springfield, VA 22153. Representative: Richard I. Perlut (same address as above) (703) 644-5330. Transporting *furniture*, between Springfield, VA, on the one hand, and, on the other, points in MD, PA, DE, VA, WV, NC, and DC.

For the following, please direct status inquiries to Team 3 at 202-275-5223.

Volume No. OP3-13

Decided: November 2, 1982.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

MC 22425 (Sub-14), filed October 21, 1982. Applicant: CODY EXPRESS, INC., 155 Lenox St., Norwood, MA 02062. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235-5571. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 113855 (Sub-539), filed October 22, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Michael E. Miller, 15 Broadway, Suite 502 Fargo, ND 58102 (701) 235-4487. 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 (1) Riedel International, Inc., (2) Wake Island Constructors, Inc., and (3) Western-Pacific Corporation, all of Portland, OR, (4) California Launch Service Corp., of San Francisco, CA, and (5) Riedel Construction, LTD., and (6) Sceptre Dredging, LTD., both of Vancouver, B.C., Canada.

Note.—This decision has been made in accordance with the statutory provisions of the Bus Regulatory Reform Act of 1982 with great weight being given to the mandates set forth in the National Transportation Policy.

MC 116164 (Sub-18), filed October 19, 1982. Applicant: ARROW TRANSPORTATION CO., 1911 N.E. 58th Ave., Des Moines, IA 50313. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274-4985. Transporting *building materials*, between points in DE, IA, IL, IN, KS, KY, MD, MI, MN, MO, NC, NE, NJ, NY, OH, PA, SC, TN, VA, WV, and WI.

MC 125535 (Sub-43), filed October 20, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Helm (same address as applicant), (314) 532-0292. Transporting *copper, copper products, wire and cable, cord sets, steel conduit, steel pipe, and strip steel*, between points in the U.S. (except AK and HI), under continuing contract(s) with Triangle PWC Inc., of New Brunswick, NJ.

MC 143654 (Sub-8), filed October 19, 1982. Applicant: DOYLE BRANT, INC., Route 4, Grand Terrace Estates, St. Joseph, MO 65407. Representative: Tom Kretsinger, 20 East Franklin, Liberty, MO 64068, (816) 781-6000. Transporting *dry fertilizer*, between points in Buchanan County, MO, on the one hand,

and, on the other, points in KS, NE, and IA.

MC 145855 (Sub-10), filed October 5, 1982. Applicant: JOHN RAY TRUCKING CO., INC., P.O. Box 206, Eastaboga, AL 36260. Representative: John W. Cooper, P.O. Box 162, Mentone, AL 35984, (205) 634-4885. Transporting *paper and paper products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Gold Bond Building Products, a Division of National Gypsum Company, of Charlotte, NC.

MC 152764 (Sub-2) filed October 15, 1982. Applicant: L.V.L., INC. P.O. Box 767, Jacksonville, AR 72076. Representative: Richard L. Vassar (same address as applicant), (501) 982-7586. Transporting *alcoholic beverages*, between points in AR, on the one hand, and, on the other points in GA, IL, LA, MI, MO, NE, TN, TX, and WI.

MC 160585, filed October 20, 1982. Applicant: C. DONALD ALBIN, d.b.a. CHEMICAL TRANSPORTATION, 21119 Wilmington, Long Beach, CA 90810. Representative: C. Donald Albin (same address as applicant), (213) 835-0151. Transporting *chemicals and related products*, between points in AZ, CA, CO, ID, LA, MT, NV, NM, OR, TX, UT, WA, and WY.

MC 162914 (Sub-1), filed October 19, 1982. Applicant: LANCER TRANSPORTATION SERVICES, INC., 552 South Washington St., Naperville, IL 60540. Representative: Daniel O. Hands, 104 S. Michigan Avenue, Suite 410, Chicago, IL 60603, (312) 641-1944. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, and points in Kane County, IL, on the one hand, and, on the other, points in WI, and (2) *chemicals and related products*, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, MI, OH and WI.

MC 162915 (Sub-1), filed October 13, 1982. Applicant: EASY RIDER LINES, INC., 21 Queen Anne Drive, Deal, NJ 07723. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836-1144. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at Deal, Long Branch, West Long Branch, Ocean Township, and Garden State Parkway Interchange at Exit 105, NJ, and extending to New York, NY, under continuing contract(s) with the Jersey Shore Sephardic Congregation, of Deal, NJ.

MC 164114, (Sub-1), filed October 22, 1982. Applicant: NORTH FLORIDA TRANSPORT SERVICE, Route 1, Box

595, Summerfield, FL 32691.
 Representative: J. L. Fant, P.O. Box 577,
 Jonesboro, GA 30237, (404) 477-1525.
 Transporting *general commodities*
 (except classes A and B explosives and
 household goods), between points in the
 U.S. under continuing contract(s) with
 Lykes Packing Company, of Dade City,
 FL.

MC 164244, filed October 18, 1982.
 Applicant: MURRAY INTERNATIONAL
 FREIGHT CORP., 7900 Pulaski Hwy.,
 Baltimore, MD 21237. Representative:
 Murray Ira Feldman, 7900 Pulaski Hwy.,
 Baltimore, MD 21237, (301) 687-6100.
 Transporting *general commodities*
 (except household goods, commodities
 in bulk, and classes A and B
 explosives), between points in MD, DE,
 PA, VA, NJ, and DC.

MC 164334, filed October 21, 1982.
 Applicant: JIM MARTIN, d.b.a. MARTIN
 FLOORING, 10624 New Benton Hwy.,
 Little Rock, AR 72209. Representatives:
 Fredrick S. Wetzel, P.O. Box 5606, North
 Little Rock, AR 72119, (501) 376-3700.
 Transporting *floor coverings and related
 products*, between points in Pulaski
 County, AR, on the one hand, and, on
 the other, points in Cobb, Dekalb,
 Fulton, Whitfield, Walker, Bartow,
 Floyd, Gordon, Murray, Rockdale, and
 Chattahoochee Counties, GA, and Hinds
 County, MS.

MC 164364, filed October 22, 1982.
 Applicant: PERMA LEASING CORP.,
 175-20 Wexford Terrace, Jamaica, NY
 11432. Representative: Jack L. Schiller,
 111-56 76th Dr., Forest Hills, NY 11375,
 (212) 263-2078. 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 AL, AR, CT, DE, FL, GA,
 IL, IN, KY, MA, MD, ME, MS, NC, NH,
 NJ, OH, OK, PA, RI, SC, TN, TX, VA,
 WV, and DC.

Volume No. OP3-15

Decided: November 3, 1982.

By the Commission, Review Board No. 2,
 Members Carleton, Williams, and Ewing.

MC 79434 (Sub-6), filed October 22,
 1982. Applicant: BENNETT TRUCK
 LINE, INC., 200 E. Walnut, Paragould,
 AR 72450. Representative: R. Connor
 Wiggins, Jr., 100 N. Main Bldg., Suite 909,
 Memphis, TN 38103, (901) 526-4114.
 Transporting *general commodities*
 (except classes A and B explosives,
 household goods, and commodities in
 bulk), (a) between points in Greene and
 Craighead Counties, AR and Pemiscot
 and Dunklin Counties, MO, on the one
 hand, and, on the other, points in AL,
 GA, LA, MO, MS, NC, OK, SC, TN and
 TX and (b) between points in Pulaski

County, AR, on the one hand, and, on
 the other, points in AL, GA, LA, MO,
 MS, NC, SC and TN.

MC 96935 (Sub-2), filed October 19,
 1982. Applicant: C. WILLIAM
 REDSHAW, d.b.a. RUSHVILLE TRUCK
 LINES, 301 N. Liberty, Rushville, IL
 62681. Representative: Edward D.
 McNamara, Jr., 907 South Fourth St.,
 Springfield, IL 62703, (217) 528-8476.
 Transporting *general commodities*
 (except classes A and B explosives,
 household goods, and commodities in
 bulk), between points in Peoria, Rock
 Island, Sangamon, Adams, Morgan, and
 Macon Counties, IL, on the one hand,
 and, on the other, points in IL.

MC 110525 (Sub-1324), filed October
 25, 1982. Applicant: CHEMICAL
 LEAMAN TANK LINES, INC., P.O. Box
 200, Lionville, PA 19353. Representative:
 Robert K. Maslin (same address as
 applicant), (215) 363-4282. Transporting
general commodities (except household
 goods), between points in the U.S.
 (except AK and HI), under continuing
 contract(s) with The Standard Oil
 Company, of Cleveland, OH, and its
 subsidiaries B. P. Oil, Inc., Old Ben Coal
 Company, Vistron Corporation,
 Mountaineer Carbon Company and
 Sohio Petroleum Company.

MC 133105 (Sub-7), filed October 25,
 1982. Applicant: J & J TRANSFER, INC.,
 2420 Blanchard Blvd., Columbus, GA
 31903. Representative: W. H. Tomlinson,
 1601 13th St., Suite B, Columbus, GA
 31901, (404) 322-8404. Transporting
general commodities (except classes A
 and B explosives, household goods, and
 commodities in bulk), between points in
 AL, GA, FL, NC, SC, and TN.

MC 134084 (Sub-9), filed October 26,
 1982. Applicant: SHROCK TRUCKING,
 INC., P.O. Box 428, Hubbard, OR 97032.
 Representative: Lawrence V. Smart, Jr.,
 419 NW 23rd Ave., Portland, OR 97210,
 (503) 226-3755. Transporting *food and
 related products*, between points in OR,
 WA, and CA, on the one hand, and, on
 the other, points in the U.S. (except AK
 and HI).

MC 142165 (Sub-2), filed October 25,
 1982. Applicant: C. GULLEY TRUCK
 SERVICE, INC., 180 Arthur Dr.,
 Shreveport, LA 71105. Representative:
 Edward A. Winter, 235 Rosewood Dr.,
 Melairie, LA 70005, (504) 835-4724.
 Transporting *general commodities*
 (except classes A and B explosives,
 household goods and commodities in
 bulk), between Texarkana, TX, on the
 one hand, and, on the other, points in
 AR, LA, and TX, under continuing
 contract(s) with Nabors Trailers, Inc. of
 Mansfield, LA and Intermodal
 Brokerage Services, Inc. of Norcross,
 GA.

MC 146024 (Sub-7), filed October 22,
 1982. Applicant: G & R PETROLEUM,
 INC., 253 S.W. 4th Ave., Ontario, OR
 97914. Representative: Timothy R.
 Stivers, P.O. Box 1576, Boise, ID 83701,
 (208) 343-3071. Transporting
*commodities in bulk, chemicals, and
 minerals*, between those points in the
 U.S. in and west of IL, MO, AR, and LA
 (except AK and HI).

MC 146355 (Sub-3), filed October 26,
 1982. Applicant: P-N-J KORNACKER,
 INC., 3030 West 10th St., Waukegan, IL
 60085. Representative: Albert A. Andrin,
 180 North LaSalle St., Chicago, IL 60601,
 (312) 332-5106. Transporting (1) *plastic
 and plastic products*, between points in
 Cook and Lake Counties, IL, and
 Jackson and St. Louis Counties, MO, on
 the one hand, and, on the other, points
 in the U.S. (except AK and HI); and (2)
iron and steel products, between points
 in the U.S. (except AK and HI).

MC 146485 (Sub-5), filed October 19,
 1982. Applicant: MARBURGER
 REFRIGERATED EXPRESS, INC., P.O.
 Box 387, Peru, IN 46970. Representative:
 Donald W. Smith, P.O. Box 40248,
 Indianapolis, IN 46240, (317) 846-6655.
 Transporting *food and related products*,
 between points in IN, IL, OH, KY, and
 MI, on the one hand, and, on the other,
 points in the U.S. (except AK and HI).

MC 147465 (Sub-4), filed October 25,
 1982. Applicant: MOORE & SON CO.,
 1101 Cable Ave., Columbus, OH 43222.
 Representative: Stephen J. Habash, 100
 E. Broad St., Columbus, OH 43215, (614)
 228-1541. Transporting *metal products*,
 between points in Marion County, OH,
 on the one hand, and, on the other,
 points in IN, KY, MI, PA and WV.

MC 148394 (Sub-4), filed October 26,
 1982. Applicant: MCKINLEY TRUCKING
 CO., INC., 652 N. Williams St., Carson
 City, MI 48811. Representative: Karl L.
 Gotting, 1200 Bank of Lansing Bldg.,
 Lansing, MI 48933, (517) 482-2400.
 Transporting (1) *petroleum and
 petroleum products*, and (2) *chemicals
 and related products*, between points in
 MI, OH, IL, MO, IN, PA, and NY.

MC 149535 (Sub-4), filed October 12,
 1982. Applicant: ALL FREIGHT, INC.,
 5100 W. 164th St., Brook Park, OH 44142.
 Representative: James G. Keck, (same
 address as applicant), (216) 243-1010.
 Transporting *general commodities*
 (except classes A and B explosives and
 household goods), between points in the
 U.S., under continuing contract(s) with I.
 Schumann & Company of Bedford, OH.

MC 150735 (Sub-8), filed October 25,
 1982. Applicant: BESTWAY
 TRANSPORT CO., a corporation, Route
 #2, Willard, OH 44890. Representative:
 Lewis S. Witherspoon, 2455 North Star

Rd., Columbus, OH 43221, (614) 486-0448. Transporting *printed matter*, between points in the U.S. (except AK and HI).

MC 154545 (Sub-5), filed October 22, 1982. Applicant: L & M EXPRESS, INC., 3224 Toone St., Baltimore, MD 21223. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 797-6060. 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 155314 (Sub-3), filed October 25, 1982. Applicant: R. C. HOFFMAN ENTERPRISES, INC., P.O. Box 3927, Lake Wales, FL 33853. 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 AL, DE, IA, KS, MO, NE, IL, OH, MD, ND, AR, TN, KY, MN, SD, OK, TX, PA, VA, NY, WI, FL, IN, SC, LA, MS, WV and MI, on the one hand, and, on the other, points in GA, OH, IN, MI, NC, SC, LA, MS, FL, PA, MA, NY, NJ, CT, RI, NH, VT and ME.

MC 157335 (Sub-1), filed, October 22, 1982. Applicant: H.M.D. TRANSPORT, INC., 370 West First Street, South Boston, MA 02127. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Weelesley Hills, MA 02181, (617) 235-5571. 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 Hellenic American Agencies, Inc., of New York, NY.

MC 160574 (Sub-1), filed October 25, 1982. Applicant: A. BRANDWEIN & COMPANY, 3190 Doolittle Dr., Northbrook, IL 60062. Representative: Edward G. Bazelon, 135 South La Salle St., Chicago, IL 60603, (312) 236-9375. 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 Adams Foam Rubber Company, Ideal Box Company, and American Backhaulers Corporation, all of Chicago, IL, Harris-Hub Company, Inc., of Harvey, IL, J. G. Clark Company, of Edison, OH and DMI Furniture Inc., of Huntingburg, IN.

MC 161765 (Sub-1), filed October 25, 1982. Applicant: JOE E. ROBERTSON & JOE H. ROBERTSON, d.b.a. JOE'S BODY SHOP, Rt 136 East, P.O. Box 533, Rantoul, IL 61866. Representative: Joe H.

Robertson, (same address as applicant), (217) 892-8200. Transporting *disabled and replacement vehicles*, between points in the U.S. (except AK and HI).

MC 162614 (Sub-1), filed October 21, 1982. Applicant: KENDALL TRUCKING AND GRADING, INC., Rt. 2, Box 18E, Wadesboro, NC 28170. Representative: Barry Weinstraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442-8330. Transporting *sand and gravel*, between points in the U.S. (except AK and HI), under continuing contract(s) with Southern Products and Silica Company, Inc. both of Haffman, NC.

MC 164254, filed October 13, 1982. Applicant: CHEMICAL PRODUCTS DEVELOPEMENT CORPORATION, Rt. 6, Box 283, Oklahoma City, OK 73119. Representative: David S Schneider, 210 W. Park Ave. Suite 1120, Oklahoma City, OK 73102, (405) 232-9990. 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 CRL Limited, Carpet World, Inc. and Durashield II, Inc. all of Oklahoma City, OK.

MC 164295, filed October 19, 1982. Applicant: P & S TRANSFER, 16261 Lindberg St., Van Nuys, CA 91406. Representative: Gilford Vallejos, 8680 Elizabeth Ave. South Gate, CA 90280, (213) 566-0861. Transporting (1) *office furniture* and (2) *metal and wood products*, between points in the U.S., under continuing contract(s) with Holga Metal Products Corporation of Van Nuys, CA.

MC 164335, filed October 21, 1982. Applicant: G & G TRUCKING, INC., RT. 3, Dublin, GA 31021. Representative: Virgil H. Smith, 74 Hwy N., Box 245, Tryone, GA 30290, (404) 969-1980. 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 164395, filed October 21, 1982. Applicant: STAN FERGUSON, d.b.a. STAN FERGUSON TRUCKING, 431-41st Ave., Winona, MN 55987. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855. Transporting *fertilizer*, between points in MN, ND, SD, IA, MO, WI, IL, and IN.

Volume No. OP-16

Decided: November 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 10345 (Sub-106), filed October 26, 1982. Applicant: C & J COMMERCIAL

DRIVEAWAY, INC., 2400 West St. Joseph St., Lansing, MI 48901. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 737-1030. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors or dealers of motor vehicles.

MC 17095 (Sub-4), filed October 25, 1982. Applicant: DARNALL TRUCK SERVICE, INC., P.O. Drawer 1346, Great Bend, KS 67530. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting *metal products*, between points in Clinton County, IA, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, LA, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY.

MC 43724 (Sub-7), filed October 26, 1982. Applicant: PHILLIP'S EXPRESS, INC., 61 Merrimac St., Lawrence, MA 01842. Representative: Hugh R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617) 657-6071. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, on the one hand, and, on the other, points in RI, NH, CT, VT, and ME.

MC 67234 (Sub-63), filed October 28, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite, 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Johnson & Johnson, of New Brunswick, NJ, and its wholly owned subsidiaries (1) Chicopee of New Brunswick, NJ, (2) Critikon, Inc., of Tampa, FL, (3) Ethicon, Inc., of Somerville, NJ, (4) Extracorporeal, Inc., of King of Prussia, PA, (5) Johnson & Johnson Baby Products Company, of Skillman, NJ, (6) Johnson & Johnson International and (7) Johnson & Johnson Products, Inc., both of North Brunswick, NJ, (8) McNeil Consumer Products Co., of Fort Washington, PA, (9) McNeil Pharmaceutical, of Spring House, PA, (10) Ortho Diagnostic Systems, Inc., of Raritan, NJ, (11) Ortho Pharmaceutical Corp. of Somerset, NJ, (12) Personal Products Co., of Milltown, NJ, (13) Surgikos, Inc., of Arlington, TX, and (14) Technicare Corporation, of Solan, OH.

MC 88414 (Sub-8), filed October 27, 1982. Applicant: RICHMOND TRANSFER & STORAGE CO., 2114 Macdonald Ave., Richmond, CA 94801.

Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, (202) 833-8884. 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 American Vanpac Carriers, Inc., of Richmond, CA.

MC 116915 (Sub-151), filed October 19, 1982. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227-2254. 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).

MC144315 (Sub-10), October 27, 1982. Applicant: PORT CITY LEASING, INC., P.O. Box 498 Lewiston, ID 83501. Representative: Timothy R. Stivers P.O. Box 1576 Boise, ID 83701 (208) 343-3071. Transporting *Metal products, building materials, and lumber and wood products*, between those point in the U.S. in and west of IL, MO, AR, and LA (except AK and HI).

MC145384 (Sub-61), filed October 27, 1982. Applicant: ROSE-WAY, INC., P.O. Box 4644 Des Moines, IA 50306. Representative: James M. Hodge 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274-4985. Transporting *Machinery and metal products*, between points in the U.S. (except AK and HI).

MC 146435 (Sub-6), filed October 26, 1982. Applicant: SMITH TRUCK BROKERAGE, INC. P.O. Box 974 Willmar, MN 56201. Representative: Samuel Rubenstein P.O. Box 5 Minneapolis, MN 55440 (612) 542-1121. Transporting *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Western Products, Inc., of Fargo, ND, and its subsidiaries, Builders Supply of Fargo, of Fargo, ND, Steel Siding Supply, of Sioux Falls, SD, and Builders Supply of Fargo, of Billings, MT.

MC 151925 (Sub-2), filed October 28, 1982. Applicant: KEN VAN LEUVEN & SON, INC. 10798 Seneca Dr. Boise, ID 83705. Representative: David E. Wishney P.O. Box 837, Boise, ID 83701 (208) 336-5955. Transporting (1) *lumber and wood products and building materials*, between those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI), and (2) *metal products, Machinery, and transportation equipment*, between points in Ada County, ID, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, NM, and TX (except AK and HI).

MC 152775 (Sub-9), filed October 25, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison P.O. Box 22628 Jackson, MS 39205 (601) 948-8820. Transporting *Mercer commodities*, between points in Iberia, Jefferson, Orleans, Plaquemines, and St. Bernard Parishes, LA, on the one hand, and, on the other, points in AL, FL, LA, MS, and TX.

MC 161845, filed October 19, 1982. Applicant: OBERLANDER LITTLE ACRES INC., 605 No. Burke St., Wolcott, IN 47995. Representative: Allen Oberlander (same address as applicant), (219) 279-2011. Transporting *metal products*, between points in the U.S., under continuing contract(s) with T & D Metal Products of Watseka, IL.

MC 163885 (Sub-1), filed October 27, 1982. Applicant: JACK WEBER TRUCKING, 6960 S 641 W., Unit 3, Salt Lake City, UT 84047. Representative: Jack Weber (same address as applicant), (801) 566-5128. Transporting *such commodities* as are dealt in by retail and discount stores, between points in UT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164414, filed October 26, 1982. Applicant: GREEN-STEP, INC., Williams Park, Old Cason Hwy., Daingerfield, TX 75638. Representative: Buster W. Green (same address as applicant), (214) 645-5527. Transporting *building materials*, between points in AR, LA, MS, TN, TX, KS, OK, CA, ID, MT, OR, WA, WY, CO, AL, GA, and FL.

MC 164424, filed October 21, 1982. Applicant: CANINO'S, 120 State Rd., Kittery, ME 03904. Representative: Michael A. Canino (same address as applicant), (207) 439-2254. Transporting *appliances*, between points in York County, ME, Rockingham and Strafford County, NH, and Essex County, MA.

MC 164445, filed October 25, 1982. Applicant: CONTAINER TRANSPORTATION CORPORATION, 12115 E. Admiral Place, Tulsa, OK 74116. Representative: G. Timothy Armstrong, 200 No. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202-275-7669.

Volume No. OP4-025

Decided: November 4, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. MC-65916 Sub 21, filed October 27, 1982.

Applicant: WARD TRUCKING CORP., 2nd Ave. & 7th St., Altoona, PA 16603. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. 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 105636 (Sub-47) filed October 28, 1982. Applicant: ARMELLINI EXPRESS LINES, INC., P.O. BOX 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, 1030 Fifteenth St., NW, Suite 366, Washington, DC 20005, (202) 296-5188. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Action Freight Brokers, Inc. of Chicago, IL, National Carrier Service of Anaheim, CA, and Total Cargo International, Inc. of Miami, FL.

MC 115337 (Sub-2) filed October 27, 1982. Applicant: OLIN L. CHAMBERLAIN, d.b.a. CHAMBERLAIN'S BUS SERVICE, R.D. No. 1, Box 54, Covington, PA 16917. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 466-3892. Transporting *passengers and their baggage*, in special and charter operations, between points in the U.S.

MC 120606 (Sub-2) filed October 28, 1982. Applicant: A. C. WHITE TRANSFER & STORAGE CO., INC., 660 Edgewood Ave., NE., Atlanta, GA 30312. Representative: B. W. LaTourette, Jr., 11 S Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *household goods, furniture and fixtures, automobiles, and office equipment*, between points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI.

MC 149576 (Sub-24) filed October 28, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, P.O. BOX 1247, Nixon Station, Edison, NJ 08818. Representative: R. M. McGraw (same address as applicant), (201) 985-2182. Transporting *chemicals, drugs, medicines, toilet preparations and animal feed supplements*, between points in the U.S. (except AK and HI), under continuing contract(s) with P. F. Laboratories, Inc. of Totowa, NJ.

MC 153306 (Sub-1), filed October 25, 1982. Applicant: GENERAL FREIGHT SYSTEMS, LTD., 9710 W. Loomis Rd., Franklin, WI 53132. Representative: Daniel R. Dineen, 710 N. Plankton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *metal products*, between

points in the U.S. (except AK and HI). Condition: Applicant seeks to convert its permit into a certificate with the filing of this application, therefore issuance of a certificate in this proceeding is subject to coincidental cancellation, of the permit in MC-153306, issued December 1, 1981.

MC 164407, filed October 25, 1982. Applicant: M/A-COM TRANSPORTATION, INC., P.O. Box 199, Catawba, NC 28609. Representative: Terrell C. Clarke, P.O. Box 25, Stanleytown, VA 24168, (703) 241-3142. 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 M/A-COM, Inc. of Catawba, NC, and its wholly-owned subsidiaries M/A-COM Gallium Arsenide Products, Inc. of Burlington, MA, M/A-COM Microwave Components, Inc. of Burlington, MA, M/A-COM OSW, Inc. of Tempe, AZ, M/A-COM Microwave Associates of Sunnyvale, CA, M/A-COM Video Satellite, Inc. of Burlington, MA, M/A-COM DCC, Inc. of Germantown, MD, M/A-COM Video Systems, Inc. of Burlington, MA, M/A-COM Comm/Scope, Inc. of Catawba, NC, M/A-COM Microwave Circuits, Inc. of Burlington, MA, M/A-COM Millimeter Products, Inc. of Burlington, MA, M/A-COM Silicon Products, Inc. of Burlington, MA, M/A-COM Prodelin, Inc. of Hightstown, NJ, M/A-COM Alanthus Data, Inc. of Rockville, MD, M/A-COM Office Systems, Inc. of Bedford, MA, MACOMNET, Inc. of Rockville, MD, and M/A-COM Linkabit, Inc. of San Diego, CA.

For the following, please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-244

Decided: November 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 136798 (Sub-10), filed October 21, 1982. Applicant: THE FORTUNE CORPORATION, d.b.a. MAUST TRANSFER COMPANY, 1762 6th Ave. South, Seattle, WA 98124. Representative: Michael D. Duppenhaler, 211 South Washington St., Seattle, WA 98104, (206) 622-3220. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in WA on and west of U.S. Hwy 97.

MC 140889 (Sub-28), filed October 19, 1982. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: David M. O'Boyle, 2310 Grant Bldg., Pittsburgh,

PA 15219, (412) 765-1600. Transporting *such commodities* as are dealt in or used by manufacturers of duplicating machines, between points in the U.S. (except AK and HI), under continuing contract(s) with Xerox Corporation, of Rochester, NY.

MC 152039 (Sub-1), filed October 22, 1982. Applicant: CATO TRANSPORT, INC., P.O. Box 446, High Point, NC 27260. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, 703-629-2818. Transporting (1) *machinery*, between New York, NY, on the one hand, and, on the other, points in Palm Beach County, FL and (2) *furniture and fixtures*, between points in OK and TX, and those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 152068 (Sub-3), filed October 13, 1982. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233-9629. Transporting (1) *heating, airconditioning, and refrigeration units*, and (2) *components, materials, equipment, and supplies* used in the repair, maintenance, sale, and distribution of the commodities in (1), between points in OH, IN, IL, MO, MN, WI, GA, AZ, WY, NE, KS, CO, NM, and UT, on the one hand, and, on the other, points in WA, OR, CA, NV, ID, WY, UT, AZ, NM, CO, SD, NE, KS, OK, TX, MO, and MN.

MC 152068 (Sub-4), filed October 13, 1982. Applicant: HOC-EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, 1010 Tyler, Suite 110L, Kansas Credit Union Bldg., Topeka, KS 66612, (913) 233-9629. Transporting (1) *metal containers*, (2) *janitorial supplies and detergents*, and (3) *food and related products*, between points in Butler and Sedgwick Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152949 (Sub-2), filed October 19, 1982. Applicant: HANOVER TRANSPORT, INC., d.b.a. G TRANSPORTATION, 384 Air Park Rd., Ashland, VA 23005. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282-3809. Transporting (1) *chemicals and related products*, (2) *food and related products*, (3) *machinery*, (4) *pulp, paper and related products*, and (5) *rubber and plastic products*, between points in MI and VA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 162478, filed October 22, 1982. Applicant: MERMAID TRANSPORTATION COMPANY, 9 Woodland Rd., South Portland, ME

04106. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, 207-773-5651. Transporting *passengers and their baggage* in special operations, between points in Cumberland, Sagadahoc, and York Counties, ME, on the one hand, and on the other, points in Suffolk County, MA, under continuing contract(s) with The Mermaid Club of Portland, ME.

MC 163818 (Sub-1), filed October 20, 1982. Applicant: CALVIN LOCKARD, d.b.a. C.P.H. TRANSPORT, INC., P.O. Box 950, Florence, OR 97439. Representative: Robert H. Foster, 342 East 12th Ave., Eugene, OR 97401, (503) 342-1771. Transporting *lumber and wood products, and pulp, paper and related products*, (a) between points in CA, OR, and WA, and (b) between points in Douglas County, OR, and points in CA, on the one hand, and, on the other, points in AZ, CA, ID, NV, OR, UT, and WA.

MC 164099 filed October 21, 1982. Applicant: NORTHERN RENTALS, INC., P.O. Box 2126, So. Burlington, VT 05401. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781-8205. Transporting *petroleum and petroleum products*, between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

Volume No. OP5-245

Decided: November 2, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 41098 (Sub-87), filed October 26, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, D.C. 20006, 202-833-8884. Transporting *household goods*, between points in the U.S. under continuing contract(s) with Employee Transfer Corporation of Chicago, IL.

MC 124868 (Sub-4), filed October 25, 1982. Applicant: SOUTHERS WRECKER & REPAIR, INC., P.O. Box 988, Staunton, VA 24401. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., N.W., Washington, D.C. 20036. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Roadway Express, Inc., of Akron, OH.

MC 140409 (Sub-10), filed October 25, 1982. Applicant: CIRCLE B TRANSPORTATION OF NORTH DAKOTA, P.O. Box 207, Wheat Ridge, CO 80034-207. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, 201-836-1144. 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 148868 (Sub-4), filed October 25, 1982. Applicant: MALM CO., INC., 3501 Delgany St., Denver, CO 80216. Representative: Edward C. Hastings, 666 Sherman St., Denver, CO 80203, 303-837-1204. Transporting *food and related products*, between points in AL, AR, AZ, CA, CO, GA, IL, IN, KS, NE, LA, MS, MO, OH, OK, PA, and TX.

MC 151609 (Sub-6), filed October 26, 1982. Applicant: BRIAN KARGMAN, d.b.a. B.K. LEASING CO., Dutch Mill Road, Franklinville, NJ 08322. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036-5391, (202) 887-5868. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Castle & Cooke Foods, Inc., of Hauppauge, NY.

MC 154558 (Sub-1), filed October 22, 1982. Applicant: J. E. DAVIS & SONS, CO., 4035 Griswold St., Port Huron, MI 48060. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124, 313-561-3548. Transporting *machinery*, between points in MI, IN, OH, IL, WI, PA and NY.

MC 159899 (Sub-1), filed September 30, 1982. Applicant: QUICK TOURS AND CHARTER CO., LTD., P.O. Box 8, Mountain, WI 54149. Representative: Roger F. Bartnik (same address as applicant) (715) 276-7550. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Chicago, IL, Milwaukee and Superior, WI, St. Paul, Minneapolis and Duluth, MN, and extending to ports of entry on the international boundary line between the U.S. and Canada in MN.

MC 163938 (Sub-1), filed October 27, 1982. Applicant: ASSOCIATED TRANSPORT SERVICE, INC., P.O. Box 303, Airway Heights, WA 99001. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *general commodities*, (except classes A and B explosives and household goods, between points in the U.S. under continuing contract(s) with (a) Barrier Aviation, Inc., (b) Corrugated Metals, Inc., (c) Industrial Surplus, Inc., (d) Northern Steel Building, Inc., and (e) Spokane Door Company, all of Spokane, WA, (f) Barrier Industrial Center, of Airway Heights, WA, and (g) Custom Corrugating and Supply, Inc., of Great Falls, MT.

MC 164148, filed October 26, 1982. Applicant: FREIGHT AND CONTAINER SERVICES, INC., 5138 S. 100 East Ave., Tulsa, OK 74145. Representative: David

F. James, 1722 S. Carson—3200 University Tower, P.O. Box 2967, Tulsa, OK 74101, 918-583-2131. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk) between points in TX, LA, AR, MO, KS, and OK.

MC 164368, filed October 25, 1982. Applicant: CLAYTON E. THOMAS, d.b.a. THOMAS FLYER AUTO TRANSPORT, 4870 Piedmont Place, Reno, NV 89502. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701, (702) 882-5649. Transporting *transportation equipment*, between points in the U.S. (except AK and HI).

MC 164369, filed October 25, 1982. Applicant: TMR TRUCKING COMPANY, INC., 348 Franklin Road, Denville, NJ 07834. Representative: John A. Coneys, 214 Walter Avenue, Hasbrouck Heights, NJ 07604, (201) 288-3572. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Globe Products Company, Inc., of Clifton, NJ.

MC 164379, filed October 25, 1982. Applicant: KENNETH R. COX, d.b.a. COX TRUCKING CO., 2025 South Missouri, Oklahoma City, OK 73129. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118, (405) 848-7946. 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 Magnetic Peripherals, Inc., of Oklahoma City, OK.

MC 164398, filed October 25, 1982. Applicant: CAMION'S, INC., 744 Forestdale Blvd., Birmingham, AL 35214. Representative: Gerald D. Colvin, Jr., 601-09 Frank Nelson Bldg., Birmingham, AL 35203-3668, (205) 251-2881. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI) under continuing contract(s) with Decor, Inc., of Fairfield, AL.

MC 164399, filed October 25, 1982. Applicant: DONALD E. SCAGGS, d/b/a/ DAWN TRANSPORT, Route 1, Box 14, Caldwell, ID 83605. Representative: Donald E. Scaggs (same address as applicant), 208-585-3148. Transporting *food and related products*, between points in ID, NV, WA, OR, and CA.

MC 164418, filed October 25, 1982. Applicant: SUNDANCE EXPRESS, INC., 3035 E. Garfield, Phoenix, AZ 85008. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014,

602-264-4891. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery, hardware, and department stores, automotive outlets, and mercantile businesses, between points in AZ, CA and NV.

MC 164428, filed October 27, 1982. Applicant: STRAWCO CONSOLIDATION CORP., 360 W. 31st St., New York, NY 10001. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *such commodities* as are dealt in or used by department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Strawbridge & Clothier, of Philadelphia, PA.

MC 164429, filed October 22, 1982. Applicant: FOX TRUCKING COMPANY, INC., 4529 Enterprise Pl. Oklahoma City, OK 73124. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214-255-6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Denver, CO; Little Rock, AR; Memphis, TN; New Orleans, LA; Oklahoma City and Tulsa, OK; St. Louis and Kansas City, MO and Wichita, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Agatha L. Mergenovich, Secretary.

[FR Doc. 30611 Filed 11-9-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-53, 59, 50, 61, 62, 63, 67, 69, 70, 74, 82, 83, 85, and 86 (Final)]

Certain Carbon Steel Products From Belgium, France, Italy, the United Kingdom, and the Federal Republic of Germany; Termination of Investigations

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigations.

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger (202-523-0312) or Mr. Daniel Leahy (202-523-1369), Office of Investigations, U.S. International Trade Commission.

SUMMARY: On August 10, 1982, the Commission instituted final antidumping investigations under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an

industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports of the following merchandise:

Hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA) from—

Belgium (investigation No. 731-TA-53 (Final)), the United Kingdom (investigation No. 731-TA-59 (Final)), and the Federal Republic of Germany (investigation No. 731-TA-60 (Final));

Hot-rolled carbon steel sheet and strip, provided for in TSUSA items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400 and 608.1920, 608.2120, and 608.2320, respectively, from—

Belgium (investigation No. 731-TA-61 (Final)), France (investigation No. 731-TA-62 (Final)), Italy (investigation No. 731-TA-63 (Final)), and the Federal Republic of Germany (investigation No. 731-TA-67 (Final));

Cold-rolled carbon steel sheet and strip, provided for in TSUSA items 607.8320 and 607.8344 and 608.1940, 608.2140, and 608.2340, respectively, from—

France (investigation No. 731-TA-69 (Final)), Italy (investigation No. 731-TA-70 (Final)), and the Federal Republic of Germany (investigation No. 731-TA-74 (Final)); and

Carbon steel structural shapes, provided for in TSUSA items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 from—

Belgium (investigation No. 731-TA-82 (Final)), France (investigation No. 731-TA-83 (Final)), the United Kingdom (investigation No. 731-TA-85 (Final)), and the Federal Republic of Germany (investigation No. 731-TA-86 (Final)).

On October 21, 1982, the Commission was notified by United States Steel Corp. and Bethlehem Steel Corp., the petitioners in these investigations, that they wished to withdraw their petitions as to all of the above-mentioned investigations pursuant to section 734(a) of the Act (19 U.S.C. 1673c(a)). The Commission has granted these requests.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.
Issued: November 2, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-30918 Filed 11-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-112

Certain Cube Puzzles; Commission request for comments regarding proposed termination of Respondents based on settlement agreements

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comment on the proposed termination of two respondents based on settlement agreements.

SUMMARY: The settlement agreements would result in the termination of this investigation as to respondents Imperial Merchandise Co., Inc. (Imperial) and Mark Metzner, Inc. (Metzner). This notice requests comments from the public on the proposed termination.

DATES: Comments will be considered if received within 15 days of publication of this notice. They should conform with §201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Under the authority of §201.4(b) of the Commission's rules (19 CFR 201.4(b)), the period for filing comments has been shortened to 15 days from the 30 days prescribed by §210.51(c)(2) of the Commission's rules (46 FR 17530; to be codified at 19 CFR 210.51(c)(2)) because of the relatively short time remaining for the completion of the investigation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (1930 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain cube puzzles. Notice of the institution of the investigation was published in the Federal Register of December 29, 1981 (46 FR 62964). Complainant Ideal Toy Corp. (Ideal) and each of the above-named respondents have moved jointly in separate motions for termination of this investigation as to the above-named respondents.

Settlement Agreements

The settlement agreements are summarized as follows:

Imperial Merchandise Co., Inc.

1. Imperial agrees to pay a certain sum of money to Ideal.

2. Imperial has provided Ideal with copies of all purchase documents involving cube puzzles.

3. Related concurrent litigation is to be terminated by the execution and filing of a consent judgment in the Federal District Court in New York. The

consent judgment in the New York action would enjoin respondent Imperial from: (1) Imitating, copying or making unauthorized use of plaintiff's (i.e., Ideal's) distinctive trademarks, packaging, trade dress, style and labeling for its "Rubik's Cube" puzzles; (2) manufacturing, distributing, selling, advertising or promoting any product bearing any simulation, reproduction, copy or colorable imitation of plaintiff's distinctive trademarks, packaging, trade dress, style and labeling for its "Rubik's Cube" puzzles; (3) using any false designation of origin which is likely to lead the trade or public to believe any product sold by Imperial is in any way associated with plaintiff's "Rubik's Cube" puzzles; (4) engaging in any activity constituting an infringement of plaintiff's trademark; and (5) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to above.

4. If, in any other litigation involving Ideal and a third party, a final unappealed decision on the merits is rendered against Ideal with respect to its claims described as "trade dress infringement" of its "Rubik's Cube" puzzle, and the third party is thus entitled to manufacture or sell cube puzzles, then Imperial will be in the same position as the third party.

Mark Metzner, Inc.

1. Metzner agrees to pay a certain sum of money to Ideal.

2. Related concurrent litigation is to be terminated by the execution and filing of a consent judgment in the Federal District Court in Illinois. The consent judgment in the Illinois action would enjoin respondent Metzner from: (1) Imitating, copying or making unauthorized use of plaintiff's distinctive trademarks, packaging, trade dress, style and labeling for its "Rubik's Cube" puzzles; (2) manufacturing, distributing, selling, advertising or promoting any product bearing any simulation, reproduction, copy of colorable imitation of plaintiff's distinctive trademarks, packaging, trade dress, style and labeling for its "Rubik's Cube" puzzles; (3) using any false designation or origin which is likely to lead the trade or public to believe any product sold by Metzner is in any way associated with plaintiff's "Rubik's Cube" puzzles; (4) engaging in any activity constituting an infringement of plaintiff's trademark; and (5) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to above.

3. If, in any other litigation involving Ideal and a third party, a final unappealed decision on the merits is rendered against Ideal with respect to its claims described as "trade dress infringement" of its "Rubik's Cube" puzzle, and the third party is thus entitled to manufacture or sell cube puzzles, then Metzner will be in the same position as the third party.

Written Comments Requested

In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effect that the proposed termination of the above-named respondents based on the settlement agreements may have on: (1) The public health and welfare; (2) competitive conditions in the U.S. economy; (3) the production of like or directly competitive articles in the United States; and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than 15 days after publication of this notice in the *Federal Register*. In addition, pursuant to 19 CFR 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

Additional Information

The original and 14 copies of all written submissions must be filed with the Secretary to the Commission, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0499.

By order of the Commission.

Issued: November 5, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-30917 Filed 11-9-82; 6:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-107 (Preliminary)]

Melamine From Brazil; Determination

On the basis of the record¹ developed in investigation No. 731-TA-107 (Preliminary), the Commission² determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of melamine provided for in item 425.10 of the Tariff Schedules of the United States which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 14, 1982, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from counsel on behalf of Melamine Chemicals, Inc., a U.S. producer of melamine, alleging that an industry in the United States was being injured by imports of melamine from Brazil which were alleged to be sold at LTFV. Accordingly, the Commission instituted this preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of the imports of such merchandise into the United States. The statute directs that the Commission make its determination within 45 days after its receipt of a petition, or in this case by October 28, 1982.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the *Federal Register* on September 22, 1982

¹The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

²Commissioner Frank not participating.

(47 FR 41884). The public conference was held in Washington, D.C. on October 6, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

In this investigation, the Commission unanimously determined³ that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is being materially retarded⁴ by reason of imports of melamine from Brazil which are allegedly sold at less than fair value. The reasons for the Commission's determination are discussed below.

The domestic industry. Section 711(4) of the Tariff Act of 1930 defines the term "industry" as, "the domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is defined in section 771(10) of the Act as, "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this title."

The imported product that is the subject of this investigation is melamine from Brazil which is allegedly being sold in the United States at less than fair value (LTFV). Melamine, whether imported or produced domestically, is a fine white crystalline powder. Virtually all of the melamine produced in the United States and Brazil is consumed in the manufacture of melamine-formaldehyde resins which, in turn, are used for high-pressure laminates,⁵ surface coatings, molding compounds, and paper and textile treating and coating.

The record indicates that the melamine produced domestically and that imported from Brazil are the same. Therefore, the like product is melamine and the domestic industry consists of those facilities in the United States devoted to the production of melamine. There are currently two domestic producers of melamine: Melamine Chemicals, Inc. (MCI), the petitioner, and American Cyanamid Co.

³Commissioner Frank did not participate.

⁴Material retardation of the establishment of an industry is not an issue in this case.

⁵These are used in the production of decorative countertops, furniture and cabinet panels, tabletops, and partitions in commercial buildings.

MCI produces melamine only for merchant sales.⁶ American Cyanamid consumes a great amount of its melamine production internally. During the investigation, petitioner argued that the portion of American Cyanamid's melamine-producing facilities devoted to the production of melamine for internal or captive use should not be included as part of the domestic industry. The identification of the domestic product which is like the imported article in terms of characteristics and uses is not affected by distinguishing between captive and non-captive sales. Therefore, our industry definition as noted above consists of all production by the two domestic producers.⁷

No reasonable indication of material injury by reason of LTFV imports. Under section 733(a) of the Tariff Act of 1930,⁸ the Commission is required to determine whether there is a reasonable indication that an industry in the United States is materially injured by reason of imports of merchandise which are allegedly being sold at less than fair value. To make its determination, the Commission must consider, among other factors, the volume of imports, the effect of imports on prices in the United States for the like product, and the impact of imports of such merchandise on domestic producers of the like product.^{9 10}

A negligible volume of imports of melamine from Brazil entered the United States in 1979; no imports from Brazil were recorded in 1980. In 1981, imports from Brazil amounted to 990,000 pounds, and for January-July 1982 totaled 3.1 million pounds.¹¹ This increase was in part a result of U.S. purchasers searching for alternative sources of supply when one of the U.S. producers encountered production difficulties.¹²

⁶The merchant or commercial market includes arms-length transactions with unrelated domestic parties, as well as export sales to unrelated parties.

⁷Nevertheless, in assessing the injury question, we have considered the impact of the alleged LTFV imports on both the overall market and, where possible, on the merchant market. Commissioner Stern refers readers to her additional views in Melamine in Crystal Form from Italy and Austria, Invs. Nos. 731-TA-13 and 14 (Final), at 10, USITC Pub. No. 1065 (May 1980).

⁸19 U.S.C. 1673(a).

⁹Tariff Act of 1930, section 771(7), 19 U.S.C. 1677(7) (B) and (C).

¹⁰There are only two domestic producers of melamine. We are severely limited in providing a detailed analysis of the numerous economic indicators which were considered in reaching our determination because of our obligation to safeguard business confidential information. Business confidential information is defined in the Commission's Rules of Practice and Procedure, § 201.6.

¹¹Commissioner Stern notes that Brazil's share of the U.S. market was nil or negligible from 1979-1981.

Furthermore, while Brazil's share of the market increased in January-July 1982 over January-July 1981, U.S. producers' share of the market also rose.¹³

U.S. producers cited lost sales or price reductions to several customers. The purchasers who were contacted accounted for 100 percent of total imports from Brazil during January 1981-July 1982. Purchasers accounting for about 95 percent of such imports indicated that they bought Brazilian melamine for reasons other than price, such as the need for a secondary supplier.¹⁴

According to some purchasers, it is essential to have more than one source of melamine supply. Reliance on a single source of supply is not a sound business practice in this market because melamine-producing plants are subject to unpredictable breakdowns. Also, the uncertainty in the supply of melamine from specific producers resulting from such breakdowns can have an effect on sourcing patterns of purchasers and on the pricing policies of suppliers. Such production difficulties have been experienced by domestic suppliers during the period of this investigation.¹⁵

Information on the record leads to the conclusion that fluctuations in the difference between Brazilian and domestic prices represent changing conditions of domestic supply rather than price undercutting. There has been no significant price undercutting by the Brazilian importer.¹⁶ The total pricing pattern shows the Brazilian product to be priced to meet prevailing market prices.¹⁷

In the recent period, when imports from Brazil increased, there appears to be some weakness in the trends for the domestic industry for shipments, capacity utilization, and inventories.¹⁸ Other important factors, however, are positive, such as the level of

¹²See report at pages 17-19.

¹³Report at A-16. Apparent U.S. consumption and, therefore, import penetration levels are confidential.

¹⁴One purchaser, accounting for only a small portion of imports from Brazil, bought the Brazilian product on the basis of price.

¹⁵Further discussion of this subject is not possible due to the confidentiality of the information. See report at pages 11, 17-19.

¹⁶Although Brazilian melamine was priced below the domestic product, during some months of 1981 and 1982 there were also months when Brazilian imports were priced above the domestic product. According to statements made at the Conference, after American Cyanamid withdrew from parts of the merchant market, apparently in early 1981, MCI raised its prices and Brazil entered the U.S. market due to purchasers need for an additional source of supply. (Transcript of Conference at pages 48, 49, and 51.)

¹⁷See report at pages 17-19.

profitability, employment, and domestic market share.¹⁹

To make an affirmative finding, the Commission must be satisfied that "in the light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."²⁰ We determine that there is no causal relationship between imports from Brazil and the difficulties the domestic industry is experiencing or has experienced.²¹ Other factors have affected the domestic industry, notably the decline in the demand for melamine and domestic supply problems.²²

No reasonable indication of threat of material injury by reason of LTFV import. To find a reasonable indication of threat of material injury, the Commission must find a reasonable indication of a threat that is real and imminent, not a mere possibility that injury might occur at some remote future time.²³

The record provides no reasonable indication that Brazil presents a real and imminent threat to the U.S. melamine industry. Brazil's total annual capacity to produce melamine is approximately 16 million pounds and is utilized at high levels. Fifty percent of Brazilian production is consumed domestically. The other fifty percent of melamine produced in Brazil is exported, but a substantial portion of these exports are to other Latin American countries.²⁴ Brazil is the only Latin American producer of melamine and receives preferential treatment from these countries.²⁵ Also, the Brazilian producer

¹⁸Also during the period of this investigation, domestic capacity increased.

¹⁹See report at pages 9-13, 16. Specific levels and trends are confidential.

²⁰H.R. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979).

²¹Commissioner Stern notes, moreover, that the record indicates that this is not an industry in distress or even an industry suffering the modicum of injury necessary for an affirmative finding. In particular, the financial performance of the two U.S. producers of melamine is satisfactory by the current standards of the chemical industry as a whole.

²²While "[t]he law does not . . . contemplate that injury from such imports be weighted against other factors . . . , in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the [alleged] dumped import is attributable to such other factors." H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

²³S. Rep. No. 249, 96th Cong., 1st Sess. 88, 89 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979); S. Rep. No. 1298, 93rd Cong., 2d Sess. 180 (1974). Chlorine from Canada, Inv. No. 731-TA-90 (Preliminary). Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioners Paula Stern, Alfred E. Eckes, and Veronica A. Haggart at 12, 13, USITC Pub. 1249 (May 1982).

²⁴Transcript of the Conference at 57-59. In addition to the United States and Latin America, the

is will to sell under the barter system, which is attractive to Latin American countries.²⁶ There is no information on the record regarding any plans for expansion of Brazilian production of melamine.

The petitioner raises two points concerning the question of a reasonable indication of threat of material injury: (1) The loss in 1986 of a low cost contract for urea, the feedstock used in the production of melamine, and (2) the possible removal of an antitrust order against American Cyanamid, which requires that American Cyanamid purchase melamine from MCI.

Loss of the contract as distant as 1986 does not constitute a real and imminent threat to this industry. At this time, only a conjectural argument could be made that the loss of the contract would result in harm caused by imports from Brazil.²⁷ Likewise, only a conjectural argument could be made that the possible removal of the antitrust order would result in harm by reason of imports from Brazil.

Conclusion

Based on the record in this investigation, we conclude that there is no reasonable indication of material injury, or threat of material injury to an industry in the United States by reason of imports of melamine from Brazil which are allegedly sold at less than fair value.

By Order of the Commission.

Issued: October 28, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-30914 Filed 11-9-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 701-TA-190 (Preliminary)]

Nitrocellulose From France; Determination

Based on the record¹ developed in investigation No. 701-TA-190 (Preliminary), the Commission determines pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury² by

Brazilian producer exports to Africa, Europe, and the Far East.

¹ Transcript of the Conference at 57.

² Transcript of the Conference at 57-58.

³ A determination of threat of material injury is not to be based on "a mere supposition or conjecture." S. Rep. No. 249, 96th Cong., 1st Sess. 89 (1979).

⁴ The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

reason of imports of nitrocellulose from France, provided for under items 445.25 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of France.³

Background

On September 14, 1982, counsel for Hercules, Inc., Wilmington, Delaware, filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is being materially injured and threatened with material injury by reason of allegedly subsidized imports of nitrocellulose from France. Accordingly, on September 17, 1982, the Commission instituted a preliminary countervailing duty investigation (No. 701-TA-190) under section 703(a) of the Tariff Act of 1930. Notice of the institution of the investigation and conference therefor was given by posting copies of this notice in the Office of the Secretary, U.S. International Trade Commission and by publishing the notice in the *Federal Register* on September 22, 1982 (47 F.R. 41885). A public conference was held in Washington, D.C. on October 5, 1982, at which all interested parties were afforded the opportunity to present information for consideration by the Commission.

Views of the Commission

On the basis of the record in investigation No. 701-TA-190 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured⁴ or threatened with material injury by reason of imports of nitrocellulose from France upon which bounties or grants are alleged to be paid.⁵

An earlier investigation was held in August 1982 regarding alleged less-than-fair-value sales of nitrocellulose from France.^{6,7} The transcript of the conference and the post-conference briefs in that investigation have been incorporated into the record in the instant investigation at the request of the parties.⁸ The following discussion of

³ Commissioner Haggart finds a reasonable indication of present material injury only.

⁴ Commissioner Frank did not participate in this determination.

⁵ Commissioner Haggart determines only that there is a reasonable indication of material injury.

⁶ Commissioner Frank did not participate in this determination.

⁷ Nitrocellulose from France, Inv. No. 731-TA-96 (Preliminary) USITC Pub. No. 1280 (August 1982).

the facts and our findings therefore parallel those in the earlier investigation to a great extent.⁹

Domestic industry. We find that the like product in this investigation is soluble industrial nitrocellulose. Therefore, we find the domestic industry to be Hercules, Incorporated (Hercules), the sole domestic producer. Our conclusions regarding like product and domestic industry in this case are the same as in the antidumping investigation on nitrocellulose from France.¹⁰

Reasonable indication of material injury by reason of subsidized imports. Section 771(7)(B) of the Act directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on domestic prices, and (3) the consequent impact on the domestic industry.¹¹

Volume of imports.—Imports from France increased irregularly from 1979 to 1981 and have increased in January through September 1982 in comparison with the same period in 1981.¹² Apparent U.S. consumption trended downward during the entire period.¹³ The result has been an increasing market penetration of nitrocellulose from France.¹⁴ Market penetration in the first 9 months of 1982 was significantly higher than in the same period of 1981.¹⁵

Effect of imports on prices.—Weighted average prices of RS grade nitrocellulose sold on a f.o.b. basis were compared.¹⁶

⁷ Commissioner Stern notes in the present investigation she is unable to conclude with any reasonable degree of precision that the alleged subsidies are not impacting the domestic industry with material injury. There is no indication on record that these alleged export subsidies improve the exporter's competitive position in ways other than reducing price. It is likely that the impact of these alleged subsidies is to make possible the dumping that was the subject of the prior investigation. However, there remains on the basis of these facts a reasonable indication of material injury to the domestic industry by the allegedly subsidized imports. See Additional Views of Commissioner Paula Stern in Fireplace Mesh Panels from Taiwan, Inv. No. 701-TA-185 (Preliminary), USITC Pub. No. 1284 (September 1982) at 18.

⁸ Letter to Secretary of the Commission, of September 29, 1982, from all parties in this investigation.

⁹ Data was updated for the first three quarters for imports, shipments, domestic consumption and market penetration. Information on production, capacity utilization, inventories, export shipments and exchange rates was updated through August.

¹⁰ Inv. No. 731-TA-96, *supra* note 3, at 4. For a full discussion of this issue, see the above-referenced opinion at 2-4.

¹¹ 19 U.S.C. 1677(7)(B). The industry data have been designated confidential because there is only one exporter of French nitrocellulose and only one domestic producer. Consequently, the discussion necessarily focuses on generalized trends.

¹² Report at A-11 and A-13, Table 6.

¹³ *Id.* at A-7-8.

¹⁴ *Id.* at A-17-18.

While domestic prices increased irregularly during the period from 1979 through June 1982,¹⁷ prices of the imports increased at a slower rate during the same period.¹⁸ A comparison of the domestic and imported prices reveals underselling in six of the last seven quarters. For the remaining quarter the prices were the same.¹⁹ In view of the rise in the cost of goods sold,²⁰ the trends in prices indicate the presence of price suppression as a result of the French imports.

Impact of imports on the domestic industry.—Decreased production, shipment, employment, and financial data, as well as the increased inventories of the domestic industry, provide a reasonable indication of material injury by reason of the subject imports.

Although Hercules' production increased from 1979 to 1981, it declined significantly from January through August 1982 over the level in the comparable 1981 period.²¹ Hercules' capacity was increased by 50 percent in 1980 after the only other domestic producer, DuPont, had left the market. The decline in production in the first 8 months of 1982 was so significant that capacity utilization during that time was below Hercules' capacity prior to its 1980 expansion²² and is still much lower than its current capacity.²³

Domestic shipments declined irregularly from 1979 to 1981 with a significant decrease in the first nine months of 1982 as compared with the corresponding period of 1981.²⁴ Employment statistics for production and related workers engaged in the production of nitrocellulose also dropped sharply in the January through June 1982 period over the corresponding 1981 period.²⁵ These negative indications for the domestic industry occurred during the time the imports were increasing both in absolute and relative terms.

Financial data received from Hercules revealed a decline in all profit and loss

indicators. Operating profit or loss and ratio of operating profit to original cost, to book value and to replacement cost of fixed assets have all consistently decreased from 1979 through 1981 and continued such trend in the period January through June 1982 as compared with the same period of 1981.²⁶ These declines have coincided with the increase in the volume of imports.

Lost sales were confirmed in all instances investigated by the Commission.²⁷ Price was given as the reason for switching to the imported product by all eight companies contacted.²⁸

*Reasonable indication of threat of material injury.*²⁹ The discussion above has noted that the greatest declines in the indicators of the condition of the domestic industry occurred during the most recent months. Other indicators of threat include foreign capacity to increase production, availability of other export markets for increased production, and increased inventories. Production capacity of French nitrocellulose is not currently being fully utilized although the capacity utilization level increased in January through June 1982.³⁰ Since the United States is the largest export market,³¹ it can be expected that additional production would be directed toward the United States. Further, French inventories increased significantly in the period from January through June 1982 over the corresponding 1981 period.³²

Conclusion

We therefore determine that there is a reasonable indication of material injury or threat of material injury to the domestic industry by reason of imports of nitrocellulose from France which are allegedly being subsidized.

By order of the Commission.

Kenneth R. Mason,
Secretary.

Issued: October 29, 1982.

[FR Doc. 82-30915 Filed 11-9-82; 8:45 am]

BILLING CODE 7020-02-M

¹⁷ *Id.*
¹⁸ Soluble industrial nitrocellulose can be classified in three grades—SS-type, AS-Type and RS-Type—according to nitrogen content. RS-type nitrocellulose accounts for more than three-fourths of domestic production of nitrocellulose and French imports of nitrocellulose. *Id.* at A-2.

¹⁹ Report at A-22-23.

²⁰ *Id.*

²¹ *Id.* at A-23.

²² *Id.* at A-15.

²³ *Id.* at A-9.

²⁴ *Id.* at A-9. Postconference brief of petitioner, Hercules, submitted in the earlier case, Inv. No. 731-TA-96, *supra* note 3, and incorporated into the record in this case.

²⁵ Report at A-10-11.

²⁶ *Id.* at A-14.

²⁷ *Id.* at A-15 and A-17, Table 8.

²⁸ *Id.* at A-18-19.

²⁹ *Id.* at A-19.

³⁰ See *supra* note 1.

³¹ *Id.* at A-20.

³² *Id.* at A-20-21.

³³ *Id.* at A-21.

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action Under the Clean Air Act To Require Defendant To Pay a Civil Penalty for Violation

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 28, 1982 a proposed consent decree in *United States v. Oil Dealers, Inc., d.b.a. Bainbridge Tire*, Civil Action No. H82-0664 was lodged with the United States District Court for the Northern District of Indiana.

The proposed consent decree requires Oil Dealers, Inc., d.b.a. Bainbridge Tire, to pay the United States a civil penalty in the amount of one hundred dollars (\$100.00) and prohibits defendant from removing or rendering inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in violation of Section 203 of the Clean Air Act, 42 U.S.C. 7522.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Building, Room 312, 507 State Street, Hammond, Indiana 46320; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States of America v. Oil Dealers, Inc., d.b.a. Bainbridge Tire*.

Carol E. Dinkins,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-30856 Filed 11-9-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-66)]

National Environmental Policy Act; Finding of No Significant Impact

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of finding of no significant impact.

SUMMARY: The fifth flight of the Space Transportation System Space Shuttle (STS-5) is the first operational flight of the Space Transportation System from Kennedy Space Center, Florida. The STS-5 launch, scheduled for 7:19 a.m. EST, November 11, 1982, has two purposes: (1) To provide new capacity to two existing communications networks and (2) to conduct research in the properties of materials. The communications satellites provide a near-term response to the demand and need for improved and low-cost long distance communications services. The research experiment responds to the need in our society to obtain more information about nature in general as well as to find new materials and processes which may provide specific advances in technology. STS-5 will carry two geosynchronous orbit communications satellites, the Shuttle Payload Assist Module (PAM)-D and one research experiment intended for return to Earth at the conclusion of the flight. The communications satellites will provide new capacity to two existing networks: (1) The Satellite Business System (SBS)-C emphasizes long distance intracompany digital data transmission in the 48 states, and (2) Telesat Canada's ANIK-C-3, a generalized communications network transmitting telephone and television as well as digital data, serving Canada. Both networks provide long distance communications services which were not economically feasible using ground-based technology.

The Autonomous Materials Science Project in Weightlessness (MAUS) experiment, part of the material science program of the West German Ministry of Research and Technology, will provide information on the properties of a gallium alloy formed in weightlessness. Gallium is used in electronic circuits, and a better understanding of its properties may lead to advances in this and related technologies.

The two communications satellites (ANIK-C-3 and SBS-C) are built by Hughes Aircraft Company, El Segundo, California, for us as a space communications relay. The associated PAM-D, which uses solid propellant

rocket motors is manufactured by McDonnell-Douglas Astronautics Company of Huntington Beach, California. The technical characteristics and operations of the almost identical satellite networks have been approved by the respective country's communications regulatory authorities. The gross mass of each communication payload, including the PAM-D modules, is 4106 kg and each occupies 35 m³. Each payload uses two solid propellant motors (the PAM-D Motor and an Apogee Kick Motor in the satellite) with a total of 2251 kg of propellant as well as approximately 148 kg of hydrazine used in the station keeping propulsion systems. While the probability is very low, these propellants present the largest source of risk for a catastrophic Space Shuttle accident.

MAUS, the research payload, is a "Getway Special" (GAS) package. The MAUS experiment will travel in the Space Shuttle's cargo bay in a 5 cubic-foot canister designed for reuse for other GAS packages. This experiment is small and contains equipment and materials which are not normally considered hazardous. The MAUS experiment is sponsored by the West German Government and is a part of the government's zero gravity material science research program. The MAUS experiment will produce a 3.0 gram crystal of gallium mercury alloy in weightlessness to learn about the properties of an alloy which now cannot be formed on Earth.

The fifth Space Shuttle flight will also carry some development flight instrumentation to collect information on the Shuttle's performance for use by the Space Shuttle Program, which is not directly related to the operational payloads. The instrumentation is not considered hazardous to the environment, and this aspect of Space Shuttle flights, as well as the impacts of the Space Shuttle flights on the environment, are discussed in the final Environmental Impact Statement for the Space Shuttle Program. Accordingly, the Space Shuttle flight instrumentation and launch effects are not considered in detail in the assessment supporting this notice.

Possible alternatives to STS-5 (the proposed action) are: (1) No Action, which is interpreted to imply that equivalent activities would be undertaken using terrestrial methods; and (2) Use of Expendable Launch Vehicles (ELV's) and Sounding Rockets in place of Space Shuttle launch of the payloads. Under the No Action Alternative, the communications satellites would be replaced by ground microwave relay stations and/or cables.

There is no known way to conduct experiments in the terrestrial environment requiring more than very short periods of weightlessness. While aircraft flights on parabolic trajectories can provide short (2-5 minutes) periods of near zero-gravity conditions, the duration and uniformity of zero gravity are not considered sufficient for most experimental purposes.

For the Expendable Launch Vehicle alternative, the communications satellites would be flown on two Delta launch vehicles. The SBS-C and ANIK-C-3 satellites are designed so that with very few modifications they could be flown on Delta launch vehicles employing PAM-D motors. The Space Shuttle, however, provides an opportunity to make simple repairs or to return the communications satellites if it does not check out properly after the Shuttle achieves Low Earth Orbit (LEO) and before it is launched by the Payload Assist Module.

While the research experiment package, MAUS, is not designed for use on an ELV or a sounding rocket, conceptually, it could be adapted and flown. The Shuttle, however, provides the user with lower costs and a safer return of the experiment to Earth. If this experiment is to be accomplished with the least expensive ELV (the Scout), the vehicle, reentry, recovery system, and related services would be more costly than allocated full STS charges. Sounding rockets would cost less but the flight duration (typically 8-10 minutes in uniform zero gravity) would not provide enough time for the MAUS experiment as presently designed. Given current funding trends, it is doubtful that the experiment would be funded if the Shuttle was not available. There are also strong indications that if the experiment leads to applications of space-manufactured products, it would be economical only if the Shuttle's return capability is available. Thus, while there are highly viable alternatives for the communications satellites, the alternatives for the research package are somewhat questionable either from the technical or the economic standpoint.

For the proposed action, the only measurable long-term adverse environmental impact from the normal placement of these payloads is the addition of the expended solid rocket motors, the ultimately abandoned communications satellites, and small amounts of related equipment to an already large population of space debris abandoned in orbit by the nations with space launch capabilities. The major concern of this debris is the increased

probability of collision with spacecraft. While the current debris poses little threat to the terrestrial population or environment, there is a low probability of a collision with an active spacecraft. This collision would very likely destroy the spacecraft with its fragments adding to the debris population. If the spacecraft were manned, it is possible that a direct hit by debris could kill the astronauts. If the satellites were launched by Delta ELV's rather than the Shuttle, the Delta second stage also would become part of the space debris population while the Shuttle would return to Earth. In either case, the potential consequences of the addition to the space debris population are currently considered by NASA as an acceptable risk to obtain the benefits of relatively low-cost, long-distance communications services.

For both space placement alternatives, there is a low probability of a catastrophic accident caused either by the payload or by the launch vehicle itself. In the case of the Shuttle, such an accident would very likely result in the deaths of the astronauts on the Shuttle. The Delta ELV is unmanned. In both cases, any debris in orbit would add to that population and contribute to that long-term problem. Launch system accidents and a detailed description of their consequences are provided in the final Environmental Impact Statement for the Space Shuttle Program and for the Expendable Launch Vehicle Program.

The research experiment is intended to be returned to Earth and will have no interaction with the environment. This experiment has undergone safety reviews to provide as much assurance as possible that both the experiment and ancillary equipment (such as batteries) cannot fail in a manner which would result in a hazard to the Shuttle's mission. The maximum credible accident involving this experiment would involve the rupture of the experiment container.

For each, the proposed action and the alternatives, the provision of communication services would require ground-based installations, and the construction and maintenance of these installations represent most of the direct impact on the environment. For launch by either the Space Shuttle or the Delta launch vehicle, the ground stations would be the same, and most of these would be located in previously developed areas. The alternatives of all ground-based communications would require additional installation of microwave repeater towers, many of which would be located in

underdeveloped areas. A fully ground-based system, unlike satellite systems, is an ongoing source of risk to people, in terms of microwave radiation.

Resource, energy and material use are lowest for individual launches of the payloads on ELV's. The Space Shuttle is in the middle and a ground-based system would result in the highest level of resource use. The immediate environmental impact of the ELV launches is also less than one Space Shuttle launch, in terms of noise and propellant effluents. In both cases, the impacts are temporary and are considered acceptable. The ground-based system microwave towers would have a dispersed impact on the environment, in terms of geography and time, and would result in an impact lasting as long or longer than the use of the technology.

The conclusions of all analyses are that the environmental effects of the proposed action are not significant.

EFFECTIVE DATE: November 10, 1982.

ADDRESS: National Aeronautics and Space Administration, Code MCB-7, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Ott, (202) 755-2354.

SUPPLEMENTARY INFORMATION: The environmental assessment for this proposed project was completed by the National Aeronautics and Space Administration in October 1982.

CONCLUSION: The launch of STS-5 payloads will not result in any significant adverse environmental impacts. No environmental impact statement is required for this launch.

November 5, 1982.

Ann P. Bradley,

Deputy Associate Administrator for Management.

[FR Doc. 82-30837 Filed 11-9-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel (Radio); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio) to the National Council on the Arts will be held on Nov. 29-30, 1982, from 9:00 a.m.-5:30 p.m. in the 12th Floor Screening Room of the Columbia Plaza Office Complex, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

November 4, 1982.

[FR Doc. 82-30866 Filed 11-9-82; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel (Opera-Musical Theater); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Opera-Musical Theater) to the National Council on the Arts will be held on Dec. 1-3, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C., 20506.

A portion of this meeting will be open to the public on Dec. 1, 1982 from 9:00-9:30 a.m. to discuss Opening Remarks and Introductions.

The remaining sessions of this meeting on December 1 from 9:30 a.m.-5:30 p.m. and on Dec. 2-3, 1982 from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts, November 4, 1982.

[FR Doc. 82-30865 Filed 11-9-82; 8:45 am]

BILLING CODE 7537-01-M

POSTAL RATE COMMISSION

[Docket No. MC82-2]

Mail Classification Schedule, 1982 Elimination of the Aggregate Letter Rule

November 5, 1982.

Notice is hereby given, that pursuant to the "Presiding Officer's Order Postponing Prehearing Conference Statement Due Date and Prehearing Conference," Dated November 5, 1982, the due date for filing Prehearing Conference Statements has been changed from November 10, 1982, to November 17, 1982. The Prehearing Conference previously scheduled to be held on November 15, 1982, is rescheduled to be held on November 22, 1982, at 9:30 a.m., Postal Rate Commission, Suite 500, 2000 L Street NW., Washington, D.C. 20268.

Copies of the Presiding Officer's Order are available to all interested parties in the Commission's Docket Room at the above-listed address, or by calling the Docket Room at Area Code 202-254-3800.

David F. Harris,

Secretary.

Attachment A—Revised Schedule of Proceedings; Aggregate Letter Case

Month, date and year:	
Nov. 22, 1982	Prehearing Conference.
Dec. 7, 1982	Completion of all discovery directed to the Postal Service.
Jan. 4, 1983	Hearings on USPS case.
Jan. 25, 1983	Interventors' cases due.
Feb. 15, 1983	Completion of discovery.
Mar. 14, 1983	Hearings on interventors' cases.

[FR Doc. 82-30880 Filed 11-9-82; 8:45 am]

BILLING CODE 7715-01-M

RAILROAD RETIREMENT BOARD

Proclamation Regarding Railroad Unemployment Insurance Account

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board has

determined, and hereby proclaim, that the balance of the credit of the railroad unemployment insurance account as of the close of business September 30, 1982, was a net deficit of \$187,071,789.51. Based on this balance and pursuant to the table in section 8(a) of the Railroad Unemployment Insurance Act, the contribution rate to finance the railroad unemployment insurance program for calendar year 1983 shall be 8.0 percent.

In witness whereof the members of the Railroad Retirement Board has hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Illinois, this 2d day of November, 1982.

William P. Adams,

Chairman.

Earl Oliver,

Member.

C. J. Chamberlain,

Member.

By the Railroad Retirement Board.

James T. Brown,

Chief Executive Officer.

[FR Doc. 82-30855 Filed 11-9-82; 8:45 am]

BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

Americap Corp.; Notice of Application for License To Operate as a Small Business Investment Company

[Proposed License No. 06/06-0265]

An application for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Americap Corporation, 6363 Woodway, Houston, Texas 77057 with the Small Business Administration, (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and stockholders of the applicant are as follows:

Joe E. Russo, c/o Brookhollow National Bank, 2900 North Loop West, Houston, Texas 77092; Chairman of the Board; 71.875.¹

E. T. Ballases, c/o Brookhollow National Bank, 2900 North Loop West, Houston, Texas 77092; Vice Chairman of the Board of Directors.

James L. Hurn, 2901 Bammel Lane 42, Houston, Texas 77098; President, Director.

Harold Klinger, c/o Brookhollow

¹Indirect ownership by Mr. Russo's effective control of AmeriGroup Financial Corp., Woodway National Bank and Cullen Savings Association.

National Bank, 2900 North Loop West, Houston, Texas 77092, Vice President, Treasurer, Secretary and Director.

Paul C. Carlotti, c/o Fintex Resources, Inc., Houston, Texas 77002; Shareholder and Director; 28.125%.

Carl L. Norton, 1100 Milam, Suite 2800, Houston, Texas 77002; Director.

AmeriGroup Financial Corp.² c/o Brookhollow National Bank, 2900 North Loop West, Houston, Texas 77092; Shareholder; 18.750%.

Woodway National Bank,³ 6363 Woodway, Houston, Texas 77957; Shareholder 15.625%.

Cullen Savings Association,⁴ 601 Jefferson, Dresser Tower, Houston, Texas 77002; Shareholder; 37.500%.

The applicant, a Texas corporation with its principal place of business at 6363 Woodway, Houston, Texas 77957 will begin operations with \$800,000 paid-in Capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 2, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-30819 Filed 11-9-82; 8:45 am]

BILLING CODE 8025-01-M

²58.7% ownership by Joe E. Russo.

³27% owned by Joe E. Russo.

⁴54% owned by Joe E. Russo.

[License No. 04/04-0136]

Suwannee Capital Corp.; Notice of Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to Section 107.701 of the SBA Regulations (13 CFR 107.701 (1982)), for the transfer of control of Suwannee Capital Corporation (Licensee), 1010 East Adams Street, (P.O. Box 2836), Jacksonville, Florida 32202, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*).

The Licensee is currently owned by the Estate of William R. Lovett. It is proposed that M & H Financial Corp. (M & H) purchase 100 percent of the Licensee's stock. M & H is a wholly-owned subsidiary of Malone & Hyde, Inc., a New York Stock Exchange-listed company.

The proposed new officers and directors of the Licensee are:

Peter R. Pettit, 111 Cherry Road, Memphis, TN 38117; President.

Melvin H. Hill, 6161 Briarwood Lane, Memphis, TN 38115; Vice President.

J. Lester Crain, 91 West Chickasaw Parkway, Memphis, TN 38111; Secretary.

Dan Ray Scott, 5074 Shady Grove, Memphis, TN 38117; Treasurer.

Shirley W. Channell, 5023 Elvis Presley, Memphis, TN 38116; Assistant Secretary/ Assistant Treasurer.

J. R. Hyde, III, 5455 Glenwilde, Memphis, TN 38117; Director.

Thomas McM. Garrott, III, 4001 S. Galloway Cove, Memphis, TN 38111; Director.

SBA will require that the Licensee have a minimum of three directors at all times.

If the transfer is approved the Jacksonville office will be closed and the Licensee's new address will be 1991 Corporate Avenue, Memphis, Tennessee 38132.

The Licensee was incorporated under the laws of the State of Delaware on March 13, 1978. It proposes to conduct its operations principally in the State of Tennessee.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed transferee, and the probability of successful operations under his control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, on or before November 26, 1982,

submit to SBA, in writing, comments on the transfer of control. Any such communications should be addressed to the Deputy Associate Administrator for Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Jacksonville, Florida and Memphis, Tennessee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 4, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-30818 Filed 11-9-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE**Office of the Secretary**

[Public Notice CM 8/573]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 23, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international Study Groups I and III meetings.

Members of the general public may attend the meeting subject to the instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Dated: November 1, 1982.

Arthur L. Freeman,

Director, Office of International Communications Policy.

[FR Doc. 82-30965 Filed 11-9-82; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-34]

J. I. Case Co.: Initiation of Investigation and Notice of Public Hearing

On July 27, 1982, the Chairman of the Section 301 Committee received a petition from J. I. Case Company alleging that the Canadian practice of granting a duty remission on certain front-end wheel loaders and parts is inconsistent with the provisions of the General Agreement on Tariffs and Trade (GATT) and the Agreement on the Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code). Petitioner further alleges that the duty remission order constitutes an unreasonable and unjustifiable burden on U.S. commerce. The petition was filed pursuant to section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 *et seq.*). The petition was refiled with additional information on September 13, 1982. On October 28, 1982, the United States Trade Representative decided to initiate an investigation pursuant to 19 U.S.C. 2412(a). A copy of the petition is available for public inspection at the address listed below.

Pursuant to 19 U.S.C. 2412(b) a public hearing has been scheduled for December 1, 1982 at 10:00 a.m., to allow interested parties to submit their views on the issues raised by the petition. Requests to testify orally should be received no later than November 24, 1982 and shall conform to the requirements of section 2006.9 of Title 15 of the Code of Federal Regulations. The brief accompanying such oral testimony should be submitted no later than November 26 and should conform to the requirements of 15 CFR 2006.8(b).

Those interested parties who do not wish to testify orally but who wish to submit written briefs must do so no later than December 1, 1982. Such briefs must meet the requirements of 15 CFR 2006.8(b).

Rebuttal briefs must conform to the requirements of 15 CFR 2006.8(c) and must be submitted no later than December 15, 1982.

All requests and written briefs should be sent to the attention of the Chairman, Section 301 Committee, Office of the United States Trade Representative,

Room 223, 600 17th Street, NW.,
Washington, D.C. 20506.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 82-30823 Filed 11-9-82; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 10]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Section 6 to 13 of Title 6 of the United States Code. An underwriting limitation of \$2,204,000 has been established for the company.

Union Insurance Company, 14th and Que Streets, Lincoln, Nebraska 68501; State of Incorporation: Nebraska.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies

is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28884 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

Dated: November 1, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-30870 Filed 11-9-82; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Administrator's Educational Assistance Advisory Committee; Notice of Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Educational Assistance Advisory Committee, authorized by section 1792, title 38, United States

Code, will be held at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C., on December 8, 1982, at 9 a.m. in the Omar N. Bradley Conference Room. The meeting will be for the purpose of reviewing provisions of parts of the VA education programs and making appropriate recommendations thereon.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Ms. Mary F. Leyland, Deputy Director, Education Service (221), Veterans Administration Central Office (phone 202-389-2152), before December 1, 1982.

Interested persons may attend, appear before or file statements with the committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2:30 p.m. on December 8, 1982.

Dated: November 2, 1982.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-30893 Filed 11-9-82; 8:45 am]

BILLING CODE 6320-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 218

Wednesday, November 10, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine act" (5 U.S.C. 552b), notice is hereby given that at 12:15 p.m. on Friday, November 5, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank of South Charleston, South Charleston, West Virginia, which was closed by the Comptroller of the Currency at 8:13 a.m. on November 5, 1982; (2) accept the bid for the transaction submitted by The Charleston National Bank, Charleston, West Virginia; and (3) 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 a recommendation regarding the liquidation of assets acquired from Penn Square Bank, National Association, Oklahoma City, Oklahoma (Division of Liquidation memorandum dated October 29, 1982).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), 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)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Chairman's office, Room 6023, of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: November 5, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1632-82 Filed 11-8-82; 8:12 pm]

BILLING CODE 6714-01-M

2

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 the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Monday, November 15, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to establish a branch:

Capitol State Bank, Trenton, New Jersey, for consent to establish a branch in the lobby of the Capitol Plaza Hotel at 240 West State Street, Trenton, New Jersey.

Application for consent to purchase assets, assume liabilities, and establish one branch:

Citizens State Bank of St. Louis Park, St. Louis Park, Minnesota, for consent to purchase the assets of and assume the liability to pay deposits made in Guaranty State Bank of Robbinsdale, Robbinsdale, Minnesota, and to establish the sole office of Guaranty State Bank of Robbinsdale as a branch of Citizens State Bank of St. Louis Park.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed purchase of assets and assumption of liabilities:

The Centerville National Bank, Centerville, Iowa, and Seymour State Bank, Seymour, Iowa.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Mt. Pleasant Bank and Trust Company, Mount Pleasant, Iowa.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson, & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or associate Director of the Division and the various Regional Directors Pursuant to authority delegated by the Board of Directors.

Report of the Director, Office of Corporate Audits:

Audit Report re: Data Base Access by Internal Users via Remote and Local On-Line Terminals, dated June 7, 1982.

Discussion Agenda:

Memorandum re: Amendments to the Corporation's General Travel Regulations covering Liquidation Area Offices.

Memorandum re: Relocation Reimbursement Provisions for the Corporation's Liquidation-Graded Employees.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-1634-82 Filed 11-8-82; 12:15 pm]

BILLING CODE 6714-01-M

3

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 11:30 a.m. on Monday, November 15, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks 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)].

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Chicopee Bank and Trust Company, Chicopee, Massachusetts

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" [5 U.S.C. 552b(c)(2) and (c)(6)].

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389-4425.

Dated: November 8, 1982.
Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-1633-82 Filed 11-8-82; 12:18 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

[Federal Register No. 1596]

PREVIOUSLY ANNOUNCED DATE AND TIME:
Tuesday, November 9, 1982 at 10 a.m.

CHANGE IN MEETING:

The Executive Session scheduled for this date will be continued at the close of the open meeting on Wednesday, November 10, 1982, in order to complete personnel matters.

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-1627-82 Filed 11-8-82; 10:03 am]

BILLING CODE 6715-01-M

5

NATIONAL SCIENCE BOARD**DATE AND TIME:**

November 18, 1982 9:00 a.m. Open session.

November 19, 1982 8:30 a.m. Closed session.

November 19, 1982 9:00 a.m. Open session.

PLACE: NATIONAL SCIENCE FOUNDATION, 1800 G STREET, N.W., WASHINGTON, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPENING SESSIONS: Thursday, November 18, 9:00 a.m.:

1. Minutes—Open Session—October 1982 Meeting.
2. Chairman's Items.
3. Director's Report.
4. Computer Related Research.
5. Program Review—Chemistry.

Friday, November 19, 9:00 a.m.

6. Grants, Contracts, and Programs.
7. Joint Airport Weather Study.
8. Reports of Board Committees.
9. Board Representation at Advisory Committee and Other Meetings.
10. Other Business.
11. Next Meetings.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Friday, November 19, 8:30 a.m.:

A. Minutes—Closed Session—October 1982 Meeting.

B. NSB and NSF Staff Nominees.

C. Grants, Contracts, and Programs.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357-9582.

[S-1629-82 Filed 11-8-82; 11:42 am]

BILLING CODE 7555-01-M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-27]

TIME AND DATE: 9 a.m., Tuesday, November 16, 1982.

PLACE: NTSB Board Room, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the fourth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Letter to Kellogg Company* regarding Petition for Reconsideration of Probable Cause and Further Investigation of Aircraft Accident involving an Avions Marcel Dassault-Brequet Aviation, Falcon 10, N243K, Meigs Field, Chicago, Illinois, January 30, 1980.

2. *Letters to Air Line Pilots Association and Delta Air Lines, Inc.*, regarding Near Collision of Delta Air Lines, Inc., Boeing 727-200, N467DA, and Flying Tiger, Inc., Boeing 474-F, N804FT, O'Hare International Airport, Chicago, Illinois, February 15, 1979.

3. *Marine Accident Report:* Collision of the U.S. Barge Carrier SS DELTA NORTE and the Liberian Freighter M/V African Pioneer in the Gulf of Mexico about 115 nautical miles southwest of Galveston, Texas, February 19, 1982, and Recommendations to Delta Steamship Lines, Inc.

4. *Opinion and Order:* Administrator v. Mitchem, Dkt. SE-5144; disposition of respondent's appeal.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming (202) 382-6525.

November 5, 1982.

[S-1628-82 Filed 11-8-82; 10:03 am]

BILLING CODE 4910-58-M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL (Northwest Power Planning Council)

TIME AND DATE: 9:00 a.m., November 15-16, 1982.

PLACE: The Hilton Hotel, Ballroom B, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Council Decision on Disposition of Comments Received Regarding the Draft Fish and Wildlife Program and Adoption of the Columbia River Basin Fish and Wildlife Program
- Council Decision on Conservation Evaluation
- Staff Presentation on Constraints to Resource Development
- Staff Presentation on Evaluating Electric Load Forecasting Model Sensitivities
- Council Business
- Public Comment

CONTACT PERSON FOR MORE

INFORMATION: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1630-82 Filed 11-8-82; 11:42 am]

BILLING CODE 0000-00-M

8

RAILROAD RETIREMENT BOARD

TIME AND DATE: 10 a.m., November 16, 1982.

PLACE: Board's meeting room, sixth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED:

- (1) Employer status of Burlington Northern (Manitoba) Limited.
- (2) Appeal of Southern Pacific Transportation Company.
- (3) Bureau of Audit and investigation— independence of the internal auditor.
- (4) Regulations under Section 22 of the Railroad Retirement Act of 1974.

CONTACT PERSON FOR MORE

INFORMATION: Beatrice Bzerski; COM No. 312-751-4920; PTS No. 387-4920.

[S-1635-82 11-8-82; 12:30 pm]

BILLING CODE 7905-01-M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Open meeting.

PLACE: Room C130, 450 5th Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, November 1, 1982.

CHANGES IN THE MEETING: Additional item and time change. The following additional item will be considered at an

open meeting scheduled for Tuesday, November 9, 1982, at 9:00 a.m.

Consideration of whether to adopt Rule 10b-18 under the Securities Exchange Act of 1934. If adopted, the rule would provide that an issuer and certain related persons would not incur liability under the anti-manipulative provisions of the Exchange Act in connection with purchases of the issuer's common stock if such purchases were made in compliance with the conditions of Rule 10b-18. These conditions to the "safe harbor" from liability would limit the time, price and volume of purchases. For further information, please contact Mary Chamberlin, at (202) 272-2848.

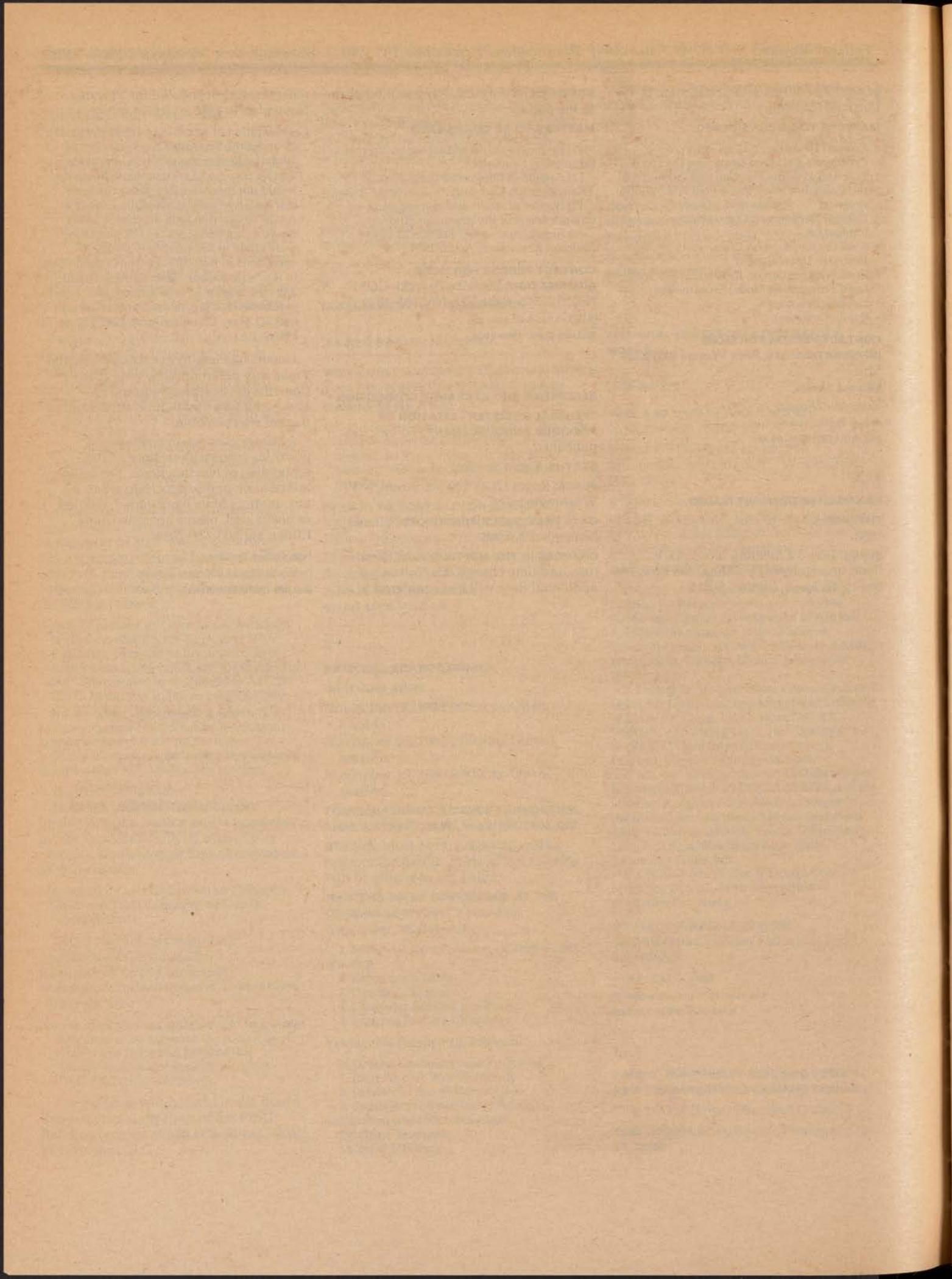
Commissioners Evans, Longstreth and Treadway determined by vote that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272-2014.

November 8, 1982.

[S-1631-82 Filed 11-8-82; 12:17 pm]

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Environmental Protection Agency

Wednesday
November 10, 1982

Part II

**Environmental
Protection Agency**

**Battery Manufacturing Point Source
Category; Proposed Effluent Limitations
Guidelines, Pretreatment Standards, and
New Source Performance Standards**

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR PART 461
(OW-FRL 2195-8)
**Battery Manufacturing Point Source
Category; Proposed Effluent
Limitations Guidelines, Pretreatment
Standards, and New Source
Performance Standards**
AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed Regulation.

SUMMARY: EPA is proposing this regulation to limit effluent discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from plants engaged in battery manufacturing. The purpose of this proposal is to provide effluent limitations guidelines based on "best practicable technology" and "best available technology," and to establish new source performance standards and pretreatment standards under the Clean Water Act. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATES: Comments on this proposal must be submitted by January 10, 1982. The Agency is proposing a compliance date for pretreatment standards for existing sources to be three years from the date of promulgation.

ADDRESSES: Send comments to: Mary L. Belefski, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attention: EGD Docket Clerk, Proposed Battery Manufacturing Rules (WH-552). The supporting information and all comments received on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying. Copies of technical documents may be obtained from the Distribution Officer at the above address or call (202) 382-7115. The economic analysis may be obtained from Dr. Ellen Warhit, Economic Analysis Staff (WH-586), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, or call (202) 382-5381.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. Ernst P. Hall, at the address listed above, or call (202) 382-7126.

SUPPLEMENTARY INFORMATION: The Supplementary Information section describes the legal authority and

background, the technical and economic bases, and other aspects of the proposed regulations. That section also summarizes comments on a draft technical document circulated in September 1980, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

This proposed regulation is supported by three major documents available from EPA. Chemical analysis methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*. EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Battery Manufacturing Point Source Category* (Development Document). The Agency's economic analysis is found in *Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Battery Manufacturing Industry* (Economic Impact Analysis).

Organization of This Notice

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- XXV. Appendices:
 - A—Abbreviations, Acronyms and Other Terms Used in this Notice

- B—Toxic Pollutants Limited by This Regulation
- C—Toxic Pollutants Not Detected
- D—Toxic Pollutants Detected Below the Nominal Quantification Limit
- E—Toxic Pollutants Detected From a Small Number of Sources
- F—Toxic Pollutants Detected in Small Amounts
- G—Toxic Pollutants Controlled But Not Specifically Regulated
- H—Subcategories Not Regulated

I. Legal Authority

The regulation described in this notice is proposed under authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). This regulation is also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc., v. Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833.

II. Background
A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the "best practicable control technology currently available" (BPT), section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable (BAT) * * * which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants," section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards (NSPS), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works (POTW) were subject to pretreatment standards under sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of

requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the EPA Administrator. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, section 307(a) of the Act required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates specified in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating regulations for 21 major industries, including BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976) modified March 9, 1979.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics

control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for non-toxic pollutants. Instead of BAT for "conventional" pollutants identified under section 304(a)(4) (including biochemical oxygen demand, suspended solids, fecal coliform, oil and grease and pH), the new section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived, compared with the costs and effluent reduction benefits from the discharge from POTW. (section 304(b)(4)(B)). For non-toxic, nonconventional pollutants, sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within 3 years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these proposed regulations is to provide effluent limitations guidelines for BPT and BAT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA has not previously promulgated regulations for the battery manufacturing point source category.

C. Overview of the Industry

The battery manufacturing industry is included within the U.S. Department of Commerce Census Standard Industrial Classifications (SIC) 3691, Storage Batteries, and 3692, Primary Batteries, Dry and Wet.

Battery manufacturing encompasses the production of modular electric power sources where part or all of the fuel is contained within the unit and electric power is generated directly from a chemical reaction rather than indirectly through a heat cycle engine. There are three major components of a cell—anode, cathode, and electrolyte—plus mechanical and conducting parts such as case, separator, or contacts. In

the strictest sense, a cell contains only one anode-cathode pair whereas a battery is an assemblage of cells connected to combine their electrical output. Common usage has blurred the distinction between these terms. For the purpose of this regulation, the term battery includes both single cells and an assemblage of cells. Production includes electrode manufacture of anodes and cathodes, and associated ancillary operations necessary to produce a battery.

The subcategories within battery manufacturing are primarily based on anode material. Eight subcategories are addressed in this regulation: cadmium, calcium, lead, Leclanche (zinc anode with an acid electrolyte), lithium, magnesium, zinc (with alkaline electrolyte), and nuclear. Manufacturing operations differ widely, both within and among subcategories. Subcategory manufacturing process elements are selected so that manufacturing operations within a subcategory are similar and are amenable to a common regulation.

Water is used throughout battery manufacturing to clean battery components and to transport wastes. Water is used in the chemical systems to make most electrodes and special electrode chemicals; water is also a major component of most electrolytes and formation baths.

The most important pollutants or pollutant parameters generated in battery manufacturing wastewaters are (1) toxic metals—arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc; (2) nonconventional pollutants—aluminum, cobalt, iron, manganese, and COD; and (3) conventional pollutants—oil and grease, TSS, and pH. Toxic organic pollutants generally were not found in large quantities although some cyanide was found in a few subcategories. Because of the amount of toxic metals present, the sludges generated during wastewater treatment generally contain substantial amounts of toxic metals.

In this preamble, the following terminology is used. A battery manufacturing site is one physical location (i.e., a particular street address) where battery manufacturing processes occur. A battery plant is the location where subcategory-specific battery manufacturing process elements occur. Two or more battery plants may be located at a particular site. Finally a battery facility is a location where final battery type products or their components are produced. One battery plant can produce more than one battery type product. For example, at one site

with the address of 100 Main Street, there are two battery plants that perform manufacturing processes: one plant in the lead subcategory and the other plant in the zinc subcategory. One plant includes a facility producing lead-acid batteries, and the other plant includes two facilities: one producing alkaline manganese batteries and the other producing silver-zinc batteries.

EPA estimates that there are about 230 battery manufacturing sites in the United States. A substantial majority of these are located in California, Pennsylvania, North Carolina, and Texas. The remaining sites are scattered geographically throughout the United States.

Battery manufacturing began slowly after Galvani's invention of the galvanic cell in 1786 and developed into significance only after Leclanche in 1868 developed the forerunner of the modern dry cell. Rapid technological development and changing requirements over the last 50 or so years have caused and continue to cause new cell types to appear as commercial items while some established cell types decline or become obsolete and out of production. With the established level of change within the industry and high level of research aimed at developing economic automotive power and load leveling batteries, there is a high probability of building new or enlarging existing plants and continuing change of battery production methods and battery types.

III. Scope of This Rulemaking and Summary of Methodology

This proposed regulation is a part of a new chapter in water pollution control requirements. For most industries, the 1973-1976 round of rulemaking emphasized the achievement of best practicable technology (BPT) by July 1, 1977. In general, that technology level represented the average of the best existing performance of well known technologies for control of familiar (i.e., "classical") pollutants. However, for this category, BPT was not proposed or promulgated.

In this round of rulemaking EPA is emphasizing the achievement by July 1, 1984, of the best available technology economically achievable (BAT), which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, this technology level represents the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In its 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under section 307(a) of the Act. Many of the "priority" pollutants were relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience in dealing with these pollutants. Additionally, these pollutants often appear (and have toxic effects) at concentrations that severely tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances.

In developing this regulation, EPA studied the battery manufacturing industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater constituents, or other factors required the development or separate effluent limitations and standards for different segments (or subcategories) of the industry. This study included the identification of raw waste and treated effluent characteristics, including the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters. Sampling and analysis of specific waste streams enabled EPA to determine the presence and concentration of priority pollutants in wastewater discharges.

EPA also identified both actual and potential control and treatment technologies (including both in-process and end-of-process technologies). The Agency analyzed both historical and newly generated data on the performance, operational limitations, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency then estimated the costs of each control and treatment technology using a computer program based on standard engineering cost analysis. EPA derived unit process costs by applying plant data and characteristics (production and flow) to each treatment process (i.e., metals precipitation, sedimentation, mixed-media filtration, etc.). The program also considers what treatment equipment exists at each plant. These unit process costs were added for each plant to yield total cost at each treatment level. In cases where there is more than one

plant at one site, costs were calculated separately for each plant and probably overstate the actual amount which would be spent at the site where one combined treatment system could be used for all plants. The Agency then evaluated the economic impacts of these costs.

On the basis of these factors, EPA identified and classified various control and treatment technologies as BPT, BAT, NSPS, PSES, and PSNS. The proposed regulation, however, does not require the installation of any particular technology. Rather, it requires achievement of effluent limitations equivalent to those achieved by the proper operation of these or equivalent technologies.

Except for pH requirements, the effluent limitations for BPT, BAT, and NSPS are expressed as mass limitations—a mass of pollutant per unit of production (mg/kg). They were calculated by combining three figures: (1) treated effluent concentrations determined by analyzing control technology performance data; (2) production-weighted wastewater flow for each manufacturing process element of each subcategory; and (3) any relevant process of treatment variability factor (e.g., mean versus maximum day). This basic calculation was performed for each regulated pollutant or pollutant parameter and for each wastewater-generating process element of each subcategory.

Pretreatment standards—PSES and PSNS—are also expressed as mass limitations rather than concentration limits to ensure a reduction in the total quantity of pollutant discharges.

IV. Data Gathering Efforts

The data gathering program is described briefly in Section III and in substantial detail in Section V of the Development Document. At the start of the study, a data collection portfolio (dcp) was developed to collect information about the industry and was mailed, under the authority of Section 308 of the Clean Water Act, to each company known or believed to manufacture batteries in the United States. The list of companies was developed from Dunn & Bradstreet listings, a previous unpublished study done for the Agency, and discussions with battery industry associations.

Data were received from 133 companies representing about 230 manufacturing sites. In addition to previous studies and the data collection effort for this study, supplemental data were obtained from NPDES permit files and engineering studies on treatment

technologies used in this and other categories with similar wastewater characteristics. The data gathering effort solicited all known sources of data and all available pertinent data were used in developing these limitations.

V. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until a few years ago, and only on rare occasions had these pollutants been regulated. Also, industry had not monitored or developed methods to monitor most of these pollutants.

Faced with these problems, EPA developed a sampling and analytical protocol. This protocol is set forth in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* revised in April 1977. Methods promulgated under Section 304(h) (40 CFR Part 136) were available and were used to analyze most toxic metals, pesticides, cyanides, and phenols. At the outset of the study, EPA expected that the pollutants of greatest concern in battery manufacturing would be toxic metals rather than organics. This has been borne out by the findings of the study.

The sampling and analysis program was carried out in two stages. First, screen sampling was performed at one plant in each subcategory, and this sample was analyzed (screened) for the presence and magnitude of each of the 129 specific toxic pollutants plus conventional and selected nonconventional pollutants. Second, additional (or verification) samples at the same and other plants were analyzed to determine more precisely the magnitude, presence, and process source of pollutants determined to be present or believed to be present on the basis of screening analysis and engineering evaluations. Because the method of subcategorizing this category was changed during the study, more than one screening analysis was made in some of the present subcategories. A total of 48 plants were visited for engineering analysis of which eight were sampled for screening and 15 were sampled for verification analysis. Full details of the engineering analysis, sampling and analysis program, and the water and wastewater data derived from sampling are presented in Section V of the Development Document.

Analysis for the toxic pollutants is both expensive and time consuming, costing between \$650 and \$1,000 per sample for a complete analysis. The cost in dollars and time limited the amount of

sampling and chemical analysis performed. Although EPA fully believes that the available data support the limitations proposed, the Agency would have preferred a larger data base and continues to seek additional data as part of this rulemaking. In addition, EPA will periodically review these limitations as required by the Act and make any revisions supported by new data.

VI. Industry Subcategorization

In developing this regulation, it was necessary to determine whether different effluent limitations and standards were appropriate for different segments (subcategories) of the industry. The major factors considered in identifying subcategories included: waste characteristics, basic material used, manufacturing processes, products manufactured, water use, water pollution control technology, treatment costs, solid waste generation, size of plant, age of plant, number of employees, total energy requirements, non-water quality characteristics, and unique plant characteristics. Section IV of the Development Document contains a detailed discussion of the factors considered and the rationale for subcategorization.

EPA has subcategorized battery manufacturing primarily on the active anode material used. The eight subcategories are: cadmium, calcium, lead, Leclanche (zinc anode with acid electrolyte), lithium, magnesium, zinc (with alkaline electrolyte), and nuclear. At one time the Agency considered subcategorization on the basis of battery type and manufacturing process used; however close examination of the category clearly indicated this approach to be impractical (over 200 variations existed). The anode material approach was adopted because it considers most of the variations and avoids unnecessary complexity.

VII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

Current wastewater treatment systems in the battery manufacturing category range from no treatment to a sophisticated physical chemical treatment (although generally not operated properly) combined with water conservation practices. Of the 253 plants in the data base, 25 percent of the plants have no treatment and do not discharge, 16 percent have no treatment and discharge, 21 percent have only pH adjust systems, 3 percent have only sedimentation or clarification devices, 24 percent have equipment for chemical precipitation and settling, 7 percent have

equipment for chemical precipitation, settling and filtration, and 4 percent have other treatment systems. Even though treatment systems are in-place at many plants, however, the category is uniformly inadequate in wastewater treatment practices. The systems in-place are generally inadequately sized, poorly maintained, or improperly operated (systems overloaded, solids not removed, pH not controlled, etc.). For the category as a whole, in general, there is no significant difference between direct or indirect dischargers in the nature or degree of treatment employed. Section V of the Development Document evaluates the treatment systems in-place and the effluent data received.

B. Control Technologies Considered

The control and treatment technologies available for this category include both in-process and end-of-pipe treatments. These technologies are described in Section VII of the Development Document. In-process treatment includes a variety of water flow reduction steps and major process changes such as: cascade and countercurrent rinsing (to reduce the amount of water used to remove unwanted materials from electrodes); consumption of cleansed wastewater in product mixes; and substitution of non-wastewater-generating forming (charging) systems. End-of-pipe treatment includes: hexavalent chromium reduction; chemical precipitation of metals using hydroxides, carbonates, or sulfides; and removal of precipitated metals and other materials using settling or sedimentation; filtration; distillation; ion exchange; reverse osmosis; and combinations of these technologies. Because of its high energy costs and low product recovery values, distillation has been recommended as an end-of-pipe treatment in only one subcategory.

The effectiveness of these treatment technologies has been evaluated and established by examining their performance on battery manufacturing and other similar wastewaters. The data base for hydroxide precipitation-sedimentation technology is a composite of data drawn from EPA sampling and analysis of copper and aluminum forming, battery manufacturing, porcelain enameling, and coil coating effluents. A detailed statistical analysis done on the data base showed substantial homogeneity in the treatment effectiveness data from these five categories. This supports EPA's technical judgment that these wastewaters are similar in all material

respects for treatment because they contain a range of dissolved metals which can be removed by precipitation and solids removal. Electroplating data were originally used in the data set, but were excluded after further statistical analyses were performed. The statistical analysis and assumptions underlying the methodology are discussed in more detail in Section VII of the Development Document. Similarly, precipitation-sedimentation and filtration technology performance is based on the performance of full-scale commercial systems treating multi-category wastewaters which also are essentially similar to battery manufacturing wastewaters.

The treatment performance data is used to obtain maximum daily and monthly average pollutant concentrations. These concentrations (mg/l) along with the battery manufacturing production normalized flows (1/kg of production normalizing parameters) are used to obtain the maximum daily and monthly average values (mg/kg) for effluent limitations and standards. The monthly average values are based on the average of ten consecutive sampling days. The ten day average value was selected as the minimum number of consecutive samples which need to be averaged to arrive at a stable slope on a statistically based curve relating one day and 30 day average values and it approximates the most frequent monitoring requirement of direct discharge permits. The monthly average numbers shown in the regulation are to be used by plants with combined wastestreams that use the "combined wastestream formula" set forth at 40 CFR 403.6(e) and by permit writers in writing direct discharge permits.

VIII. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying technology in relation to the effluent reduction benefits derived, the age of equipment and facilities involved, the process employed, nonwater-quality environmental impacts (including energy requirements), and other factors the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer

technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. (See *Tanners' Council of America v. Train*, 540 F. 2d 1188, 4th Cir. 1976.) BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The cost-benefit inquiry for BPT is a limited balancing, conducted at EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. (See, for example, *American Iron and Steel Institute v. EPA*, 526 F. 2d 1027, 3rd Cir. 1975.) In balancing costs with effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors (See *Weyerhaeuser Company v. Costle*, 11 ERC 2149, D.C. Cir. 1978.)

The Agency is proposing BPT limitations for the cadmium, lead, and zinc subcategories. The remaining five subcategories are excluded from BPT and BAT limitations for the reasons discussed in Section XV of this notice.

In developing the proposed BPT limitations, the Agency first considered the amount of water used per unit of production in each subcategory process element by each plant which was sampled or which supplied usable dcp data. These data were used to determine the average water use for each subcategory process element. Next, the end-of-pipe treatment technology that seemed appropriate for BPT level treatment and was practiced is some plants throughout the category was selected. This treatment consists of: hexavalent chromium reduction when required; oil skimming when required; hydroxide (or lime) precipitation, if not accomplished by pH adjustment; and sedimentation to remove the resultant precipitate and other suspended solids. Sludge from the settling tank is concentrated to facilitate metals recovery or landfill disposal. The effluent that would be expected to result from the application of these technologies was evaluated against the known performance of some of the best

plants in the category and other categories treating similar wastewaters with these technologies. Sections VII and IX of the Development Document explain the derivation of treatment effectiveness data and the calculation of BPT limitations.

To comply with BPT limitations, EPA estimates (1982 \$) that total capital investment would be \$0.9 million and that annual costs would be \$0.4 million, including interest and depreciation. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of the BPT effluent limitations. These BPT limitations will result in the removal of 73,600 kg/yr (162,260 lb/yr) of toxic pollutants and 931,000 kg/yr (2,052,500 lb/yr) of other pollutants from the estimated current discharges. The Agency has determined the effluent reduction benefits associated with compliance with BPT limitations justify these costs.

IX. Best Available Technology (BAT) Effluent Limitations

the factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, nonwater-quality environmental impacts (including energy requirements) and the costs of applying such technology (Section 304(b)(2)(B)). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include feasible process changes or internal controls, even when not common industry practice.

The required assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser v. Costle*, *supra*). In developing the proposed BAT, however, EPA has carefully considered the cost of the BAT treatment. The Agency has considered the volume and nature of the estimated present discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels on the industry.

Despite this consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the

achievement of BAT has become the principal national means of controlling toxic water pollution.

The Agency has considered three to five major sets of technology options for each subcategory that might be applied at the BAT level. These options were set forth in a draft Development Document and presented to the technically interested public for preliminary comment. The options are described in detail in Section X of the Development Document and are outlined below. The Agency is proposing BAT limitations for the cadmium, lead, and zinc subcategories. The remaining five subcategories are excluded from regulation at BAT and are discussed in Section XV of this notice.

For plants to directly comply with BAT limitations, EPA estimates that total capital investment would be \$2.8 million and that annual costs would be \$0.8 million, including interest and depreciation. EPA expects no plant closures, unemployment, or changes in industry production capacity as a result of the proposed BAT effluent limitations.

The cost estimates for the various treatment options are detailed in Section VIII of the Development Document, control and treatment effectiveness is detailed in Section VII, and effluent reduction benefits are detailed and tabulated in Section X of the Development Document. The Economic Impact Analysis Contains a full analysis of potential economic impacts for all regulatory options considered.

As noted below, technology options both more and less stringent than those adopted as a basis for these proposals are available. In order to make a final decision, EPA solicits the submission of all information available on the costs of these technologies and the results they will produce. EPA will decide which technologies to select and which limitations to promulgate after consideration of all information available, including the information received in comments submitted on this proposal, its current information, and the results of any additional studies it sponsors. The final regulation may well be based upon a technology other than that which forms the basis for the current proposal.

A. Cadmium Subcategory

Option 1. BAT option 1 uses hydroxide precipitation and sedimentation, which is the same end-of-pipe treatment technology required for BPT; however, the discharge of toxic pollutants to the environment is reduced through in-process technology to reduce

wastewater discharge.

Option 2. BAT option 2 builds on the end-of-pipe treatment technology for option 1 by adding a polishing filter to improve the removal of suspended solids and metals. Wastewater flow is the same as option 1.

Option 3. BAT option 3 builds on the reduced wastewater flows of option 1, adds reverse osmosis to allow reuse of much of the wastewater in the process, and requires further treatment (lime

precipitation and filtration) of the reverse osmosis brine before discharge.

Option 4. BAT option 4 results in zero discharge of wastewater pollutants by using ion exchange with the ion exchange regenerate water reclaimed by distillation and returned to the process.

The pollutant removals and costs of the BAT options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in-place.

	Pollutant removal (kilograms per year)		Costs (dollars in thousands)	
	Toxics (pounds per year)	Other (pounds per year)	Capital	Annual
BPT 69,596 (153,437)		101,255 (223,230)	\$82	\$31
BAT-1 70,096 (154,535)		109,614 (241,656)	166	51
BAT-2 70,135 (154,622)		110,307 (243,185)	198	66
BAT-3 70,181 (154,722)		111,100 (244,934)	244	89
BAT-4 70,189 (154,741)		111,238 (245,238)	843	160

Cadmium Subcategory BAT Selection

EPA is proposing BAT effluent limitations based on technology option 1, but as indicated below, will give equivalent consideration to other options in promulgating final limitations. None of the options would cause significant adverse economic impacts. Option 1, requiring the reduction of flows prior to the lime and settle system required by BPT, is achievable using technologies and practices that are currently in use at some plants in the category. This option results in the significant reduction of toxic and other pollutant discharges. While EPA rejected the more stringent technology options 2-4 for purposes of formulating this proposal, it will give full consideration to basing the final regulations on one of these options. Therefore, EPA solicits comments on each of the options. In particular, EPA invites comment on the considerations discussed below.

EPA had found filtration to be exceptionally expensive in previous studies of other industrial categories. However, considering the extreme toxicity of the pollutants, and the amount of pollutants in this subcategory, EPA is continuing to consider the possibility of basing its BAT limitations for this subcategory on the addition of filtration.

EPA will give equal consideration to option 2 (along with option 1) in determining a basis for the final regulation. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved in systems using lime, settle and filtration (LS&F). Section II of the Development Document contains effluent limitation tables based on LS&F

technology. If option 2 is selected, EPA will use that information, as well as any additional information submitted during the comment period, to develop final effluent limitations.

EPA is also continuing to consider the possibility of setting limitations based upon option 3 or 4. Both of these options require significant flow reduction, advanced wastewater treatment and reuse of wastewater in the manufacturing process. Option 3 requires the flow reduction of the BAT-1 discharge level by 85 percent. Option 4 requires the complete elimination of discharges. To enable such reductions or eliminations to be made, either the generation of process wastewater must be substantially reduced or else most or all of the process wastewater must be reused in the process, leaving a low-volume, concentrated wastewater to undergo advanced treatment (such as reverse osmosis or ion exchange).

The methods used to reduce wastewater flows are varied, and different plants may use different methods to achieve flow reduction for their various production processes. However, in all cases, either process modifications, wastewater reuse, or both would be required to effect the flow reduction required by options 3 and 4.

Modifying production processes and rerouting wastewater streams often requires substantial retrofitting (reconstruction) of both production and wastewater treatment processes. Depending on the present configuration of the plant, including existing structures, piping and equipment, as well as available land area, such retrofitting may become extremely expensive. (This expense is in addition to the cost of installing the advanced

wastewater treatment units, such as reverse osmosis and ion exchange.)

To date, EPA has not calculated all of the retrofit costs for existing plants to comply with options 3 and 4; rather, we have estimated the costs for installing (and operating and maintaining) the necessary equipment that would be incurred at a plant which would incur no additional costs for modifying existing production processes and rerouting existing wastewater flows. EPA expects that these costs would be high in many cases. Given this expectation as to cost and the fact that options 3 and 4 would result in relatively low incremental removal of toxic pollutants, EPA did not adopt these options as a basis for proposed BAT limitations. (However, as discussed below, EPA has selected Option 4 for new source performance standards; new sources do not incur retrofitting costs.) EPA solicits information on retrofitting costs at existing plants and on the appropriateness of selecting option 3 or 4.

B. Lead Subcategory

Option 1. BAT option 1 continues the

Pollutant removal (kilograms per year)	Other (pounds per year)	Costs (dollars in thousands)	
		Capital	Annual
Toxics (pounds per year)			
BPT 2,909(6,412)	828,950(1,827,522)	\$744	\$345
BAT-1 3,344(7,372)	836,346(1,843,828)	2,494	737
BAT-2 3,375(7,440)	836,746(1,844,710)	3,040	905
BAT-3 3,412(7,521)	836,746(1,844,710)	3,040	905
BAT-4 3,422(7,543)	837,205(1,845,722)	4,807	1,363

Lead Subcategory BAT Selection

EPA is proposing BAT effluent limitations based on technology option 1, but as discussed in the Cadmium subcategory, will give equivalent consideration to other options in promulgating final limitations. Only option 4 might cause one potential plant closure; none of the other options would cause significant adverse economic impact. Option 1 was selected because it results in substantial reductions of toxic pollutant discharges through the use of proven in-process controls and end-of-pipe treatment.

As discussed above with respect to option 2 in the Cadmium subcategory, EPA is continuing to consider the possible requirements of filtration. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains

lime-carbonate and settle end-of-pipe treatment set forth as BPT and uses in process controls and process changes to substantially reduce wastewater discharge.

Option 2. BAT option 2 builds on option 1 by adding a polishing filter to improve the removal of suspended solids and metals.

Option 3. BAT option 3 substitutes sulfide precipitation and membrane filtration for the lime-carbonate precipitation and polishing filtration in option 2. Sulfide precipitation technology is a mechanism for improved metals precipitation and removal.

Option 4. BAT option 4 adds reverse osmosis to the wastewater discharge from the polishing filter of option 2. The reverse osmosis permeate is recycled to the process while the brine is treated using sulfide precipitation and membrane filtration technology before discharge.

The pollutant removals and costs of the BAT options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in-place.

effluent limitation tables based on LS&F technology. If option 2 is selected EPA will use that information, as well as any additional information submitted during the comment period to develop final effluent limitations.

EPA is requesting comments on the scope of retrofitting problems associated with options 3 and 4. Based on this review EPA will give equal consideration to options 2-4 in determining a basis for the final regulation.

Options 3 and 4 were rejected because of the retrofitting problems associated with flow reduction to implement those options, as was discussed above with respect to options 3 and 4 of the Cadmium subcategory. An additional retrofitting problem is caused by the use of sulfide precipitation for options 3 and 4, and is discussed below.

Special systems are needed to ensure safe operation of the sulfide system and the cost of handling of the treatment sludges, which may be toxic and

reactive hazardous wastes. Sulfide precipitation treatment systems require special ventilation and construction features to eliminate workplace hazards. These features may be difficult and costly to install in existing plants, but can be installed at minimal cost when a plant is being constructed. Plants already having sulfide treatment systems in-place have not reported any problems. However, sulfide precipitation technology has not been selected for BPT, PSES, or BAT because of the difficulties and hazards associated with retrofitting and implementing the systems at existing plants that do not presently have them. (For new plants special ventilation equipment and special construction features can be initially installed at a nominal cost so that the systems can be properly operated and health hazards avoided.)

EPA also will consider establishing BAT for the final rule based on technologies that may impose lower costs than the proposed option, if it appears that the costs of the proposed of the option 1 are too high. The Agency is also soliciting comments and supporting cost and economic data for any recommendations.

C. Zinc Subcategory

Option 1. BAT option 1 uses the same end-of-pipe treatment provided at BPT but, by applying in-process controls substantially reduces the volume of wastewater and the amount of process wastewater pollutants discharged.

Option 2. BAT option 2 builds on BAT option 1 by adding a polishing filter to improve the removal of suspended solids and metals.

Option 3. BAT option 3 adds on additional in-process wastewater control characteristic to option 2 but substitutes sulfide precipitation and membrane filtration for the hydroxide precipitation and polishing filtration in option 2. Sulfide precipitation technology is a mechanism for improved metals precipitation and removal.

Option 4. BAT option 4 adds one additional in-process wastewater control characteristic to option 3 and follows the option 2 end-of-pipe treatment adding reverse osmosis technology which allows recycle and reuse of a substantial part of the permeate. The brine is treated using sulfide precipitation and membrane filtration technology before discharge.

Pollutant removals and costs of the BAT options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in-place.

Pollutant removal (kilograms per year)	Costs (dollars in thousand)			
	Toxics (pounds per year)	Other (pounds per year)	Capital	Annual
BPT 1,093 (2,410)		789 (1,740)	\$68	\$25
BAT-1 1,114 (2,456)		1,058 (2,332)	122	32
BAT-2 1,115 (2,459)		1,076 (2,372)	138	52
BAT-3 1,117 (2,463)		1,078 (2,376)	138	52
BAT-4 1,118 (2,465)		1,098 (2,421)	147	75

Zinc Subcategory BAT Selection

* EPA is proposing BAT effluent limitations based on technology option 1, but as discussed in the Cadmium subcategory, will give equivalent consideration to other options in promulgating final limitations. None of the options would cause significant adverse economic impacts. Option 1 was selected because it results in substantial reduction of toxic pollutant discharges through the use of proven in-process controls and end-of-pipe treatment, and does not result in significant economic impacts.

Option 2, 3, and 4 were rejected for the Zinc subcategory for the same reasons as discussed above in the cases of the Cadmium and Lead subcategories. As discussed above, EPA will give equal consideration to options 2-4 in determining a basis for the final regulation. EPA is especially continuing to consider the possible requirements of filtration. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains effluent limitation tables based on LS&F technology. If option 2 is selected EPA will use that information as well as any additional information submitted during the comment period to develop final effluent limitations.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology (BDT). New plants can incorporate the best and most efficient battery manufacturing processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, inplant controls, and end-of-pipe treatment technologies to reduce pollution to the maximum extent feasible.

EPA considered a number of options for selection of NSPS technology. Options included those discussed under BAT. Each of these options are set forth in the proposed Development Document in Sections X and XI, and the costs are

discussed in Section VIII. The options selected for proposal are outlined below. As discussed in the Economic Impact Analysis, none of the options would present barriers to entry by new plants in the industry.

Cadmium Subcategory NSPS Selection

EPA has selected the equivalent of BAT option 4 as the basis for proposed NSPS effluent standards. This option was selected because it achieves zero discharge of toxic pollutants and has been adequately demonstrated in the industry. As was discussed under BAT, implementation of the technology at new plants will not result in retrofit cost problems.

Three of 10 active plants in this subcategory achieve zero discharge of wastewater pollutants. Two plants achieve zero discharge through manufacturing process selection using essentially dry manufacturing processes. The third plant achieves zero discharge by the effective use of water conservation practices within the process and by sophisticated (ion exchange and distillation) wastewater treatment that totally recycles the treated wastewater to the manufacturing processes. This plant recently converted from being one of the most water-consuming and wastewater-discharging plants, on a production normalized basis, to achieving zero discharge. Clearly zero-discharge technology has been demonstrated in this subcategory.

The Agency recognizes that the selected NSPS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

Calcium Subcategory NSPS Selection

EPA has selected reuse of wastewaters from heat paper production after settling, and reuse following lime, settle and filtration technology for cell testing wastewaters as the basis for proposed NSPS. This option was selected because it achieves zero discharge of toxic pollutants, and a cost

savings results from the recycling of process materials that result from the closed loop in heat paper production. Holding tanks are used instead of implementing a complete treatment system. One of the three plants active in this subcategory already achieves zero discharge.

Lead Subcategory NSPS Selection

EPA has selected the equivalent of BAT option 4 as the basis for proposed NSPS. This option includes flow reduction for the processes that cannot achieve zero discharge, lime and carbonate precipitation, filtration, reverse osmosis, and sulfide precipitation and filtration. The option was selected because it achieves maximum pollutant reduction for the subcategory. Also, the difficulties encountered with the sulfide system can be adequately and economically dealt with at new plants. As an alternative to flow reduction and treatment new plants can select dry manufacturing processes and water conservation practices and can achieve zero discharge.

The Agency recognizes that the selected NSPS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

Leclanche Subcategory NSPS Selection

EPA has selected in-process controls, treatment, and recycle to achieve zero discharge of toxic pollutants as the basis for proposed NSPS. Twelve of the 19 plants active in this subcategory already achieve zero discharge by practicing water conservation and recycle, and using dry manufacturing processes.

Lithium Subcategory NSPS Selection

EPA has selected reusing wastewater from heat paper production after settling; aeration and lime and settle technology for air scrubber wastewaters; and lime, settle and filtration technology for other wastewaters, as the basis for proposed NSPS. This option was selected because, for heat paper production, it achieves zero discharge of toxic pollutants and also provides maximum pollutant reduction for cathode preparation and other process wastewaters. A cost savings results from the recycling of process materials that result from the closed loop in heat paper production. Holding tanks are used instead of implementing a complete

treatment system. Two of the seven active plants in the subcategory achieve zero discharge by choice of manufacturing processes. Many alternatives can be considered when constructing a new plant.

Magnesium Subcategory NSPS Selection

EPA has selected reusing wastewaters for heat paper production after settling; aeration and lime and settle technology for air scrubber wastewaters; lime, settle and filtration technology for other wastewaters; and permanganate oxidation pretreatment for silver chloride cathodes as the basis for proposed NSPS. This option was selected because, for heat paper production, it achieves zero discharge of toxic pollutants, and also provides maximum pollutant reduction for cathode preparation and other process wastewaters. The closed loop in heat paper production also results in a cost savings due to the recycling of process materials. Also, holding tanks are used instead of implementing a complete treatment system. Four of the eight active plants in this subcategory achieve zero discharge by choice of manufacturing processes. Many alternatives can be considered when constructing a new plant.

Zinc Subcategory NSPS Selection

EPA has selected the equivalent of BAT option 4 as the basis for proposed NSPS. This option, which includes flow reduction, lime precipitation, filtration, and reverse osmosis with sulfide precipitation and filtration of the reverse osmosis brine, achieves maximum pollutant reduction for the subcategory. The difficulties encountered with the sulfide system can be dealt with adequately and economically at new plants.

The Agency recognizes that the selected NSPS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

XI. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the

operation of Publicly Owned Treatment Works (POTW). The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations can be found at 40 CFR Part 403. (See 43 FR 27736 June 26, 1978; 46 FR 9404 Jan. 28, 1981.)

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through the POTW or interfere with the POTW operation or its chosen sludge disposal practices. In determining whether pollutants pass through a POTW, the Agency compares the percentage of a pollutant removed by POTW with the percentage removed by direct dischargers applying BAT. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTW meeting secondary treatment requirements is less than the percentage removed by direct dischargers complying with BAT effluent limitations guidelines for that pollutant.

This approach to the definition of pass through satisfies two competing objectives set by Congress: That standards for indirect dischargers be equivalent to standards for direct dischargers, while, at the same time, that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers. Rather than compare the mass or concentration of pollutants discharged by the POTW with the mass or concentration discharged by a direct discharger, the Agency compares the percentage of the pollutants removed by the plant with the POTW removal. The Agency takes this approach because a comparison of mass or concentration of pollutants in a POTW effluent with pollutants in a direct discharger's effluent would not take into account the mass of pollutants discharged to the POTW from nonindustrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations from the addition of large amounts of nonindustrial wastewater.

In the battery manufacturing category, the Agency has concluded that the pollutants that would be regulated (primarily toxic metals) under these proposed standards pass through the POTW. The average percentage of these pollutants removed by POTW nationwide ranges from 30 to 80 percent, whereas the percentage that can be removed by a battery manufacturing direct discharger applying BAT is expected to be over 99 percent.

Accordingly, these pollutants pass through POTW.

In addition, toxic metals are not degraded in the POTW; they either pass through or are removed in the sludge. The presence of highly toxic metals discharged from a battery plant in the POTW sludge may limit a POTW's chosen sludge disposal method. For example, a major pollutant discharged by battery plants is cadmium. Under EPA's Criteria for Classification of Solid Waste Disposal Facilities and Practices, the application of POTW sludge to land used for production of food-chain crops is restricted when the sludge contains significant levels of cadmium.

The pretreatment options considered are parallel to BPT and the BAT options described in Sections IX and X of the Development Document, and previously described under BAT for the Cadmium, Lead, and Zinc subcategories. PSES-0 is the equivalent of BPT technology and PSES 1-4 are the equivalent of BAT technology options 1-4. These subcategories and the Leclanche and magnesium subcategories are discussed below. No PSES are proposed for the Calcium and Lithium subcategories because the amount and toxicity of the discharges from these subcategories do not justify developing national standards.

The mass limitations set forth as PSES are presented here as the only method of designating pretreatment standards. Regulation on the basis of concentration only is not appropriate because concentration-based standards do not restrict the total quantity of pollutants discharged. Flow reduction is a significant part of the model technology for pretreatment because it reduces the amount of toxic pollutants introduced into a POTW. Therefore, the Agency is not proposing concentration-based pretreatment standards.

To comply with PSES, EPA estimates that total capital investment would be \$25.0 million and that annual costs would be \$6.2 million, including interest and depreciation. Section VIII of the Development Document explains the basis for these costs. EPA predicts no plant closures resulting from this regulation. The Economic Impact Analysis assesses the economic impacts. No changes in industry production capacity are expected as a result of these pretreatment standards.

EPA is proposing that the deadline for compliance with PSES in this regulation be three years after promulgation. EPA believes this time for compliance is reasonable because most of the plants do not now have all of the required equipment in-place and this amount of

time generally will be needed for proper engineering, installation and start-up of the treatment facilities. The Agency invites comments with support documentation and rationale on the need for this or any shorter compliance time.

Cadmium Subcategory PSES Selection

EPA has selected the equivalent of BAT option 1 for PSES for reasons discussed under BAT. In addition, the equivalent of BAT option 4 (zero discharge of pollutants) was rejected because potential product line closures were projected in the Economic Impact Analysis.

As discussed with respect to BAT

however, EPA is continuing to give serious consideration to promulgating an option other than option 1 as a final regulation. In particular, the Agency is continuing to evaluate the requirements of filtration. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains effluent standard tables based on LS&F technology.

Pollutant removals and costs of the PSES options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in place

Pollutant removal (kilograms per year)		Costs (dollars in thousands)	
Toxics (pounds per year)	Other (pounds per year)	Capital	Annual
PSES-0 27,131 (59,813)	39,472 (87,020)	\$446	\$102
PSES-1 27,325 (60,241)	42,730 (94,203)	430	147
PSES-2 27,340 (60,275)	43,000 (94,799)	562	189
PSES-3 27,538 (60,314)	43,309 (95,481)	840	248
PSES-4 27,361 (60,322)	43,363 (95,599)	2,027	663

Lead Subcategory PSES Selection

EPA has selected the equivalent of BAT option 1 for PSES for reasons discussed under BAT. As discussed with respect to BAT however, EPA is continuing to give serious consideration to promulgating an option other than option 1 as a final regulation. In particular, the Agency is continuing to evaluate the requirements of filtration. Section VII of the Development Document contains a discussion and

tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains effluent standard tables based on LS&F technology.

Pollutant removals and costs of the PSES options summarized below. Removals and compliance costs are above current estimates of discharge and treatment in-place.

Pollutant removal (kilograms per year)		Costs (dollars in thousand)	
Toxics (pounds per year)	Other (pounds per year)	Capital	Annual
PSES-0 21,330 (47,024)	6,078,968 (13,401,839)	\$9,363	\$3,097
PSES-1 24,522 (54,061)	6,133,206 (13,521,406)	20,394	5,814
PSES-2 24,748 (54,560)	6,136,140 (13,527,873)	27,320	6,912
PSES-3 25,019 (55,157)	6,136,140 (13,527,873)	27,320	6,912
PSES-4 25,092 (55,319)	6,139,506 (13,535,294)	35,864	10,182

EPA also will consider establishing PSES for the final rule based on technologies that may impose lower costs than the proposed option, if it appears that the proposed option 1 is too

high. The Agency is also soliciting comment and supporting cost and economic data for any recommendations.

Leclanche Subcategory PSES Selection

EPA has selected the use of in-process controls or treatment and recycle to achieve zero discharge of toxic pollutants as the basis for proposed PSES. No other options are proposed because zero discharge is common practice within this subcategory. Twelve of the 19 plants active in this subcategory already achieve zero discharge by practicing water conservation, recycle, and using dry manufacturing processes. Wastewater discharge is reduced by 17 million 1/yr (5 million of the proposed option 1 are too high. The Agency is also soliciting comments and supporting cost and economic data for any recommendations.

C. Zinc Subcategory

Option 1. BAT Option 1 uses the same end-of-pipe treatment provided at BPT but, by applying in-process controls substantially reduces the volume of wastewater and the amount of process wastewater pollutants discharged.

Option 2. BAT option 2 builds on BAT option by adding a polishing filter to improve the removal of suspended solids and metals.

Option 3. BAT option 3 adds one additional in-process wastewater control characteristic to option 2 but substitutes sulfide precipitation and membrane filtration for the hydroxide precipitation and polishing filtration in option 2. Sulfide precipitation technology is a mechanism for improved metals precipitation and removal.

Option 4. BAT option 4 adds one additional in-process wastewater control characteristic to option 3 and follows the option 2 end-of-pipe treatment adding reverse osmosis technology which allows recycle and reuse of a substantial part of the permeate. The brine is treated using sulfide precipitation and membrane filtration technology before discharge.

Pollutant removals and costs of the BAT options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in-place.

Pollutant removal (kilograms per year)	Costs (dollars in thousand)		
	Toxics (pounds per year)	Other (pounds per year)	Annual
BPT 1,093 (2,410)		789 (1,740)	\$25
BAT-1 1,114 (2,456)		1,058 (2,332)	32
BAT-2 1,115 (2,459)		1,076 (2,372)	52
BAT-3 1,117 (2,463)		1,078 (2,376)	52
BAT-4 1,118 (2,456)		1,098 (2,421)	75

Zinc Subcategory BAT Selection

EPA is proposing BAT effluent limitations based on technology option 1, but as discussed in the Cadmium subcategory, will give equivalent consideration to other options in promulgating final limitations. None of the options would cause significant adverse economic impacts. Option 1 was selected because it results in substantial reduction of toxic pollutant discharges through the use of proven in-process controls and end-of-pipe treatment, and does not result in significant economic impacts.

Options 2, 3, and 4 were rejected for the Zinc subcategory for the same reasons as discussed above in the cases of the Cadmium and Lead subcategories. As discussed above, EPA will give equal consideration to options 2-4 in determining a basis for the final regulation. EPA is especially continuing to consider the possible requirements of filtration. Section VII of the Development Document contains a discussion and tables concerning the effluent concentration that can be achieved using LS&F. Section II of the Development Document contains effluent limitation tables based on LS&F technology. If option 2 is selected EPA will use that information as well as any additional information submitted during the comment period to develop final effluent limitations.

X. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology (BDT). New plants can incorporate the best and most efficient battery manufacturing processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, inplant controls, and end-of-pipe treatment technologies to reduce pollution to the maximum extent feasible.

EPA considered a number of options for selection of NSPS technology. Options included those discussed under BAT. Each of these options are set forth in the proposed Development Document in Sections X and XI, and the costs are

discussed in Section VIII. The options selected for proposal are outlined below. As discussed in the Economic Impact Analysis, none of the options would present barriers to entry by new plants in the industry.

Cadmium Subcategory NSPS Selection

EPA has selected the equivalent of BAT option 4 as the basis for proposed NSPS effluent standards. This option was selected because it achieves zero discharge of toxic pollutants and has been adequately demonstrated in the industry. As was discussed under BAT, implementation of the technology at new plants will not result in retrofit cost problems.

Three of 10 active plants in this subcategory achieve zero discharge of wastewater pollutants. Two plants achieve zero discharge through manufacturing process selection using essentially dry manufacturing processes. The third plant achieves zero discharge by the effective use of water conservation practices within the process and by sophisticated (ion exchange and distillation) wastewater treatment that totally recycles the treated wastewater to the manufacturing processes. This plant recently converted from being one of the most water-consumptive and wastewater-discharging plants, on a production normalized basis, to achieving zero discharge. Clearly zero-discharge technology has been demonstrated in this subcategory.

The Agency recognizes that the selected NSPS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

Calcium Subcategory NSPS Selection

EPA has selected reuse of wastewaters from heat paper production after settling, and reuse following lime, settle and filtration technology for cell testing wastewaters as the basis for proposed NSPS. This option was selected because it achieves zero discharge of toxic pollutants, and a cost

savings results from the recycling of process materials that result from the closed loop in heat paper production. Holding tanks are used instead of implementing a complete treatment system. One of the three plants active in this subcategory already achieves zero discharge.

Lead Subcategory NSPS Selection

EPA has selected the equivalent of BAT option 4 as the basis for proposed NSPS. This option includes flow reduction for the processes that cannot achieve zero discharge, lime and carbonate precipitation, filtration, reverse osmosis, and sulfide precipitation and filtration. The option was selected because it achieves maximum pollutant reduction for the subcategory. Also, the difficulties encountered with the sulfide system can be adequately and economically dealt with at new plants. As an alternative to flow reduction and treatment new plants can select dry manufacturing processes and water conservation practices and can achieve zero discharge.

The Agency recognizes that the selected NSPS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

Leclanche Subcategory NSPS Selection

EPA has selected in-process controls, treatment, and recycle to achieve zero discharge of toxic pollutants as the basis for proposed NSPS. Twelve of the 19 plants active in the subcategory already achieve zero discharge by practicing water conservation and recycle, and using dry manufacturing processes.

Lithium Subcategory NSPS Selection

EPA has selected reusing wastewater from heat paper production after settling; aeration and lime and settle technology for air scrubber wastewaters; and lime, settle and filtration technology for other wastewaters, as the basis for proposed NSPS. This option was selected because, for heat paper production, it achieves zero discharge of toxic pollutants and also provides maximum pollutant reduction for cathode preparation and other process wastewaters. A cost savings results from the recycling of process materials that result from the closed loop in heat paper production. Holding tanks are used instead of implementing a complete

treatment system. Two of the seven active plants in the subcategory achieve zero discharge by choice of manufacturing processes. Many alternatives can be considered when constructing a new plant.

Magnesium Subcategory NSPS Selection

EPA has selected reusing wastewaters for heat paper production after settling; aeration and lime and settle technology for air scrubber wastewaters; lime, settle and filtration technology for other wastewaters; and permanganate oxidation pretreatment for silver chloride cathodes as the basis for proposed NSPS. This option was selected because, for heat paper production, it achieves zero discharge of toxic pollutants, and also provides maximum pollutant reduction for cathode preparation and other process wastewaters. The closed loop in heat paper production also results in a cost savings due to the recycling of process materials. Also, holding tanks are used instead of implementing a complete treatment system. Four of the eight active plants in this subcategory achieve zero discharge by choice of manufacturing processes. Many alternatives can be considered when constructing a new plant.

Zinc Subcategory NSPS Selection

EPA has selected the equivalent of BAT option 4 as the basis for proposed NSPS. This option, which includes flow reduction, lime precipitation, filtration, and reverse osmosis with sulfide precipitation and filtration of the reverse osmosis brine, achieves maximum pollutant reduction for the subcategory. The difficulties encountered with the sulfide system can be dealt with adequately and economically at new plants.

The Agency recognizes that the selected NSPS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

XI. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the

operation of Publicly Owned Treatment Works (POTW). The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations can be found at 40 CFR Part 403. (See, 43 FR 27736, June 26, 1978 and 46 FR 9404, January 28, 1981.)

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through the POTW or interfere with the POTW operation or its chosen sludge disposal practices. In determining whether pollutants pass through a POTW, the Agency compares the percentage of a pollutant removed by POTW with the percentage removed by direct dischargers applying BAT. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTW meeting secondary treatment requirements is less than the percentage removed by direct dischargers complying with BAT effluent limitations guidelines for that pollutant.

This approach to the definition of pass through satisfies two competing objectives set by Congress: That standards for indirect dischargers be equivalent to standards for direct dischargers, while, at the same time, that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers. Rather than compare the mass or concentration of pollutants discharged by the POTW with the mass or concentration discharged by a direct discharger, the Agency compares the percentage of the pollutants removed by the plant with the POTW removal. The Agency takes this approach because a comparison of mass or concentration of pollutants in a POTW effluent with pollutants in a direct discharger's effluent would not take into account the mass of pollutants discharged to the POTW from nonindustrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations from the addition of large amounts of nonindustrial wastewater.

In the battery manufacturing category, the Agency has concluded that the pollutants that would be regulated (primarily toxic metals) under these proposed standards pass through the POTW. The average percentage of these pollutants removed by POTW nationwide ranges from 30 to 80 percent, whereas the percentage that can be removed by a battery manufacturing direct discharger applying BAT is

expected to be over 99 percent. Accordingly, these pollutants pass through POTW.

In addition, toxic metals are not degraded in the POTW; they either pass through or are removed in the sludge. The presence of highly toxic metals discharged from a battery plant in the POTW sludge may limit a POTW's chosen sludge disposal method. For example, a major pollutant discharged by battery plants is cadmium. Under EPA's Criteria for Classification of Solid Waste Disposal Facilities and Practices, the application of POTW sludge to land used for the production of food-chain crops is restricted when the sludge contains significant levels of cadmium.

The pretreatment options considered are parallel to BPT and the BAT options described in Sections IX and X of the Development Document, and previously described under BAT for the Cadmium, Lead, and Zinc subcategories. PSES-O is the equivalent of BPT technology and PSES 1-4 are the equivalent of BAT technology options 1-4. These subcategories and the Leclanche and magnesium subcategories are discussed below. No PSES are proposed for the Calcium and Lithium subcategories because the amount and toxicity of the discharges from these subcategories do not justify developing national standards.

The mass limitations set forth as PSES are presented here as the only method of designating pretreatment standards. Regulation on the basis of concentration only is not appropriate because concentration-based standards do not restrict the total quantity of pollutants discharged. Flow reduction is a significant part of the model technology for pretreatment because it reduces the amount of toxic pollutants introduced into a POTW. Therefore, the Agency is not proposing concentration-based pretreatment standards.

To comply with PSES, EPA estimates that total capital investment would be \$25.0 million and that annual costs would be \$6.2 million, including interest and depreciation. Section VIII of the Development Document explains the basis for these costs. EPA predicts no plant closures resulting from this regulation. The Economic Impact Analysis assesses the economic impacts. No changes in industry production capacity are expected as a result of these pretreatment standards.

EPA is proposing that the deadline for compliance with PSES in this regulation be three years after promulgation. EPA believes this time for compliance is reasonable because most of the plants do not now have all of the required

equipment in-place and this amount of time generally will be needed for proper engineering, installation and start-up of the treatment facilities. The Agency invites comments with supporting documentation and rationale on the need for this or any shorter compliance time.

Cadmium Subcategory PSES Selection

EPA has selected the equivalent of BAT option 1 for reasons discussed under BAT. In addition, the equivalent of BAT option 4 (zero discharge of pollutants) was rejected because potential product line closures were projected in the Economic Impact Analysis.

As discussed with respect to BAT however, EPA is continuing to give serious consideration to promulgating an option other than option 1 as a final regulation. In particular, the Agency is continuing to evaluate the requirements of filtration. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains effluent standard tables based on LS&F technology.

Pollutant removals and costs of the PSES options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in place.

Pollutant removal (kilograms per year)		Costs (dollars in thousands)	
Toxics (pounds per year)	Other (pounds per year)	Capital	Annual
PSES-0 27,131(59,813)	39,472(87,020)	\$446	\$102
PSES-1 27,325(60,241)	42,730(94,203)	430	147
PSES-2 27,340(60,275)	43,000(94,799)	562	189
PSES-3 27,538(60,314)	43,309(95,481)	840	248
PSES-4 27,361(60,322)	43,363(95,599)	2,027	663

Lead Subcategory PSES Selection

EPA has selected the equivalent of BAT option 1 for PSES for reasons discussed under BAT. As discussed with respect to BAT however, EPA is continuing to give serious consideration to promulgating an option other than option 1 as a final regulation. In particular, the Agency is continuing to evaluate the requirements of filtration. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains effluent standard tables based on LS&F technology.

Pollutant removals and costs of the

PSES options summarized below. Removals and compliance costs are

above current estimates of discharge and treatment in-place.

Pollutant removal (kilograms per year)	Toxics (pounds per year)	Other (pounds per year)	Costs (dollars in thousand)	
			Capital	Annual
PSES-0 21,330(47,024)		6,078,968(13,401,839)	\$9,363	\$3,097
PSES-1 24,522(54,061)		6,133,206(13,521,406)	20,394	5,814
PSES-2 24,748(54,560)		6,136,140(13,527,873)	27,320	6,912
PSES-3 25,019(55,157)		6,136,140(13,527,873)	27,320	6,912
PSES-4 25,092(55,319)		6,139,506(13,535,294)	35,864	10,182

EPA also will consider establishing PSES for the final rule based on technologies that may impose lower costs than the proposed option, if it appears that the proposed option 1 is too high. The Agency is also soliciting comment and supporting cost and economic data for any recommendations.

Leclanche Subcategory PSES Selection

EPA has selected the use of in-process controls or treatment and recycle to achieve zero discharge of toxic pollutants as the basis for proposed PSES. No other options are proposed because zero discharge is common practice within this subcategory. Twelve of the 19 plants active in this subcategory already achieve zero discharge by practicing water conservation, recycle, and using dry manufacturing processes. Wastewater discharge is reduced by 17 million 1/yr (5 million gal/yr), and 1,504 kg/yr (3,316 lb/yr) of toxic pollutants (estimated current basis) are removed. In addition 12,271 kg/yr (27,053 lb/yr) of other pollutants are removed. Compliance costs above estimated current treatment in-place are \$61,000 for capital and \$38,000 for annual.

Magnesium Subcategory PSES Selection

Option 0. PSES option 0 uses chromium reduction and hydroxide precipitation and settling for heat paper production; permanganate oxidation as initial treatment for silver chloride cathode production followed by chemical precipitation and settling; and chemical precipitation and settling for cell testing, floor and equipment wash and air scrubber process wastewaters.

Option 1. PSES option 1 is the same as option 0 except a polishing filter to improve the removal of suspended solids and metals is added on to the heat paper production system.

Option 2. PSES option 2 includes a settling and holding tank for heat paper production which allows for recycle and reuse of process solids and wastewaters. Also a polishing filter to improve the removal of suspended solids and metals is added on to the

silver cathode, cell testing and floor and equipment process wastewaters. Air scrubber wastewater treatment is the same as option 0.

Option 3. PSES option 3 is the same as option 2 for heat paper production. Permanganate oxidation is replaced by carbon adsorption for silver chloride production, but otherwise the treatment is identical to option 2 for silver chloride cathode, cell testing and floor and equipment process wastewaters. A polishing filter is added on to air scrubber process wastewater system.

The effluent reduction benefits of the PSES options were evaluated in making a selection of PSES. This evaluation resulted in the selection of an alternative option which is a combination of option 0 and 2. EPA has selected recycle and reuse of heat paper production solids and wastewaters (option 2), pretreatment with permanganate oxidation for silver chloride cathode wastewaters (option 0), and lime and settle end-of-pipe treatment for other wastewaters (option 0) as the basis for proposed PSES. This alternative option was selected because it provides protection of the environment consistent with process treatment effectiveness, and the recycling of process materials closed loop in heat paper production results in a cost savings. Pollutant removals (above estimated current) of the selected PSES is the removal of 97 kg/yr (214 lb/yr) of toxic pollutants and 1018 kg/yr (2244 lb/yr) of other pollutants. Compliance costs above treatment in-place is \$28,000 capital and \$12,000 annual. No plant closures are projected.

Zinc Subcategory PSES Selection

EPA has selected the equivalent of BAT option 1 for PSES for reasons discussed under BAT. No economic impacts are projected for any PSES option. As discussed with respect to BAT however, EPA is continuing to give serious consideration to promulgating an option other than option 1 as a final regulation. In particular, the Agency is continuing to evaluate requirements of filtration. Section VII of the Development Document contains a

discussion and tables concerning the effluent concentrations that can be achieved using LS&F. Section II of the Development Document contains effluent standards tables based on LS&F technology.

Pollutant removals and costs of the PSES options are summarized below. Removals and compliance costs are above current estimates of discharge and treatment in place.

Pollutant removal (kilograms per year)		Costs (dollars in thousand)	
Toxics (pounds per year)	Other (pounds per year)	Capital	Annual
PSES-0 3,665(8,079)	2,643(5,827)	349	119
PSES-1 3,729(8,221)	3,543(7,811)	468	135
PSES-2 3,734(8,232)	3,598(7,833)	548	215
PSES-3 3,739 (8,244)	3,609(7,957)	548	215
PSES-4 3,742(8,250)	3,679(8,1808)	739	341

XII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers will produce wastes having the same pass-through problems that existing dischargers have. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation.

The PSNS treatment options considered are identical to the NSPS options. As in the case of existing sources, the pollutants considered for regulation under PSNS pass through POTW. For PSNS the Agency is proposing the same treatment options as for NSPS. The selected options will not create barriers to entry, as is discussed in the Economic Impact Analysis.

The Agency recognizes that the selected PSNS may impose high costs and that there may be other technologies that will achieve nearly equivalent pollutant removals at lower costs. The Agency will consider, and invites comments on, alternate technologies that may achieve substantial removals of pollutants at a lower cost.

The mass standards set forth as PSNS are presented here as the only method of designating pretreatment standards. Regulation on the basis of concentration is not adequate because concentration-based standards do not restrict the total quantity of pollutants discharged. Flow

reduction is a significant part of the model technology for pretreatment because it reduces the amount of toxic pollutants introduced into a POTW. Therefore, the Agency is not proposing concentration-based pretreatment standards.

XIII. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added Section 301(b)(2)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4)—biological oxygen demanding pollutants (BOD₅), total suspended solids (TSS), fecal coliform, and pH—and any additional pollutants defined by the Administrator as "conventional." On July 30, 1979, EPA added oil and grease to the conventional pollutant list (44 FR 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. (see *American Paper Institute v. EPA*, 660 F.2d 954 4th Cir. 1981.) The first test compares the cost for private industry to reduce its conventional pollutants with the costs to POTW for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

For the battery manufacturing category, EPA has determined that the BAT technology sequence (lime and settle following in-process flow reduction) is capable of removing significant amounts of conventional pollutants. However, EPA has not yet promulgated a revised BCT methodology in response to the *American Paper Institute v. EPA* decision mentioned earlier. Thus, EPA is deferring a decision on appropriate BCT limitations.

XIV. Regulated pollutants

The basis upon which the controlled pollutants were selected, as well as the general nature and environmental effects of these pollutants, are set out in Sections V, VI, IX and X and XII of the Development Document. Some of these pollutants are designated toxic under Section 307(a) of the Act. The Agency has deleted the following three pollutants from the toxic pollutant list: dichlorodifluoromethane, January 8, 1981, (44 FR 2266); trichlorofluoromethane, January 8, 1981, (46 FR 2266); and bis-(chloromethyl) ether, February 4, 1981, (46 FR 10723).

A. BPT

The pollutants and pollutant properties regulated by the BPT limitations are cadmium, chromium, cobalt, copper, cyanide, iron, lead, manganese, mercury, nickel, silver, zinc, TSS, oil and grease, and pH. Not all of these pollutants are controlled in all subcategories; regulation is established only where subcategories will be regulated and the pollutant appears in significant amounts in the raw waste. The discharge is controlled by maximum daily and monthly average mass effluent limitations stated in milligrams (mg) of each pollutant per kilogram (kg) of production normalizing parameter per process.

B. BAT and NSPS

The pollutants specifically limited by BAT and NSPS are cadmium, chromium, cobalt, copper, cyanide, iron, lead, manganese, mercury, nickel, silver, and zinc. In addition NSPS controls COD, TSS, oil and grease, and pH. Not all of these pollutants are controlled in each of the subcategories; regulation is established only where the pollutant appears in significant amounts in the raw waste. For new sources in the lithium and magnesium subcategories, EPA is proposing a TSS limitation to control asbestos. The analytical method used for screening analysis to determine the concentration of asbestos is not an approved EPA method and though the method is the most viable one available, there are serious concerns as to its precision and accuracy. Accordingly, asbestos (chrysotile) will be controlled at NSPS by the limitations on TSS. Compliance with the TSS limitation will assure removal of suspended solids which will include the removal of asbestos fibers. The use of TSS as an indicator for asbestos removal has been demonstrated in the Development Document supporting the Ore Mining and Dressing Point Source Category (40 CFR 434).

Discharge is controlled by maximum daily and monthly average mass effluent limitations stated in mg of each pollutant per kg of production normalizing parameter per process.

C. PSES and PSNS

The pollutants regulated at PSES and PSNS are the same as those limited by BAT and NSPS, respectively, except that iron, TSS, oil and grease, COD, and pH are not limited in pretreatment. POTW may use iron as a coagulant in the treatment process and are specifically designed to treat the conventional pollutants, including oxygen demand. Not all of the pollutants are controlled in all subcategories; regulation is established only where subcategories will be regulated and the pollutant appears in a significant concentration in the raw waste.

Appendix B to this notice contains a tabulation for each subcategory of the toxic pollutants that are limited by this regulation.

XV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation specific pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed for each subcategory in Appendix C to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix D to this notice lists the toxic pollutants in each subcategory that were detected in the effluent in amounts that are at or below the nominal limit of analytical quantification which are too small to be effectively reduced by technologies and that are therefore excluded from regulation.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants that are detectable from only a small number of sources within the subcategories and are uniquely related to those sources. Appendix E to this notice lists for each subcategory the toxic pollutants which were detected in the effluents of only

one plant and are uniquely related to only that plant, and are not related to the manufacturing processes under study.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies considered applicable to the category. Appendix F lists those toxic pollutants which are not treatable using technologies considered applicable to the category.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation specific pollutants which will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance or pretreatment standards. The toxic pollutants considered for regulation, but excluded from control because adequate protection is now provided by this regulation through the control of other pollutants, are listed for each subcategory in Appendix G of this notice.

Paragraph 8(a)(iv) and 8(b)(ii) of the Revised Settlement Agreement allow the Administrator to exclude from regulation subcategories for which the amount and the toxicity of pollutants in the discharge does not justify developing national regulations. Some subcategories of the battery manufacturing industry meet this provision and are excluded from some parts of this regulation. These subcategories are listed in Appendix G to this notice. The nuclear subcategory is excluded from all regulation since there are no currently operating plants and plans are not being made to resume production. For BPT and BAT, four subcategories are excluded. Currently there are no direct dischargers in the calcium Leclanche, or magnesium subcategories. The amount and toxicity of direct pollutant discharges (less than 100 lb/yr of toxic pollutants) in the lithium subcategory does not justify developing national regulations. For PSES, two subcategories are excluded. Currently the amount and toxicity of pollutants discharged (less than lb./yr of toxic pollutants) in the calcium and lithium subcategories do not justify developing national regulations.

XVI. Cost and Economic Impact

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of \$100 million or more or meet other economic impact criteria. The proposed regulation for battery manufacturing is not a major rule and

therefore does not require a formal regulatory impact analysis. This proposed rulemaking satisfies the requirement of the Executive Order for a non-major rule. The Agency's regulatory strategy considered both the cost and the economic impacts of the proposed rulemaking.

The economic impact assessment is presented in *Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Battery Manufacturing Industry*, EPA 440/2-082-002. This report details the investment and annual costs for the industry as a whole and for typical plants covered by the proposed regulation. Compliance costs are based on engineering estimates of capital requirements for the effluent control systems described earlier in this preamble. Cost estimates for hazardous waste disposal are also included in the analysis. The report assesses the impact of effluent control costs in terms of price changes, production changes, plant closures, employment effects, and balance of trade effects. These impacts are discussed in the report for each of the regulatory option. Many of the data used in the Economic Impact Analysis report are primarily from 1977, with some of the data updated where possible. The Agency plans to further update much of the industry background data before promulgation.

EPA has identified 258 facilities that produce the types of batteries covered by this regulation. Total investment for BAT and PSES is estimated to be \$24.8 million, with annual costs of \$6.4 million, including depreciation and interest. These costs are expressed in 1982 dollars and are based on the determination that plants will move from existing treatment to either BAT or PSES. No significant economic impacts (e.g., plant closures or unemployment) are projected as a result of compliance costs for this regulation. Maximum price increases if all costs were passed on to consumers are small, ranging from 0.04 to 0.3 percent. Balance of trade effects are insignificant.

In order to measure the potential economic impacts, the industry was subcategorized by the type of battery product, described by a cathode-anode pair. The analytical approach included a screening analysis to identify plants with potentially significant impacts, followed by financial analysis of individual plants. The plant-by-plant analysis focuses on profitability and capital requirements. Both characteristics are examined through standard financial analysis techniques. Plant closure determinations are based

primarily on measures of financial performance such as return on assets, internal rate of return, and compliance investment cost.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), divided by the water quality criterion for the pollutant being evaluated. The use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus for a given expenditure, the cost per pound equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. This analysis entitled "Cost Effectiveness Analysis" is included in the record of this rulemaking. EPA invites comments on the methodology used in this analysis.

BPT. BPT regulations are proposed for direct dischargers in three technical subcategories: zinc, cadmium, and lead. These regulations will affect 23 facilities. Investment costs for BPT are \$0.9 million; total annual costs are \$0.4 million. There are no significant economic impacts projected as a result of BPT.

BAT

BAT regulations are proposed for direct dischargers in the same three subcategories. To comply directly with BAT twenty-three facilities will incur investment costs of \$2.8 million and annual costs of \$0.8 million. These regulations, as proposed, do not result in significant economic impacts.

PSES

Pretreatment standards are proposed for indirect dischargers in five technical subcategories: Leclanche, zinc, cadmium, magnesium, and lead. Investment costs for 131 facilities are \$25.0 million; total annualized costs are \$6.2 million. There are no plant closures projected as a result of PSES.

NSPS and PSNS

Battery manufacturing appears to be growing at a rate slightly greater than that of the GNP. The industry is experiencing technological advances and appears to be following a long-term trend towards fewer and larger plants. Regulations for new sources are not expected to significantly discourage entry into the industry or result in any

differential economic impacts to new plants.

Regulatory Flexibility Analysis

Pub. L. 96-354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. The analysis may be conducted in conjunction with or as part of other Agency analyses. A small business analysis for this industry is included in the economic impact analysis.

Value of production is the primary variable used to distinguish firm size. The smallest size category includes 63 facilities (24 percent of the total) with annual revenues of less than \$1 million each. The Agency invites comment on this size definition. Annual BAT and PSES compliance costs for these small plants are \$170 thousand, and investment costs are \$482 thousand. The economic analysis details the impacts associated with this proposed rule and with the other regulatory options the Agency considered. For this proposed rulemaking, there are no significant impacts on small firms; therefore, a formal Regulatory Flexibility Analysis is not required.

XVII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is always difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations that it believes best serve often competing national goals.

The following are the non-water quality environmental impacts associated with the proposed regulations and are discussed in Section VIII of the Development Document:

A. Air Pollution

Imposition of BPT, BAT, NSPS, PSES, and PSNS will not create any substantial air pollution problems.

B. Solid Waste

EPA estimates that battery manufacturing plants generate a total of

18,960 kkg of solid waste per year from manufacturing process operations, and an indeterminate amount of solid waste from wastewater treatment. Wastewater treatment sludges contain toxic metals including cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc.

EPA estimates that the proposed BPT limitations will contribute an additional 9,176 kkg per year of solid wastes. Proposed BAT and PSES will contribute approximately 54,280 kkg per year. These sludges will necessarily contain additional quantities (and concentrations) of toxic metal pollutants.

Some solid wastes, including some wastewater treatment sludges, may be hazardous under the regulations implementing subtitle C of the Resource Conservation and Recovery Act (RCRA). Under those regulations, generators of these wastes must test the wastes to determine whether they meet any of the characteristics of hazardous waste (see 40 CFR § 262.11, 45 FR 33142-33143 (May 19, 1980)). The Agency may also list these sludges as hazardous (toxic and reactive) pursuant to 40 CFR 261.11 (45 FR 33121 (May 19, 1980)).

Wastes identified as hazardous come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to point of final disposition. EPA's generator standards would require generators of battery manufacturing wastes to meet containerization, labeling, recordkeeping, and reporting requirements; if they dispose of wastes off-site, battery manufacturers would have to prepare a manifesto that tracks the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. (See 45 FR 33143, May 19, 1980.) The transporter regulations require transporters of battery manufacturing wastes to comply with the manifest system to assure that the wastes are delivered to a permitted facility. (See 45 FR 33151-33152 (May 19, 1980)). Finally, RCRA regulations establish standards for hazardous waste treatment, storage and disposal facilities allowed to receive such wastes.

Even if these wastes are not identified as hazardous, they still are subject to disposal in compliance with the subtitle D landfill standards, implementing S4004 of RCRA. (See 44 FR 53438, September 13, 1979.)

The economic impact assessment used preliminary estimates (\$287,000 1978 dollars) of costs associated with compliance of RCRA regulations. This assessment, which considered both

manufacturing process solid wastes and wastewater treatment sludges, indicated that the costs do not result in any additional economic impacts. A more recent and detailed analysis of solid wastes generated by battery manufacturers indicates that annual costs for compliance with RCRA (\$140,000, 1978 dollars) are less than those used in the economic assessment.

For the total category, solid wastes were costed as being subject to the full RCRA requirements for hazardous wastes in the detailed analysis if the wastes had hazardous characteristics as defined under Subtitle C of RCRA and if the total amounts of hazardous waste generated at a manufacturing site exceeded 1,000 kg (2,200 lb) per month. Costs were separated for hazardous wastewater treatment sludges and manufacturing process wastes (spent concentrated solutions, reject batteries, and raw material trimmings). The analysis concluded that only seven plants in the category would incur costs from wastewater treatment sludges. The total category annual cost for RCRA disposal of hazardous wastewater treatment sludges generated as a result of this regulation for existing plants is estimated at \$34,000 1978 dollars. No impact on the category is anticipated from handling hazardous wastewater treatment sludges. Costs for new sources are expected to be similar or less than the costs for existing plants because of the alternatives available for a new plant.

C. Energy Requirements

The battery industry in 1977 used about 1.16 billion kilowatt hours of energy. This regulation does not significantly affect the energy requirements of the industry. EPA estimates that the achievement of proposed BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 0.24 million kilowatt-hours per year. Proposed BAT limitations are projected to add another 0.17 million kilowatt-hours to electrical energy consumption.

The Agency estimates that proposed PSES will result in a net increase in electrical energy consumption of approximately 0.91 million kilowatt-hours per year.

The energy requirements for NSPS and PSNS are estimated to be similar to energy requirements for BAT. More accurate estimates are difficult to make because projections for new plant construction are variable.

XVIII. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to

prescribe "best management practices" (BMP), described under Authority and Background. EPA is not now considering promulgating BMP specific to the battery manufacturing category.

XIX. Upset And Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co. v. EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser v. Costle, supra* and *Corn Refiners Association, et al. v. Costle*, No. 78-1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute v. EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc. v. Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp. v. Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits, and has recently promulgated NPDES regulations that include upset and bypass permit provisions. (See 40 CFR 122.60 and 45 FR 33290, May 19, 1980.) The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Permittees in battery manufacturing will be entitled to the general upset and bypass provisions in NPDES permits. Thus these proposed regulations do not address these issues.

XX. Variances and Modifications

Upon the promulgation of final regulations, the numerical effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to battery manufacturing direct dischargers. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co. v. Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co. v. Costle, supra*; *EPA v. National Crushed Stone Association, et al* U.S. (No. 79-770, decided December 2, 1980). This variance recognizes that there may be factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. This variance clause was originally set forth in EPA's 1973-1976 industry regulations. It now will be included in the general NPDES regulations and will not be included in the battery manufacturing or other specific industry regulations. See the NPDES regulation, 40 CFR 125, Subpart D, 44 FR 32854, 32893 (June 7, 1979) and 45 FR 33512 (May 19, 1980) for the text and explanation of the "fundamentally different factors" variance.

Dischargers subject to the BAT limitations are also eligible for EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants may be modified under sections 301 (c) and (g) of the Act. Section 301(1) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under section 307(1)(1) of the Act. The economic modification section (301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants for dischargers who file a permit application after July 1, 1977, upon a showing that such modified requirements will (1) represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301 (g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of

such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES Program, a copy must be sent to the Director of the State program. Initial applications to comply with 301 (j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for a 301(c) or 301(g) modification or both. Applicants interested in applying for both must do so in their initial application. For further details, see 43 FR 40859, September 13, 1978.

The nonconventional pollutants limited under BAT in this regulation are cobalt, iron, and manganese. No regulation establishing criteria for 301(c) and 301(g) determinations have been proposed or promulgated, but the Agency recently announced in the April 12, 1982, Regulatory Agenda plans to propose such regulations by December, 1982 (47 FR 15720). All dischargers who file an initial application within 270 days will be sent a copy of the substantive requirements for 301(c) and 301(g) determinations once they are promulgated. Modification determinations will be considered at the time the NPDES permit is being reissued.

Pretreatment standards for existing sources are subject to the

"fundamentally different factors" variance and credits for pollutants removed by POTWs. (see 40 CFR 403.7, 403.13.) Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. (See *duPont v. Train, supra.*)

XXI. Relationship To NPDES Permits

The BPT, BAT, and NSPS limitations in this regulation will be applied to individual battery manufacturing plants through NPDES permits issued by EPA or approved State agencies under section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of these regulations and NPDES permits.

One matter that has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations, guidelines, and standards. Under current EPA regulations, states and EPA regions that issued NPDES permits before regulations are promulgated do so on a case-by-case basis on consideration of the statutory factors. (See *U.S. Steel Corp. v. Train*, 556 F. 2d 822, 844, 854 7th Cir. 1977.) In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. (See 44 FR 32854, June 7, 1979.)

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permit-issuing authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis, when necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations *must* be applied by the permit-issuing authority.

One additional topic that warrants discussion is the operation of EPA's

NPDES enforcement program, many aspects of which have been considered in developing this regulation. The agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary (*Sierra Club v. Train*, 557 F.2d. 485, 5th Cir. 1977). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good faith compliance efforts.

XXII. Summary of Public Participation

In September 1980, EPA circulated a draft technical Development Document to all battery manufacturers who returned data collection portfolios and to other parties who requested it. This document did not include recommendations for effluent limitations and standards, but rather presented the technical basis for this proposed regulation. A meeting was held in Washington, D.C. on November 3, 1980, for public discussion of comments on this document. Seven commenters submitted comments on six particular areas in the Development Document. All comments and responses can be found in the record to this rulemaking. A brief summary of all comments received follows:

1. Comment: Sulfide precipitation technology presents operational hazards to the operators and produces sludges that may be both toxic and reactive hazardous wastes.

Response: Problems associated with sulfide precipitation technology have been addressed and are discussed above in the discussion of the BAT lead subcategory.

2. Comment: Reverse osmosis technology has some operational problems which include frequent plugging and rupturing of the membranes.

Response: With the use of inadequate membranes and improper operation, reverse osmosis technology does have some implementation problems. However, by selecting the appropriate membranes and properly maintaining system pressures, both frequent plugging and rupturing of the membranes is prevented.

3. Comment: There is agreement and disagreement with the treatment effectiveness concentrations to be used for certain metals. One commenter did not agree with the mercury and zinc concentrations and indicated that both should be 0.1 mg/l. Another commenter did not agree with the silver number and indicated that it should be equal to the hazardous waste concentration of 0.5

mg/1. Another commenter indicated support for the nickel concentration, but not for the cadmium concentration.

Response: For the mercury and zinc comments, no supportive data was provided; therefore, EPA will continue to rely on the data discussed in Section VII of the Development Document. For the silver comment, a comparison of hazardous waste concentrations with effluent limits is inappropriate. Treatment effectiveness is based on an extensive statistical analysis of treatment effectiveness data collected from sampling and analysis performed by the Agency. The use of RCRA toxic concentration limits is inappropriate because it reflects solubility of toxic materials under certain extraction processes rather than the level of treatment achievable by the specified treatment. The data base used for cadmium treatment has been expanded and the treatment effectiveness concentrations have changed. The commenter's data support the nickel and cadmium concentration values used for proposal.

4. Comment: Concentration only, rather than a production-related mass of pollutants, should be used for limitations.

Response: Concentration based limitations do not restrict the total quantity of pollutants discharged since the flow volume is not restricted and may vary widely, nor are they related to the production rate of any specific plant. Concentration based limitations allow unlimited quantities to be discharged as long as the pollutants remain at or below a specified concentration in the discharge. Since it is important to limit the quantity of a toxic pollutant discharged in relationship to the size of the production plant, mass-based production related limitations are preferred wherever feasible.

5. Comment: The "foliar" battery is different from other batteries in the Leclanche subcategory.

Response: Although different in physical configuration, the "foliar" battery uses the same raw materials and generates wastewater with characteristics similar to other plants in the Leclanche subcategory. Plants in this subcategory can reuse the wastewater they are now treating and attain zero discharge.

6. Comment: Some information on plants should be added to the text and some tables; also there are some minor errors.

Response: Information needed for clarification was added; however, information that would release confidential information was not. Other

changes and corrections were made as appropriate.

XXIII. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be specifically addressed and particularly asks that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

1. The Agency is continuing to seek additional data to support these proposed limitations. The treatment effectiveness data set forth in the technical Development Document are based on the results of Agency sampling of the raw wastewaters and treated effluents from a broad range of plants generating similar wastewaters. The Agency invites comments on the treatment effectiveness results, and the statistical analysis and underlying assumptions discussed in Section VII of the Development Document as they pertain to the battery manufacturing plants. The Agency specifically requests long-term sampling data (especially paired raw wastewater—treated effluent data) from battery manufacturing plants having well operated treatment systems using the treatment technologies relied upon for this regulation, and also other equally effective treatment technologies.

2. The Agency requests long-term sampling data (especially paired raw wastewater—treated effluent data) from any plants treating cadmium that use chemical precipitation and settling technology.

3. The Agency requests comments on the Agency's consideration of selecting chemical precipitation, settling and filtration technology instead of only chemical precipitation and settling for the final regulation.

4. The Agency requests comments on the costs which might be incurred by existing plants for retrofitting to implement sulfide precipitation, in exchange and reverse osmosis technologies.

5. The Agency is considering basing limitations for all mercury containing wastewaters on sulfide precipitation technology for existing as well as new plants. The Agency solicits comments and data from plants in the category concerning the reasonableness and potential costs of this alternative.

6. To determine the economic impact of this regulation, the Agency has calculated the cost of installing BPT, BAT, PSES, NSPS, and PSNS for each battery manufacturing facility for which

data was available. The details of the estimated costs and other impacts are presented in Section VIII of the technical Development Document and in the Economic Impact Analysis. Based on these analyses, the Agency projects no plant closures or employment losses as a result of this regulation. Because the Agency did not have plant specific data on some financial measures as such data is often proprietary the Agency used industry-wide ranges or averages. The Agency invites comments on these analyses and projections. The Agency has selected and is proposing BAT, PSES, and new source options that are substantially more costly than less stringent options. The Agency particularly seeks comment on whether this incremental cost is achievable by battery manufacturers; especially those that are small or less profitable. Commenters should not focus only on the likelihood of plant closures and employment losses but should also include data on the effects of the regulation on: modernization or expansion of production, production costs, the ability to finance non-environmental investments, product prices, profitability, availability of less costly technology and international competitiveness.

7. In the cost estimates the Agency has not considered cost savings particularly those associated with water flow reduction, process chemical and metal recovery, and process substitution. For example, the Agency estimated that the water use and sewerage savings for indirect dischargers in the lead subcategory may amount to about one third of the cost estimated for flow reduction technology. Similarly, substantial savings appear to be probable in other areas such as energy savings, chemical savings and metals recovery. The Agency invites comments and requests that cost data and documentation particularly in the lead subcategory be submitted to the Agency.

8. The Agency has estimated that there is minimal cost impact imposed on the battery manufacturing category from dealing with hazardous wastewater treatment sludges resulting from the proposed treatment systems. The details of these cost estimations are outlined in the technical Development Document. The Agency invites comments on this conclusion and requests that commenters submit any relevant hazardous waste and sludge data, and cost data to the Agency.

9. Most of the existing plants in the battery manufacturing category discharge to POTW. Because battery

wastewaters and sludges contain substantial amounts of toxic metals, the Agency invites comments and any supporting data concerning the incompatibility of battery manufacturing wastewaters with the POTW treatment systems or sludge disposition.

The proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

XXIV. List of Subjects in 40 CFR Part 461

Battery manufacturing, Water pollution control, Waste treatment and disposal.

Dated: October 29, 1982.

Anne M. Gorsuch,
Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in this Notice

Act—The Clean Water Act
Agency—The U.S. Environmental Protection Agency
BAT—The best available technology economically achievable under section 304(b)(2)(b) of the Act
BCT—The best conventional pollutant control technology, under section 304(b)(4) of the Act
BDT—The best available demonstrated control technology processes, operating methods, or other alternatives, including where practicable, a standard permitting no discharge of pollutants under section 306(a)(1) of the Act
BMP—Best management practices under section 304(e) of the Act
BPT—The best practicable control technology currently available under section 304(b)(1) of the Act
Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95-217)
Direct discharger—A plant that discharges pollutants into waters of the United States
Indirect discharger—A plant that introduces pollutants into a publicly owned treatment works
NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act
NSPS—New source performance standards under section 306 of the Act
POTW—Publicly owned treatment works
PSES—Pretreatment standards for existing sources of indirect discharges under section 307(b) of the Act
PSNS—Pretreatment standards for new sources of direct discharges under section 307(b) and (c) of the Act
RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, as amended.

Appendix B—Toxic Pollutants Limited by This Regulation

(a) Subpart A—Cadmium Subcategory
118 Cadmium
124 Nickel
126 Silver

128 Zinc
(b) Subpart B—Calcium Subcategory
116 Asbestos
119 Chromium
9(c) Subpart C—Lead Subcategory
120 Copper
122 Lead
(d) Subpart D—Leclanche Subcategory
115 Arsenic
118 Cadmium
119 Chromium
120 Copper
122 Lead
123 Mercury
124 Nickel
125 Selenium
128 Zinc
9(e) Subpart E—Lithium Subcategory
119 Chromium
122 Lead
(f) Subpart F—Magnesium Subcategory
119 Chromium
122 Lead
126 Silver
(g) Subpart G—Zinc Subcategory
119 Chromium
121 Cyanide
123 Mercury
124 Nickel
126 Silver
128 Zinc

Appendix C—Toxic Pollutants Not Detected

(a) Subpart A—Cadmium Subcategory
001 Acenaphthene
002 Acrolein
003 Acrylonitrile
004 Benzene
005 Benzidine
006 Carbon tetrachloride (tetrachloromethane)
007 Chlorobenzene
008 1,2,4-trichlorobenzene
009 Hexachlorobenzene
010 1,2-dichloroethane
011 1,1,1-trichloroethane
012 hexachloroethane
013 1,1-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
017 Bis (chloromethyl) ether
018 Bis (2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometa cresol
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene
037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
049 Trichlorofluoromethane
050 Dichlorodifluoromethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachloromyclopentadiene
054 Isophorone
055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine
063 N-nitrosodi-n-propylamine
064 Pentachlorophenol
065 Phenol
067 Butyl benzylphthalate
068 Di-N-butyl phthalate
069 Di-N-octyl phthalate
070 Diethyl phthalate
071 Dimethyl phthalate
072 1,2-benzanthracene (benzo(a)anthracene)
073 Benzo(a)pyrene (3,4-benzopyrene)
074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
075 11,12-benzofluoranthene (benzo(b)fluoranthene)
076 Chrysene
077 Acenaphthylene
078 Anthracene
079 1,12-benzoperylene (benzo(ghi)perylene)
080 Fluorene
081 Phenanthrene
082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
083 Ideno(1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
084 Pyrene
085 Tetrachloroethylene
088 Vinyl chloride (chloroethylene)
089 Aldrin
090 Dieldrin
091 Chlordane (technical mixture and metabolites)
092 4,4-DDT
093 4,4-DDE (p,p-DDX)
094 4,4-DDD (p,p-TDE)
095 Alpha-endosulfan
096 Bete-endosulfan
097 Endosulfan sulfate
098 Endrin
099 Endrin aldehyde
100 Heptachlor
101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
102 Alpha-BHC
103 Beta-BHC
104 Gamma-BHC (lindane)
105 Delta-BHC (PCB-poly-chlorinated biphenyls)
106 PCB-1242 (Arochlor 1242)
107 PCB-1254 (Arochlor 1254)
108 PCB-1221 (Arochlor 1221)
109 PCB-1232 (Arochlor 1232)
110 PCB-1248 (Arochlor 1248)
111 PCB-1260 (Arochlor 1260)
112 PCB-1016 (Arochlor 1016)

- 113 Toxaphene
 114 Antimony
 115 Arsenic
 125 Selenium
 127 Thallium
 129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)
- (b) Subpart B—Calcium Subcategory
- 001 Acenaphthene
 002 Acrolein
 003 Acrylonitrile
 004 Benzene
 005 Benzidine
 006 Carbon tetrachloride (tetrachloromethane)
 007 Chlorobenzene
 008 1,2,4-trichlorobenzene
 009 Hexachlorogenzene
 010 1,2-dichloroethane
 011 1,1,1-trichloroethane
 012 Hexachloroethane
 013 1,1,1-dichloroethane
 015 1,1,2,2-tetrachloroethane
 016 Chloroethane
 017 Bis (chloromethyl) ether
 018 Bis (2-chloroethyl) ether
 019 2-chloroethyl vinyl ether (mixed)
 020 2-chloronaphthalene
 021 2,4,6-trichlorophenol
 022 Parachlorometa cresol
 024 2-chlorophenol
 025 1,2-dichlorobenzene
 026 1,3-dichlorobenzene
 027 1,4-dichlorobenzene
 028 3,3-dichlorobenzidine
 029 1,1-dichloroethylene
 030 1,2-trans-dichloroethylene
 031 2,4-dichlorophenol
 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 038 Ethylbenzene
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis (2-chloroisopropyl) ether
 043 Bis (2-chloroethoxy) methane
 045 Methyl chloride (dichloromethane)
 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 048 Dichlorobromomethane
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 051 Chlorodibromomethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 055 Napthalene
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 065 Phenol
 067 Butyl benzylphthalate
 069 Di-N-octyl phthalate
 070 Diethyl phthalate
 071 Dimethyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
- 073 Benzo(a)pyrene (3,4-benzopyrene)
 074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
 075 11,12-benzofluoranthene (benzo(b)fluoranthene)
 076 Chrysene
 077 Acenaphthylene
 078 Anthracene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 080 Fluorene
 081 Phenanthrene
 082 1,2,5,6-dibenzanthracene dibenzo (h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-ophenylene pyrene)
 084 Pyrene
 085 Tetrachloroethylene
 087 Trichloroethylene
 088 Vinyl chloride (chloroethylene)
 089 Aldrin
 090 Dieldrin
 091 Chlordane (technical mixture and metabolites)
 092 4,4-DDT
 093 4,4-DDE (p,p-DDX)
 094 4,4-DDD (p,p-TDE)
 095 Alpha-endosulfan
 096 Beta-endosulfan
 097 Endosulfan sulfate
 098 Endrin
 099 Endrin aldehyde
 100 Heptachlor
 101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
 102 Alpha-BHC
 103 Beta-BHC
 104 Gamma-BHC (lindane)
 105 Delta-BHC (PCB-polychlorinated biphenyls)
 106 PCB-1242 (Arochlor 1242)
 107 PCB-1254 (Arochlor 1254)
 108 PCB-1221 (Arochlor 1221)
 109 PCB-1232 (Arochlor 1232)
 110 PCB-1248 (Arochlor 1248)
 111 PCB-1260 (Arochlor 1260)
 112 PCB-1016 (Arochlor 1016)
 113 Toxaphene
 121 Cyanide, Total
 129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)
- (c) Subpart C—Lead Subcategory
- 002 Acrolein
 003 Acrylonitrile
 005 Benzidine
 006 Carbon tetrachloride (tetrachloromethane)
 007 Chlorobenzene
 008 1,2,4-trichlorobenzene
 009 Hexachlorobenzene
 010 1,2-dichloroethane
 012 Hexachloroethane
 013 1,1-dichloroethane
 014 1,1,2-trichloroethane
 015 1,1,2,2-tetrachloroethane
 016 Chloroethane
 017 Bis (chloromethyl) ether
 018 Bis (2-chloroethyl) ether
 019 2-chloroethyl vinyl ether (mixed)
 020 2-chloronaphthalene
 022 Parachlorometa cresol
 025 1,2-dichlorobenzene
 027 1,4-dichlorobenzene
 028 3,3-dichlorobenzidine
 029 1,1-dichloroethylene
 030 1,2-trans-dichloroethylene
- 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 038 Ethylbenzene
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis (2-chloroisopropyl) ether
 043 Bis (2-chloroethoxy) methane
 045 Methyl chloride (dichloromethane)
 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 048 Dichlorobromomethane
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 051 Chlorodibromomethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 055 Nitrobenzene
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 065 Phenol
 067 Butyl benzylphthalate
 069 Di-N-octyl phthalate
 070 Diethyl phthalate
 071 Dimethyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
- 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 038 Ethylbenzene
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis (2-chloroisopropyl) ether
 043 Bis (2-chloroethoxy) methane
 045 Methyl chloride (dichloromethane)
 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 071 Dimethyl phthalate
 077 Acenaphthylene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-ophenylene pyrene)
 085 Tetrachloroethylene
 088 Vinyl chloride (chloroethylene)
 089 Aldrin
 090 Dieldrin
 091 Chlordane (technical mixture and metabolites)
 092 4,4-DDT
 093 4,4-DDE (p,p-DDX)
 094 4,4-DDD (p,p-TDE)
 095 Alpha-endosulfan
 096 Beta-endosulfan
 097 Endosulfan sulfate
 098 Endrin
 099 Endrin aldehyde
 100 Heptachlor
 102 Alpha-BHC
 103 Beta-BHC
 104 Gamma-BHC (lindane)
 105 Delta-BHC (PCB-polychlorinated biphenyls)
 106 PCB-1242 (Arochlor 1242)
 107 PCB-1254 (Arochlor 1254)
 108 PCB-1221 (Arochlor 1221)
 109 PCB-1232 (Arochlor 1232)
 110 PCB-1248 (Arochlor 1248)
 111 PCB-1260 (Arochlor 1260)
 112 PCB-1216 (Arochlor 1016)
 113 Toxaphene
 116 Asbestos
 125 Selenium
 127 Thallium
 129 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)
- (d) Subpart D—Leclanche Subcategory
- 001 Acenaphthene
 002 Acrolein
 003 Acrylonitrile
 004 Benzene
 005 Benzidine

- 006 Carbon tetrachloride (tetrachloromethane)
 007 Chlorobenzene
 008 1,2,4-trichlorobenzene
 009 Hexachlorobenzene
 010 1,2-dichloroethane
 012 Hexachloroethane
 013 1,1-dichloroethane
 014 1,1,2-trichloroethane
 016 Chloroethane
 017 Bis (chloromethyl) ether
 018 Bis (2-chloroethyl) ether
 019 2-chloroethyl vinyl ether (mixed)
 020 2-chloronaphthalene
 021 2,4,6-trichlorophenol
 022 Parachlorometa cresol
 024 2-chlorophenol
 025 1,2-dichlorobenzene
 026 1,3-dichlorobenzene
 027 1,4-dichlorobenzene
 028 3,3-dichlorobenzidine
 029 1,1-dichloroethylene
 030 1,2-trans-dichloroethylene
 031 2,4-dichlorophenol
 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 038 Ethylbenzene
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis(2-chloroisopropyl) ether
 043 Bis(2-chloroethoxy) methane
 045 Methyl chloride (dichloromethane)
 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 055 Napthalene
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 064 Pentachlorophenol
 068 Di-n-butyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
 073 Benzo(a)pyrene (3,4-benzopyrene)
 074 3,5-Benzofluoranthene (benzo(b)fluoranthene)
 075 11,12-benzofluoranthene (benzo(b)fluoranthene)
 076 Chrysene
 077 Acenaphthylene
 078 Anthracene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 080 Fluorene
 081 Phenanthrene
 082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-phenylylene pyrene)
 084 Pyrene
 085 Tetrachloroethylene
- 087 Trichloroethylene
 088 Vinyl chloride (chloroethylene)
 089 Aldrin
 090 Dieldrin
 091 Chlordane (technical mixture and metabolites)
 092 4,4-DDT
 093 4,4-DDE (p,p-DDX)
 094 4,4-DDD (p,p-TDE)
 095 Alpha-endosulfan
 096 Beta-endosulfan
 097 Endosulfan sulfate
 098 Endrin
 099 Endrin aldehyde
 100 Heptachlor
 101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
 102 Alpha-BHC
 103 Beta-BHC
 104 Gamma-BHC (lindane)
 105 Delta-BHC (PCB-polychlorinated biphenyls)
 106 PCB-1242 (Arochlor 1242)
 107 PCB-1254 (Arochlor 1254)
 108 PCB 1221 (Arochlor 1221)
 109 PCB-1232 (Arochlor 1232)
 110 PCB-1248 (Arochlor 1248)
 111 PCB-1260 (Arochlor 1260)
 112 PCB-1016 (Arochlor 1016)
 113 Toxaphene
 116 Asbestos
 127 Thallium
- (e) Subpart E—Lithium Subcategory
 001 Acenaphthene
 002 Acrolein
 003 Acrylonitrile
 004 Benzene
 005 Benzidine
 006 Carbon tetrachloride (tetrachloromethane)
 007 Chlorobenzene
 008 1,2,4-trichlorobenzene
 009 Hexachlorobenzene
 010 1,2-dichloroethane
 012 Hexachloroethane
 013 1,1-dichloroethane
 015 1,1,2,2-tetrachloroethane
 016 Chloroethane
 017 Bis (chloromethyl) ether
 018 Bis (2-chloroethyl) ether
 019 2-chloroethyl vinyl ether (mixed)
 020 2-chloronaphthalene
 021 2,4,6-trichlorophenol
 022 Parachlorometa cresol
 024 2-chlorophenol
 025 1,2-dichlorobenzene
 026 1,3-dichlorobenzene
 027 1,4-dichlorobenzene
 028 3,3-dichlorobenzidine
 029 1,1-dichloroethylene
 030 1,2-trans-dichloroethylene
 031 2,4-dichlorophenol
 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 038 Ethylbenzene
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis (2-chloroisopropyl) ether
 043 Bes (2-chloroethoxy) methane
 045 Methyl chloride (dichloromethane)
- 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 055 Napthalene
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 064 Pentachlorophenol
 068 Di-n-butyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
 073 Benzo(a)pyrene (3,4-benzopyrene)
 074 3,5-Benzofluoranthene (benzo(b)fluoranthene)
 075 11,12-benzofluoranthene (benzo(b)fluoranthene)
 076 Chrysene
 077 Acenaphthylene
 078 Anthracene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 080 Fluorene
 081 Phenanthrene
 082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-phenylylene pyrene)
 084 Pyrene
 085 Tetrachloroethylene
- 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 051 Chlorodibromomethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 055 Napthalene
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 063 Phenol
 069 Di-N-octyl phthalate
 070 Diethyl phthalate
 071 Dimethyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
 073 Benzo(a)pyrene (3,4-benzopyrene)
 074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
 075 11,12-benzofluoranthene (benzo(b)fluoranthene)
 076 Chrysene
 077 Acenaphthylene
 078 Anthracene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 080 Fluorene
 081 Phenanthrene
 082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-phenylylene pyrene)
 084 Pyrene
 085 Tetrachloroethylene
- (f) Subpart F—Magnesium Subcategory
 001 Acenaphthene
 002 Acrolein
 003 Acrylonitrile
 004 Benzene

- 005 Benzidine
 006 Carbon tetrachloride (tetrachloromethane)
 007 Chlorobenzene
 008 1,2,4-trichlorobenzene
 009 Hexachlorobenzene
 010 1,2-dichloroethane
 011 1,1,1-trichloroethane
 012 Hexachloroethane
 013 1,1-dichloroethane
 015 1,1,2,2-tetrachloroethane
 016 Chloroethane
 017 Bis (chloromethyl) ether
 018 Bis (2-chloroethyl) ether
 019 2-chloroethyl vinyl ether (mixed)
 020 2-chloronaphthalene
 021 2,4,6-trichlorophenol
 022 Parachlorometa cresol
 024 2-chlorophenol
 025 1,2-dichlorobenzene
 026 1,3-dichlorobenzene
 027 1,4-dichlorobenzene
 028 3,3-dichlorobenzidine
 029 1,1-dichloroethylene
 030 1,2-trans-dichloroethylene
 031 2,4-dichlorophenol
 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 038 Ethylbenzene
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis(2-chloroisopropyl) ether
 043 Bis(2-chloroethoxy)methane
 045 Methyl chloride (dichloromethane)
 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 055 Naphthalene
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 065 Phenol
 067 Butyl benzylphthalate
 070 Diethyl phthalate
 071 Dimethyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
 073 Benzo(a)pyrene (3,4-benzopyrene)
 074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
 075 11,12-benzofluoranthene (benzo(b)fluoranthene)
 076 Chrysene
 077 Acenaphthylene
 078 Anthracene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 080 Fluorene
 081 Phenanthrene
 082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-ophenylene pyrene)
 084 Pyrene
 085 Tetrachloroethylene
 088 Vinyl chloride (chloroethylene)
 089 Aldrin
 090 Dieldrin
 091 Chlordane (technical mixture and metabolites)
 092 4,4-DDT
 093 4,4-DDE (p,p-DDX)
 094 4,4-DDD (p,p-TDE)
 095 Alpha-endosulfan
 096 Beta-endosulfan
 097 Endosulfan sulfate
 098 Endrin
 099 Endrin aldehyde
 100 Heptachlor
 101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
 102 Alpha-BHC
 103 Beta-BHC
 104 Gamma-BHC (lindane)
 105 Delta-BHC (PCB-polychlorinated biphenyls)
 106 PCB-1242 (Arochlor 1242)
 107 PCB-1254 (Arochlor 1254)
 108 PCB-1221 (Arochlor 1221)
 109 PCB-1232 (Arochlor 1232)
 110 PCB-1248 (Arochlor 1248)
 111 PCB-1260 (Arochlor 1260)
 112 PCB-1016 (Arochlor 1016)
 113 Toxaphene
 121 Cyanide, Total
 (g) Subpart G—Zinc Subcategory
 001 Acenaphthene
 002 Acrolein
 003 Acrylonitrile
 005 Benzidine
 006 Carbon tetrachloride (tetrachloromethane)
 007 Chlorobenzene
 008 1,2,4-trichlorobenzene
 009 Hexachlorobenzene
 010 1,2-dichloroethane
 012 Hexachloroethane
 015 1,1,2,2-tetrachloroethane
 016 Chloroethane
 017 Bis (chloromethyl) ether
 018 Bis (2-chloroethyl) ether
 019 2-chloroethyl vinyl ether (mixed)
 020 2-chloronaphthalene
 022 Parachlorometa cresol
 025 1,2-dichlorobenzene
 026 1,3-dichlorobenzene
 027 1,4-dichlorobenzene
 028 3,3-dichlorobenzidine
 031 2,4-dichlorophenol
 032 1,2-dichloropropane
 033 1,2-dichloropropylene (1,3-dichloropropene)
 034 2,4-dimethylphenol
 035 2,4-dinitrotoluene
 036 2,6-dinitrotoluene
 037 1,2-diphenylhydrazine
 039 Fluoranthene
 040 4-chlorophenyl phenyl ether
 041 4-bromophenyl phenyl ether
 042 Bis(2-chloroisopropyl) ether
 043 Bis(2-chloroethoxy) methane
 045 Methyl chloride (dichloromethane)
 046 Methyl bromide (bromomethane)
 047 Bromoform (tribromomethane)
 049 Trichlorofluoromethane
 050 Dichlorodifluoromethane
 052 Hexachlorobutadiene
 053 Hexachloromyclopentadiene
 054 Isophorone
 056 Nitrobenzene
 057 2-nitrophenol
 058 4-nitrophenol
 059 2,4-dinitrophenol
 060 4,6-dinitro-o-cresol
 061 N-nitrosodimethylamine
 062 N-nitrosodiphenylamine
 063 N-nitrosodi-n-propylamine
 065 Phenol
 067 Butyl benzylphthalate
 070 Diethyl phthalate
 071 Dimethyl phthalate
 072 1,2-benzanthracene (benzo(a)anthracene)
 073 Benzo(a)pyrene (3,4-benzopyrene)
 074 3,4-Benzofluoranthene (benzo(b)fluoranthene)
 075 11,12-benzofluoranthene (benzo(b)fluoranthene)
 076 Chrysene
 077 Acenaphthylene
 078 Anthracene
 079 1,12-benzoperylene (benzo(ghi)perylene)
 080 Fluorene
 081 Phenanthrene
 082 1,2,5,6-dibenzanthracene dibenzo(h)anthracene
 083 Ideno(1,2,3-cd) pyrene (2,3-ophenylene pyrene)
 088 Vinyl chloride (chloroethylene)
 089 Aldrin
 090 Dieldrin
 091 Chlordane (technical mixture and metabolites)
 092 4,4-DDT
 093 4,4-DDE (p,p-DDX)
 094 4,4-DDD (p,p-TDE)
 095 Alpha-endosulfan
 096 Beta-endosulfan
 097 Endosulfan sulfate
 098 Endrin
 099 Endrin aldehyde
 100 Heptachlor
 101 Heptachlor epoxide (BHC-hexachlorocyclohexane)
 102 Alpha-BHC
 103 Beta-BHC
 104 Gamma-BHC (lindane)
 105 Delta-BHC (PCB-polychlorinated biphenyls)
 106 PCB-1242 (Arochlor 1242)
 107 PCB-1254 (Arochlor 1254)
 108 PCB-1221 (Arochlor 1221)
 109 PCB-1232 (Arochlor 1232)
 110 PCB-1248 (Arochlor 1248)
 111 PCB-1260 (Arochlor 1260)
 112 PCB-1016 (Arochlor 1016)
 113 Toxaphene
 116 Asbestos
 127 Thallium
 Appendix D—Toxic Pollutants Detected Below the Nominal Quantification Limit
 (a) Subpart A—Cadmium Subcategory
 044 Methylene chloride (dichloromethane)
 048 Dichlorobromo methane
 066 Bis(2-ethylhexyl) phthalate
 087 Trichloroethylene
 117 Beryllium
 (b) Subpart B—Calcium Subcategory
 064 Pentachlorophenol
 068 Di-N-butyl phthalate
 086 Toluene
 114 Antimony
 115 Arsenic
 117 Beryllium
 125 Selenium
 127 Thallium
 (c) Subpart C—Lead Subcategory
 001 Acenaphthene

- 004 Benzene
- 021 2,4,6-trichlorophenol
- 024 2-chlorophenol
- 026 1,3-dichlorobenzene
- 031 2,4-dichlorophenol
- 038 Ethylbenzene
- 039 Fluoranthene
- 044 Methylene chloride (dichloromethane)
- 048 Dichlorobromomethane
- 051 Chlorodibromomethane
- 065 Phenol
- 072 1,2-benzanthracene
(benzo(a)anthracene)
- 073 Benzo(a)pyrene (3, 4-benzopyrene)
- 074 3,4-Benzofluoranthene
(benzo(b)fluoranthene)
- 075 11,12-benzofluoranthene
(benzo(b)fluoranthene)
- 076 Chrysene
- 080 Fluorene
- 084 Pyrene
- 087 Trichloroethylene
- 101 Heptachlor epoxide (BHC-
hexachlorocyclohexane)
- 117 Beryllium
- 121 Cyanide, Total
- (d) Subpart D—Leclanche Subcategory
 - 011 1,1,1-trichloroethane
 - 015 1,1,2,2-tetrachloroethane
 - 044 Methylene Chloride
(dichloromethane)
 - 048 Dichlorobromomethane
 - 051 Chlorodibromomethane
 - 065 Phenol
 - 066 Bis(2-ethylhexyl) Phthalate
 - 067 Butyl benzyl-phthalate
 - 068 Di-n-butyl phthalate
 - 069 Di-n-octyl phthalate
 - 071 Dimethyl phthalate
 - 086 Toluene
 - 117 Beryllium
 - 126 Silver
- (e) Subpart E—Lithium Subcategory
 - 011 1,1,1-trichloroethane
 - 064 Pentachlorophenol
 - 067 Butyl benzyl-phthalate
 - 068 Di-n-butyl phthalate
 - 086 Toluene
 - 087 Trichloroethylene
 - 114 Antimony
 - 115 Arsenic
 - 117 Beryllium
 - 123 Mercury
 - 125 Selenium
 - 127 Thallium
- (f) Subpart F—Magnesium Subcategory
 - 064 Pentachlorophenol
 - 068 Di-n-butyl phthalate
 - 086 Toluene
 - 087 Trichloroethylene
 - 101 Heptachlor epoxide (BHC
hexachlorohexane)
 - 114 Antimony
 - 115 Arsenic
 - 117 Beryllium
 - 125 Selenium
 - 127 Thallium
- (g) Subpart G—Zinc Subcategory
 - 004 Benzene
 - 014 1,1,2-trichloroethane
 - 021 2,4,6-trichlorophenol
 - 024 2-chlorophenol
 - 029 1,1-dichloroethylene
 - 030 1,2-trans-dichloroethylene
 - 038 Ethylbenzene

- 067 Butyl benzyl-phthalate
- 068 Di-n-butyl phthalate
- 070 Diethyl phthalate
- 077 Acenaphthylene
- 078 Anthracene
- 080 Fluorene
- 081 Phenanthrene
- 084 Pyrene
- 085 Tetrachloroethylene
- 086 Toluene
- 087 Trichloroethylene
- 114 Antimony
- 117 Beryllium

Appendix E—Toxic Pollutants Detected From a Small Number of Sources

- (a) Subpart A—Cadmium Subcategory
 - 023 Chloroform (trichloromethane)
 - 086 Toluene
 - 116 Asbestos
 - 120 Copper
- (b) Subpart B—Calcium Subcategory
 - 066 Bis(2-ethylhexyl) phthalate
- (c) Subpart C—Lead Subcategory
 - 066 Bis(2-ethylhexyl) phthalate
 - 067 Butyl benzyl-phthalate
 - 068 Di-n-butyl phthalate
 - 069 Di-n-octyl phthalate
 - 078 Anthracene
 - 081 Phenanthrene
 - 086 Toluene
- (d) Subpart D—Leclanche Subcategory
 - 023 Chloroform (trichloromethane)
 - 114 Antimony
 - 121 Cyanide, Total
- (e) Subpart E—Lithium Subcategory
 - 066 Bis(2-ethylhexyl) phthalate
- (f) Subpart F—Magnesium Subcategory
 - 023 Chloroform (trichloromethane)
 - 066 Bis(2-ethylhexyl) phthalate
 - 069 Di-n-octyl phthalate
- (g) Subpart G—Zinc Subcategory
 - 023 Chloroform (trichloromethane)
 - 064 Pentachlorophenol
 - 065 Phenol
 - 066 Bis(2-ethylhexyl) phthalate

Appendix F—Toxic Pollutants Detected in Small Amounts

- (a) Subpart A—Cadmium Subcategory
 - None
- (b) Subpart B—Calcium Subcategory
 - 014 1, 1, 2-trichloroethane
 - 023 Chloroform (trichloromethane)
 - 044 Methylene chloride (dichloromethane)
 - 118 Cadmium
 - 120 Copper
 - 122 Lead
 - 124 Nickel
 - 126 Silver
 - 128 Zinc
- (c) Subpart C—Lead Subcategory
 - 011 1, 1, 1-trichloroethane
 - 023 Chloroform (trichloromethane)
 - 055 Napthalene
 - 115 Arsenic
- (d) Subpart D—Leclanche Subcategory
 - 070 Diethyl Phthalate
- (e) Subpart E—Lithium Subcategory
 - 014 1, 1, 2-trichloroethane
 - 023 Chloroform (trichloromethane)
 - 044 Methylene chloride (dichloromethane)
 - 118 Cadmium
 - 120 Copper
 - 121 Cyanide, Total
 - 124 Nickel

- 126 Silver
- (f) Subpart F—Magnesium Subcategory
 - 014 1, 1, 2-trichloroethane
 - 044 Methylene chloride (dichloromethane)
 - 048 Dichlorobromomethane
 - 118 Cadmium
 - 120 Copper
 - 123 Mercury
 - 123 Nickel
 - 128 Zinc
- (g) Subpart G—Zinc Subcategory
 - 011 1, 1, 1-trichloroethane
 - 013 1, 1-dichloroethane
 - 044 Methylene chloride (dichloromethane)
 - 055 Napthalene

Appendix G—Toxic Pollutants Controlled But Not Specifically Regulated

- (a) Subpart A—Cadmium Subcategory
 - 119 Chromium
 - 121 Cyanide
 - 122 Lead
 - 123 Mercury
- (b) Subpart B—Calcium Subcategory
 - None
- (c) Subpart C—Lead Subcategory
 - 114 Antimony
 - 118 Cadmium
 - 119 Chromium
 - 123 Mercury
 - 124 Nickel
 - 125 Silver
 - 128 Zinc
- (d) Subpart D—Leclanche Subcategory
 - None
- (e) Subpart E—Lithium Subcategory
 - 116 Asbestos
 - 128 Zinc
- (f) Subpart F—Magnesium Subcategory
 - 116 Asbestos
- (g) Subpart G—Zinc Subcategory
 - 115 Arsenic
 - 118 Cadmium
 - 120 Copper
 - 122 Lead
 - 125 Selenium

Appendix H—Subcategories Not Regulated

- (a) BPT
 - Calcium
 - Leclanche
 - Magnesium
 - Nuclear
- (b) BAT, BCT
 - Calcium
 - Leclanche
 - Lithium
 - Magnesium
 - Nuclear
- (C) PSES
 - Calcium
 - Lithium
 - Nuclear
- (d) NSPS, PSNS
 - Nuclear

EPA proposes to establish a new Part 461 to read as follows:

PART 461—BATTERY MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.
461.01 Applicability.

- Sec.
 461.02 General definitions.
 461.03 Monitoring and reporting requirements.
 461.04 Compliance date for PSES.
Subpart A—Cadmium Subcategory
 461.10 Applicability; description of the cadmium subcategory.
 461.11 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
 461.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
 461.13 New source performance standards.
 461.14 Pretreatment standards for existing sources.
 461.15 Pretreatment standards for new sources.
 461.16 [Reserved].
Subpart B—Calcium Subcategory
 461.20 Applicability; description of the calcium subcategory.
 461.21 [Reserved].
 461.22 [Reserved].
 461.23 New source performance standards.
 461.24 [Reserved].
 461.25 Pretreatment standards for new sources.
 461.26 [Reserved].
Subpart C—Lead Subcategory
 461.30 Applicability; description of the lead subcategory.
 461.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
 461.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
 461.33 New source performance standards.
 461.34 Pretreatment standards for existing sources.
 461.35 Pretreatment standards for new sources.
 461.36 [Reserved].
Subpart D—Leclanche Subcategory
 461.40 Applicability; description of the Leclanche subcategory.
 461.41 [Reserved].
 461.42 [Reserved].
 461.43 New source performance standards.
 461.44 Pretreatment standards for existing sources.
 461.45 Pretreatment standards for new sources.
 461.46 [Reserved].
Subpart E—Lithium Subcategory
 461.50 Applicability; description of the lithium subcategory.
 461.51 [Reserved].
 461.52 [Reserved].
 461.53 New source performance standards.
 461.54 [Reserved].
 461.55 Pretreatment standards for new sources.
 461.56 [Reserved].
Subpart F—Magnesium Subcategory
 461.60 Applicability; description of the

- Sec.
 magnesium subcategory.
 461.61 [Reserved].
 461.62 [Reserved].
 461.63 New source performance standards.
 461.64 Pretreatment standards for existing sources.
 461.65 Pretreatment standards for new sources.
 461.66 [Reserved].
Subpart G—Zinc Subcategory
 461.70 Applicability; description of the zinc subcategory.
 461.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
 461.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
 461.73 New source performance standards.
 461.74 Pretreatment standards for existing sources.
 461.75 Pretreatment standards for new sources.
 461.76 [Reserved].

Authority: Secs. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"). 33 U.S.C. 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

General Provisions

§ 461.01 Applicability.

This part applies to any battery manufacturing plant that discharges a pollutant to waters of the United States or that introduces pollutants to a publicly owned treatment works.

§ 461.02 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Battery" means a modular electric power source where part of all of the fuel is contained within the unit and electric power is generated directly from a chemical reaction rather than indirectly through a heat cycle engine.

(b) "Battery manufacturing operations" means the specific methods used to produce a battery. These manufacturing operations are not included in any other point source category.

(c) "Discharge allowance" means the amount of pollutant (mg per kg of production unit) that a plant will be permitted to discharge. For this category the allowances are specific to battery manufacturing operations.

§ 461.03 Monitoring and reporting requirements.

The "monthly average" regulatory

values shall be the basis for the monthly average discharge in direct discharge permits and for pretreatment standards. Compliance with the monthly discharge limit is required regardless of the number of samples analyzed and averaged.

§ 461.04 Compliance date for PSES.

The compliance date for pretreatment standards for existing sources will be three years from the date of promulgation.

Subpart A—Cadmium Subcategory

§ 461.10 Applicability; description of the cadmium subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from the manufacturing of cadmium anode batteries.

§ 461.11 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR §§ 125.30-32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart A—Pasted and Pressed Powder Anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Cadmium	0.87	0.41
Nickel	3.81	2.70
Zinc	3.59	1.51
Cobalt	0.79	0.33
Oil and Grease	54.0	32.4
TSS	111.0	54.0
pH	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(2) Subpart A—Electrodeposited Anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium English Units—lb/1,000,000 lb of cadmium		
Cadmium.....	223.0	105.0
Nickel.....	983.0	697.0
Zinc.....	927.0	391.0
Cobalt.....	202.0	83.7
Oil and Grease.....	14000.0	8370.0
TSS.....	28600.0	14000.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(3) Subpart A—Impregnated Anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium English Units—lb/1,000,000 lb of cadmium		
Cadmium.....	320.0	150.0
Nickel.....	1407.0	998.0
Zinc.....	1328.0	559.0
Cobalt.....	290.0	120.0
Oil and Grease.....	20000.0	12000.0
TSS.....	40900.0	20000.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(4) Subpart A—Nickel Electrodeposited Cathodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Cadmium.....	182.0	85.4
Nickel.....	803.0	569.0
Zinc.....	757.0	319.0
Cobalt.....	165.0	68.3
Oil and Grease.....	11400.0	6830.0
TSS.....	23400.0	11400.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(5) Subpart A—Nickel Impregnated Cathodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Cadmium.....	525.0	246.0
Nickel.....	2320.0	1640.0
Zinc.....	2180.0	919.0
Cobalt.....	476.0	197.0
Oil and Grease.....	32800.0	19700.0
TSS.....	67300.0	32800.0

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(6) Subpart A—Cell Wash, Electrolyte Preparation, Floor & Equipment Wash, and Employee Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Cadmium.....	5.93	2.78
Nickel.....	26.1	18.5
Zinc.....	24.6	10.4
Cobalt.....	5.37	2.22
Oil and Grease.....	370.0	222.0
TSS.....	759.0	370.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(7) Subpart A—Cadmium Powder Production.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium powder produced English Units—lb/1,000,000 lb of cadmium powder produced		
Cadmium.....	21.1	9.86
Nickel.....	92.7	65.7
Zinc.....	87.4	36.8
Cobalt.....	19.1	7.89
Oil and Grease.....	1320.0	785.0
TSS.....	2700.0	1320.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(8) Subpart A—Silver Powder Production.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Cadmium.....	6.79	3.18
Nickel.....	29.9	21.2
Silver.....	8.69	3.61
Zinc.....	28.2	11.9
Cobalt.....	6.15	2.55
Oil and Grease.....	424.0	255.0
TSS.....	869.0	424.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(9) Subpart A—Cadmium Hydroxide Production.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium used English Units—lb/1,000,000 lb of cadmium used		
Cadmium.....	0.29	0.14
Nickel.....	1.27	0.90
Zinc.....	1.20	0.51
Cobalt.....	0.26	0.11
Oil and Grease.....	18.0	10.8
TSS.....	36.9	18.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(10) Subpart A—Nickel Hydroxide Production.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel used English Units—lb/1,000,000 lb of nickel used		
Cadmium.....	35.2	16.5
Nickel.....	155.0	110.0
Zinc.....	147.0	61.6
Cobalt.....	31.9	13.2
Oil and Grease.....	2200.0	1320.0
TSS.....	4510.0	2200.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(b) [Reserved]

§ 461.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart A—Electrodeposited Anodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of cadmium English units—lb/1,000,000 lb of cadmium		
Cadmium.....	11.3	5.27
Nickel.....	49.6	35.2
Zinc.....	46.8	19.7
Cobalt.....	134	4.22

(2) Subpart A—Impregnated Anodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of cadmium English units—lb/1,000,000 lb of cadmium		
Cadmium.....	64.0	30.0
Nickel.....	282.0	200.0
Zinc.....	266.0	112.0
Cobalt.....	58.0	24.0

(3) Subpart A—Nickel Electrodeposited Cathodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of nickel applied English units—lb/1,000,000 lb of nickel applied		
Cadmium.....	10.6	4.95
Nickel.....	46.6	33.0
Zinc.....	43.9	18.5
Cobalt.....	9.57	3.96

(4) Subpart A—Nickel Impregnated Cathodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of nickel applied English units—lb/1,000,000 lb of nickel applied		
Cadmium.....	64.0	30.0
Nickel.....	282.0	200.0
Zinc.....	266.0	112.0
Cobalt.....	58.0	24.0

(5) Subpart A—Cell Wash, Electrolyte Preparation, and Employee Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Cadmium.....	0.75	0.35
Nickel.....	3.29	2.33
Zinc.....	3.10	1.31
Cobalt.....	0.68	0.28

(6) Subpart A—Cadmium Powder Production.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium powder produced English Units—lb/1,000,000 lb of cadmium powder produced		
Cadmium.....	2.10	0.99
Nickel.....	9.27	6.57
Zinc.....	8.74	3.68
Cobalt.....	1.91	0.79

(7) Subpart A—Silver Powder Production.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Cadmium.....	1.03	0.48
Nickel.....	4.53	3.21
Silver.....	1.32	0.55
Zinc.....	4.27	1.80
Cobalt.....	0.93	0.39

(8) Subpart A—Cadmium Hydroxide Production.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium used English Units—lb/1,000,000 lb of cadmium used		
Cadmium.....	0.05	0.021
Nickel.....	0.20	0.14
Zinc.....	0.19	0.078
Cobalt.....	0.04	0.017

(9) Subpart A—Nickel Hydroxide Production.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel used English Units—lb/1,000,000 lb of nickel used		
Cadmium.....	5.28	2.48
Nickel.....	23.3	16.5
Zinc.....	22.0	9.24
Cobalt.....	4.79	1.98

(b) [Reserved]

§ 461.13 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards:

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.14 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for existing sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except those set forth below:

(1) Subpart A—Electrodeposited anodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium English Units—lb/1,000,000 lb of cadmium		
Cadmium.....	11.3	5.27
Nickel.....	49.6	35.2
Zinc.....	46.7	19.8
Cobalt.....	10.2	4.22

(2) Subpart A—Impregnated anodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium English Units—lb/1,000,000 lb of cadmium		
Cadmium.....	64.0	30.0
Nickel.....	282.0	200.0
Zinc.....	266.0	112.0
Cobalt.....	58.0	24.0

(3) Subpart A—Nickel Electrodeposited Cathodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Cadmium.....	10.6	4.95
Nickel.....	46.6	33.0

PRETREATMENT STANDARDS FOR EXISTING SOURCES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc.....	43.9	18.5
Cobalt.....	9.57	3.96

(4) Subpart A—Nickel Impregnated Cathodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Cadmium.....	64.0	30.0
Nickel.....	282.0	200.0
Zinc.....	266.0	112.0
Cobalt.....	58.0	24.0

(5) Subpart A—Cell Wash, Electrolyte Preparation, and Employee Wash.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Cadmium.....	0.75	0.35
Nickel.....	3.29	2.33
Zinc.....	3.10	1.31
Cobalt.....	0.68	0.28

(6) Subpart A—Cadmium Powder Production.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium powder produced English Units—lb/1,000,000 lb of cadmium powder produced		
Cadmium.....	2.10	0.99
Nickel.....	9.27	6.57
Zinc.....	8.74	3.68
Cobalt.....	1.91	0.79

(7) Subpart A—Silver Powder Production.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Cadmium.....	1.03	0.48
Nickel.....	4.53	3.21
Silver.....	1.32	0.55
Zinc.....	4.27	1.80
Cobalt.....	0.93	0.39

(8) Subpart A—Cadmium Hydroxide Production

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cadmium used English Units—lb/1,000,000 lb of cadmium used		
Cadmium.....	0.045	0.021
Nickel.....	0.20	0.14
Zinc.....	0.19	0.078
Cobalt.....	0.041	0.017

(9) Subpart A—Nickel Hydroxide Production

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel used English Units—lb/1,000,000 lb of Nickel used		
Cadmium.....	5.28	2.48
Nickel.....	23.3	16.5
Zinc.....	22.0	9.24
Cobalt.....	4.79	1.98

(b) [Reserved]

§ 461.15 Pretreatment standards for new sources.

Except as provided in §403.7 of this chapter, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for new sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.16 [Reserved]

Subpart B—Calcium Subcategory

§ 461.20 Applicability; description of the calcium subcategory

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from manufacturing calcium anode batteries.

§ 461.21 [Reserved]

§ 461.22 [Reserved]

§ 461.23 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards.

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.24 [Reserved]

§ 461.25 Pretreatment standards for new sources.

Except as provided in § 403.7 of this chapter any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for new sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.26 [Reserved]

Subpart C—Lead Subcategory

§ 461.30 Applicability; description of the lead subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works from the manufacturing of lead anode batteries.

§ 461.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) There shall be no discharge allowance of wastewater pollutants

from any battery manufacturing operations except from those set forth below:

(1) Subpart C—Closed Formation—Double Fill, or Fill and Dump.

BDT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.86	0.45
Lead.....	0.067	0.059
Iron.....	0.56	0.29
Oil and Grease.....	9.00	5.40
TSS.....	18.5	9.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(2) Subpart C—Open Formation—Dehydrated.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	17.1	9.0
Lead.....	1.35	1.17
Iron.....	11.1	5.67
Oil and Grease.....	180.0	108.0
TSS.....	369.0	180.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(3) Subpart C—Battery Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	1.37	0.72
Lead.....	145	
Iron.....	0.11	0.10
Oil and Grease.....	0.89	0.46
TSS.....	14.4	8.64
TSS.....	29.5	14.4
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(4) Subpart C—Floor Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.78	0.41

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Lead.....	0.062	0.053
Iron.....	0.51	0.28
Oil and Grease.....	8.20	4.92
TSS.....	16.8	8.20
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(5) Subpart C—Battery Repair.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.27	0.14
Lead.....	0.021	0.018
Iron.....	0.18	0.088
Oil and Grease.....	2.80	1.68
TSS.....	5.74	2.8
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(b) [Reserved]

§ 461.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart C—Open Formation—Dehydrated.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	2.59	1.36
Lead.....	0.21	0.18
Iron.....	1.68	0.86

(2) Subpart C—Battery Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 10 consecutive sampling days
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.69	0.36
Lead.....	0.054	0.047
Iron.....	0.45	0.23

(3) Subpart C—Battery Repair.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.27	0.14
Lead.....	0.021	0.018
Iron.....	0.17	0.088

(b) [Reserved]

§ 461.33 New source performance standards

Any new source subject to this subpart must achieve the following performance standards.

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart C—Open Formation—Dehydrated.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.039	0.016
Lead.....	0.008	0.002
Iron.....	0.25	0.13
Oil and Grease.....	2.04	2.04
TSS.....	3.06	2.25
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(2) Subpart C—Battery Wash.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used	
Copper.....	0.011	0.004

NEW SOURCE PERFORMANCE STANDARDS—
Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Lead.....	0.002	0.001
Iron.....	0.067	0.034
Oil and Grease.....	0.54	0.54
TSS.....	0.81	0.60
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(3) Subpart C—Battery Repair.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used		
Copper.....	0.004	0.002
Lead.....	0.0008	0.0003
Iron.....	0.026	0.013
Oil and Grease.....	0.21	0.21
TSS.....	0.32	0.23
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(b) [Reserved]

§ 461.34 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for existing sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart C—Open Formation—Dehydrated Pretreatment.

STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of lead used English Units—lb/1,000,000 lb of lead used		
Copper.....	2.59	1.36
Lead.....	0.21	0.18

(2) Subpart C—Battery Wash.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of lead used English units—lb/1,000,000 lb of lead used		
Copper.....	0.69	0.36
Lead.....	0.054	0.047

(3) Subpart C—Battery Repair.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of lead used English units—lb/1,000,000 lb of lead used		
Copper.....	0.27	0.14
Lead.....	0.021	0.018

(b) [Reserved].

§ 461.35 Pretreatment standards for new sources.

Except as provided in § 403.7 of this chapter, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart C—Open Formation—Dehydrated.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of lead used English units—lb/1,000,000 lb of lead used		
Copper.....	0.039	0.016
Lead.....	0.008	0.002

(2) Subpart C—Battery Wash.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of lead used English units—lb/1,000,000 lb of lead used		
Copper.....	0.011	0.004
Lead.....	0.002	0.001

(3) Subpart C—Battery Repair.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric units—mg/kg of lead used English units—lb/1,000,000 lb of lead used		
Copper.....	0.004	0.002
Lead.....	0.001	0.0003

(b) [Reserved]

§ 461.36 [Reserved]

Subpart D—Leclanche Subcategory

§ 461.40 Applicability; description of the Leclanche subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from manufacturing Leclanche type batteries (zinc anode batteries with acid electrolyte).

§ 461.41 [Reserved]

§ 461.42 [Reserved]

§ 461.43 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards:

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.44 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources listed below. The mass wastewater pollutants

in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.45 Pretreatment standards for new sources.

Except as provided in § 403.7 of this chapter any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge of wastewater pollutants from any battery manufacturing operations.

(b) [Reserved]

§ 461.46 [Reserved]

Subpart E-Lithium Subcategory

§ 461.50 Applicability; description of the lithium subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works from the manufacturing of lithium anode batteries.

§ 461.51 [Reserved]

§ 461.52 [Reserved]

§ 461.53 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards.

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart E—Lead Iodide Cathodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead	
	English Units—lb/1,000,000 lb of lead	
Chromium.....	23.4	9.46
Lead.....	6.31	5.68
Iron.....	77.6	39.8
TSS.....	946.0	694.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(2) Subpart E—Iron Disulfide Cathodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of iron disulfide	
	English Units—lb/1,000,000 lb of iron disulfide	
Chromium.....	2.79	1.13
Lead.....	0.76	0.68
Iron.....	9.28	4.75
TSS.....	113.0	83.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(3) Subpart E—Floor and Equipment Wash, Cell Testing, and Lithium Scrap Disposal.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced	
	English Units—lb/1,000,000 lb of cells produced	
Chromium.....	0.040	0.016
Lead.....	0.011	0.010
Iron.....	0.14	0.068
TSS.....	1.62	1.19
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(4) Subpart E—Air scrubbers.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced	
	English Units—lb/1,000,000 lb of cells produced	
TSS.....	434.0	212.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(b) [Reserved]

§ 461.54 [Reserved]

§ 461.55 Pretreatment standards for new sources.

Except as provided in § 403.7 of this chapter, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below;

(1) Subpart E—Lead Iodide Cathodes.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of lead	
	English Units—lb/1,000,000 lb of lead	
Chromium.....	23.4	9.46
Lead.....	6.31	5.68

(2) Subpart E—Iron Disulfide Cathodes.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of iron disulfide	
	English Units—lb/1,000,000 lb of iron disulfide	
Chromium.....	2.79	1.13
Lead.....	0.76	0.68

(2) Subpart E—Floor and Equipment Wash, Cell Testing, and Lithium Scrap Disposal.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced	
	English Units—lb/1,000,000 lb of cells produced	
Chromium.....	0.040	0.016
Lead.....	0.011	0.010

(b) [Revised]

§ 461.56 [Reserved]

Subpart F—Magnesium Subcategory

§ 461.60 Applicability; description of the magnesium subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works from the manufacturing of magnesium anode batteries.

§ 461.61 [Reserved]

§ 461.62 [Reserved]

§ 461.63 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards.

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing

operations except from those set forth below:

(1) Subpart F—Silver Chloride Cathodes—Chemically Reduced.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed	
Lead.....	8.19	7.37
Silver.....	23.75	9.83
Iron.....	100.8	51.96
COD.....	4095.0	1999.0
TSS.....	1229.0	901.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(2) Subpart F—Silver Chloride Cathodes—Electrolytic.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed	
Lead.....	14.5	13.1
Silver.....	42.1	17.4
Iron.....	179.0	91.4
COD.....	7250.0	3540.0
TSS.....	2180.0	1600.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(3) Subpart F—Cell Testing.

NEW SOURCE PERFORMANCE STANDARDS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cell produced	
Lead.....	5.26	4.74
Silver.....	15.3	6.31
Iron.....	64.7	33.2
COD.....	2630.0	1290.0
TSS.....	789.0	579.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(4) Subpart F—Floor and Equipment Wash

NEW SOURCE PERFORMANCE STANDARDS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cell produced	
Lead.....	0.009	0.008
Silver.....	0.027	0.011

NEW SOURCE PERFORMANCE STANDARDS.—
Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Iron.....	0.12	2.30
COD.....	4.70	2.30
TSS.....	1.41	1.04
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(5) Subpart F—Air Scrubber.

NEW SOURCE PERFORMANCE STANDARDS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced	
TSS.....	8467.0	4130.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5–10.0 at all times.

(b) [Reserved]

§ 461.64 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart F—Silver Chloride Cathodes—Chemically Reduced.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lbs of silver processed	
Lead.....	368.7	319.6
Silver.....	1008.0	417.9

(2) Subpart F—Silver Chloride Cathodes—Electrolytic.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed	
Lead.....	21.8	18.9
Silver.....	59.5	24.7

(3) Subpart F—Cell Testing.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced	
Lead.....	7.89	6.84
Silver.....	21.6	8.94

(4) Subpart F—Floor and Equipment Wash.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced	
Lead.....	0.02	0.013
Silver.....	0.039	0.016

(b) [Reserved]

§ 461.65 Pretreatment standards for new sources.

Except as provided in §403.7 of this chapter, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart F—Silver Chloride Cathodes—Chemically Reduced.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed	
Lead.....	8.19	7.37
Silver.....	23.75	9.83

(2) Subpart F—Silver Chloride Cathode—Electrolytic.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed	
Lead.....	14.5	13.1
Silver.....	42.1	17.4

(3) Subpart F—Cell Testing.

PRETREATMENT STANDARDS FOR NEW SOURCE

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced	
Lead.....	5.26	4.74
Silver.....	15.3	6.31

(4) Subpart F—Floor and Equipment Wash.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced	
Lead.....	0.009	0.008
Silver.....	0.027	0.011

(b) [Reserved]

461.66 [Reserved]

Subpart G—Zinc Subcategory

§ 461.70 Applicability; description of the zinc subcategory.

This subpart applies to discharge to waters of the United States, and introductions of pollutants into publicly owned treatment works from the manufacturing of zinc anode batteries.

§ 461.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Except as provided in 40 CFR 125.30-125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart G—Wet Amalgamated Powder Anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc	
Chromium.....	1.60	0.85
Mercury.....	0.95	0.38
Silver.....	1.56	0.65
Zinc.....	5.06	2.13
Manganese.....	1.64	1.29
Oil and Grease.....	76.0	45.6
TSS.....	156.0	76.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(2) Subpart G—Gelled Amalgam Anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc	
Chromium.....	0.29	0.12
Mercury.....	0.17	0.068
Silver.....	0.28	0.12
Zinc.....	0.91	0.38
Manganese.....	0.29	0.23
Oil and Grease.....	13.6	8.16
TSS.....	27.9	13.6
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(3) Subpart G—Zinc Oxide, Formed Anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc	
Chromium.....	60.1	24.3
Mercury.....	35.8	14.3
Silver.....	58.7	24.3
Zinc.....	190.0	80.1
Manganese.....	61.5	48.6
Oil and Grease.....	2,860.0	1,720.0
TSS.....	5,870.0	2,860.0

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(4) Subpart G—Electrodeposited anodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of zinc deposited English Units—lb/1,000,000 lb of zinc deposited	
Chromium.....	1,340.0	543.0
Mercury.....	798.0	319.0
Silver.....	1,310.0	543.0
Zinc.....	4,250.0	1,790.0
Manganese.....	1,370.0	1,090.0
Oil and Grease.....	63,800.0	38,300.0
TSS.....	131,000.0	63,800.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(5) Subpart G—Silver Powder, Formed Cathodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied	
Chromium.....	82.3	33.3
Mercury.....	49.0	19.6
Silver.....	80.4	33.3
Zinc.....	261.0	110.0
Manganese.....	84.3	66.7
Oil and Grease.....	3,920.0	2,350.0
TSS.....	8,040.0	3,920.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(6) Subpart G—Silver Oxide Powder, Formed Cathodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied	
Chromium.....	55.0	22.3
Mercury.....	32.8	13.1
Silver.....	53.7	22.3
Zinc.....	175.0	73.4
Manganese.....	56.4	44.6
Oil and Grease.....	2,620.0	1,570.0
TSS.....	5,370.0	2,620.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(7) Subpart G—Silver Peroxide Cathodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	13.2	5.34
Mercury.....	7.85	3.14
Silver.....	12.9	5.34
Zinc.....	41.8	17.6
Manganese.....	13.5	10.7
Oil and Grease.....	628.0	377.0
TSS.....	1,290.0	628.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(8) Subpart G—Nickel Impregnated Cathodes.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Chromium.....	889.0	279.0
Mercury.....	410	164.0
Nickel.....	2,320.0	1,640.0
Silver.....	673.0	279.0
Zinc.....	2,180.0	919.0
Manganese.....	705.0	558.0
Oil and Grease.....	32,800.0	19,700.0
TSS.....	67,300.0	32,800.0
pH.....	(¹)	(¹)

¹ Within the range of 7.5-10.0 at all times.

(9) Subpart G—Cell Wash, Electrolyte Preparation, Employee Wash, Reject Cell Handling, Floor and Equipment Wash.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Chromium.....	3.88	1.49
Cyanide.....	2.54	1.05
Mercury.....	2.19	0.88
Nickel.....	12.4	8.76
Silver.....	3.59	1.49
Zinc.....	11.7	4.91
Manganese.....	3.77	2.98
Oil and Grease.....	175.0	105.0
TSS.....	359.0	175.2
pH.....	(¹)	(¹)

¹ Within the limits of 7.5-10.0 at all times.

(10) Subpart G—Silver Etch.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed		
Chromium.....	20.7	8.35

BPT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Mercury.....	12.3	4.91
Silver.....	20.2	8.35
Zinc.....	65.3	27.5
Manganese.....	21.1	16.7
Oil and Grease.....	962.0	589.0
TSS.....	2,020.0	982.0
pH.....	(¹)	(¹)

¹ Within the limits of 7.5-10.0 at all times.

(11) Subpart G—Silver Peroxide Production.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver peroxide produced English Units—lb/1,000,000 lb of silver in silver peroxide produced		
Chromium.....	22.0	8.88
Mercury.....	13.1	5.22
Silver.....	21.4	8.88
Zinc.....	69.5	29.3
Manganese.....	22.5	17.8
Oil and Grease.....	1,050.0	627.0
TSS.....	2,140.0	1,050.0
pH.....	(¹)	(¹)

¹ Within the limits of 7.5-10.0 at all times.

(12) Subpart G—Silver Powder Production.

BPT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Chromium.....	8.91	3.61
Mercury.....	5.30	2.12
Silver.....	8.69	3.61
Zinc.....	28.2	11.9
Manganese.....	9.12	7.21
Oil and Grease.....	424.0	255.0
TSS.....	869.0	424.0
pH.....	(¹)	(¹)

¹ Within the limits of 7.5-10.0 at all times.

(b) [Reserved]

§ 461.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Except as provided in 40 CFR 125.30-.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart G—Wet Amalgamated Powder Anodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lbs of zinc		
Chromium.....	0.23	0.093
Mercury.....	0.14	0.055
Silver.....	0.23	0.093
Zinc.....	0.73	0.31
Manganese.....	0.24	0.19

(2) Subpart G—Gelled Amalgam Anodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc		
Chromium.....	0.029	0.012
Mercury.....	0.017	0.007
Silver.....	0.028	0.012
Zinc.....	0.091	0.038
Manganese.....	0.029	0.023

(3) Subpart G—Zinc Oxide Formed Anodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc		
Chromium.....	9.10	3.69
Mercury.....	5.42	2.17
Silver.....	8.89	3.69
Zinc.....	28.9	12.2
Manganese.....	9.32	7.37

(4) Subpart G—Electrodeposited Anodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc deposited English Units—lb/1,000,000 lb of zinc deposited		
Chromium.....	101.0	41.0
Mercury.....	60.3	24.1
Silver.....	98.8	41.0
Zinc.....	321.0	135.0
Manganese.....	104.0	81.9

(5) Subpart G—Silver Powder Formed Cathodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	12.5	5.05
Mercury.....	7.43	2.97
Silver.....	12.2	5.05
Zinc.....	39.5	16.7
Manganese.....	12.8	10.1

(6) Subpart G—Silver Oxide Powder Formed Cathodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	8.34	3.38
Mercury.....	4.97	1.99
Silver.....	8.14	3.38
Zinc.....	26.4	11.1
Manganese.....	8.54	6.75

(7) Subpart G—Silver Peroxide Cathodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	2.00	0.81
Mercury.....	1.19	0.48
Silver.....	1.95	0.81
Zinc.....	6.33	2.67
Manganese.....	2.05	1.62

(8) Subpart G—Nickel Impregnated Cathodes.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Chromium.....	84.0	34.0
Mercury.....	50.0	20.0
Nickel.....	282.0	200.0
Silver.....	82.0	34.0
Zinc.....	266.0	112.0
Manganese.....	86.0	68.0

(9) Subpart G—Cell Wash, Employee Wash, Reject Cell Handling & Floor and Equipment Wash.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Chromium.....	0.54	0.22
Cyanide.....	0.38	0.16
Mercury.....	0.33	0.13
Nickel.....	1.82	1.29
Silver.....	0.53	0.22
Zinc.....	1.72	0.72
Manganese.....	0.56	0.44

(10) Subpart G—Silver Etch.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed		
Chromium.....	3.13	1.27
Mercury.....	1.86	0.75
Silver.....	3.05	1.27
Zinc.....	9.90	4.17
Manganese.....	3.20	2.53

(11) Subpart G—Silver Peroxide Production.

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver in silver peroxide produced English Units—lb/1,000,000 lb of silver in silver peroxide produced		
Chromium.....	3.32	1.35
Mercury.....	1.98	0.79
Silver.....	3.25	1.35
Zinc.....	10.5	4.43
Manganese.....	3.40	2.69

(12) Subpart G—Silver Powder Production

BAT EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Chromium.....	1.35	0.55
Mercury.....	0.80	0.32
Silver.....	1.32	0.55
Zinc.....	4.27	1.80
Manganese.....	1.38	1.09

(b) [Reserved]

§ 461.73 New source performance standards.

Any new source subject to this subpart must achieve the following performance standards:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart G—Zinc Oxide Formed Anodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc		
Chromium.....	0.62	0.33
Mercury.....	0.43	0.19
Silver.....	0.62	0.28
Zinc.....	0.12	0.062
Manganese.....	0.98	0.75
Oil and Grease.....	32.5	32.5
TSS.....	48.8	35.8
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(2) Subpart G—Electrodeposited Anodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc deposited English Units—lb/1,000,000 lb of zinc deposited		
Chromium.....	6.87	3.65
Mercury.....	4.70	2.06
Silver.....	6.87	3.04
Zinc.....	1.34	0.69
Manganese.....	10.9	8.31
Oil & Grease.....	362.0	362.0
TSS.....	542.0	398.0
pH.....	(¹)	(¹)

Within the limits of 7.5–10.0 at all times.

(3) Subpart G—Silver Powder Formed Cathodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	0.85	0.45
Mercury.....	0.58	0.26
Silver.....	0.85	0.38
Zinc.....	0.17	0.085
Manganese.....	1.34	1.03
Oil & Grease.....	44.5	44.5
TSS.....	66.8	49.0
pH.....	(¹)	(¹)

Within the limits of 7.5–10.0 at all times.

(4) Subpart G—Silver Oxide Powder Formed Cathodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	0.57	0.30
Mercury.....	0.39	0.17
Silver.....	0.57	0.25
Zinc.....	0.11	0.057
Manganese.....	0.90	0.69
Oil & Grease.....	29.8	29.8
TSS.....	44.7	32.8
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(5) Subpart G—Silver Peroxide Cathodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	0.14	0.072
Mercury.....	0.93	0.041
Silver.....	0.14	0.060
Zinc.....	0.027	0.014
Manganese.....	0.22	0.17
Oil & Grease.....	7.14	7.14
TSS.....	10.7	7.86
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(6) Subpart G—Nickel Impregnated Cathodes.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Chromium.....	5.70	3.03
Mercury.....	3.90	1.71
Nickel.....	5.70	2.49
Silver.....	5.70	2.52
Zinc.....	1.11	0.57
Manganese.....	9.00	6.90
Oil & Grease.....	300.0	300.0
TSS.....	450.0	330.0
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(7) Subpart G—Cell Wash, Employee Wash, Reject Cell Handling, & Floor and Equipment Wash.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Chromium.....	0.037	0.020
Cyanide.....	0.039	0.016
Mercury.....	0.026	0.011

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Nickel.....	0.037	0.016
Silver.....	0.037	0.016
Zinc.....	0.008	0.004
Manganese.....	0.059	0.045
Oil & Grease.....	1.95	1.95
TSS.....	2.93	2.15
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(8) Subpart G—Silver Etch.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed		
Chromium.....	0.20	0.12
Mercury.....	0.15	0.064
Silver.....	0.20	0.094
Zinc.....	0.040	0.021
Manganese.....	0.34	0.26
Oil & Grease.....	11.2	11.2
TSS.....	16.8	12.3
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(9) Subpart G—Silver Peroxide Production.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of Silver in silver peroxide produced		
Chromium.....	0.23	0.12
Mercury.....	0.16	0.068
Silver.....	0.23	0.10
Zinc.....	0.044	0.023
Manganese.....	0.36	0.28
Oil & Grease.....	11.9	11.9
TSS.....	17.8	13.1
ph.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(10) Subpart G—Silver Powder Production.

NEW SOURCE PERFORMANCE STANDARDS

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder English Units—lb/1,000,000 lb of Silver powder produced		
Chromium.....	0.092	0.049
Mercury.....	0.063	0.027
Silver.....	0.092	0.041
Zinc.....	0.018	0.009
Manganeses.....	0.15	0.11
Oil & Grease.....	4.82	4.82
TSS.....	7.24	5.31
pH.....	(¹)	(¹)

¹ Within the limits of 7.5–10.0 at all times.

(b) [Reserved].

§ 461.74 Pretreatment standards for existing sources.

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart G—Wet Amalgamated Powder Anode.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lbs of zinc		
Chromium.....	0.23	0.093
Mercury.....	0.14	0.055
Silver.....	0.23	0.093
Zinc.....	0.73	0.31
Manganese.....	0.24	0.19

(2) Subpart G—Gelled Amalgam Anodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lbs of zinc		
Chromium.....	0.029	0.012
Mercury.....	0.017	0.007
Silver.....	0.028	0.012
Zinc.....	0.091	0.038
Manganese.....	0.029	0.023

(3) Subpart G—Zinc Oxide Formed anodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lbs of zinc		
Chromium.....	9.10	3.69
Mercury.....	5.42	2.17
Silver.....	8.89	3.69
Zinc.....	28.9	12.2
Manganese.....	9.32	7.37

(4) Subpart G—Electrodeposited Anodes Pretreatment.

STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc deposited English Units—lb/1,000,000 lbs of zinc deposited		
Chromium.....	101.0	41.0
Mercury.....	60.3	24.1
Silver.....	98.8	41.0
Zinc.....	321.0	135.0
Manganese.....	104.0	81.9

(5) Subpart G—Silver Powder Formed Cathodes.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	12.5	5.05
Mercury.....	7.43	2.97
Silver.....	12.2	5.05
Zinc.....	39.5	16.7
Manganese.....	12.8	10.1

(6) Subpart G—Silver Oxide Powder Formed Cathodes

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	8.34	3.38
Mercury.....	4.97	1.99
Silver.....	8.14	3.38
Zinc.....	26.4	11.1
Manganese.....	8.54	6.75

(7) Subpart G—Silver Peroxide Cathodes

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	2.00	0.81
Mercury.....	1.19	0.48
Silver.....	1.95	0.81
Zinc.....	6.33	2.67
Manganese.....	2.05	1.62

(8) Subpart G—Nickel Impregnated Cathodes

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Chromium.....	84.0	34.0
Mercury.....	50.0	20.0
Nickel.....	282.0	200.0
Silver.....	82.0	34.0
Zinc.....	266.0	112.0
Manganese.....	86.0	68.0

(9) Subpart G—Cell Wash, Employee Wash, Reject Cell Handling, and Floor and Equipment Wash

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Chromium.....	0.54	0.22
Cyanide.....	0.38	0.16
Mercury.....	0.33	0.13
Nickel.....	1.82	1.29
Silver.....	0.53	0.22
Zinc.....	1.72	0.72
Manganese.....	0.56	0.44

(10) Subpart G—Silver Etch

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed		
Chromium.....	3.13	1.27
Mercury.....	1.86	0.75
Silver.....	3.05	1.27
Zinc.....	9.90	4.17
Manganese.....	3.20	2.53

(11) Subpart G—Silver Peroxide Production.

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver in silver peroxide produced English Units—lb/1,000,000 lb of silver in silver peroxide produced		
Chromium.....	3.32	1.35
Mercury.....	1.98	0.79
Silver.....	3.25	1.35
Zinc.....	10.5	4.43
Manganese.....	3.40	2.69

(12) Subpart G—Silver Powder Production

PRETREATMENT STANDARDS FOR EXISTING SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Chromium.....	1.35	0.55
Mercury.....	0.80	0.32
Silver.....	1.32	0.55
Zinc.....	4.27	1.80
Manganese.....	1.38	1.09

(b) [Reserved]

§ 461.75 Pretreatment standards for new sources.

Except as provided in § 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources listed below. The mass wastewater pollutants in battery manufacturing process wastewater introduced into a POTW shall not exceed the following:

(a) There shall be no discharge allowance of wastewater pollutants from any battery manufacturing operations except from those set forth below:

(1) Subpart G—Zinc Oxide Formed Anodes.

PRETREATMENT STANDARDS FOR NEW SOURCES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc English Units—lb/1,000,000 lb of zinc		
Chromium.....	0.62	0.33
Mercury.....	0.43	0.19
Silver.....	0.62	0.28
Zinc.....	0.12	0.062
Manganese.....	0.98	0.75

(2) Subpart G—Electrodeposited Anodes.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of zinc deposited English Units—lb/1,000,000 lb of zinc deposited		
Chromium.....	6.87	3.65
Mercury.....	4.70	2.06
Silver.....	6.87	3.04

PRETREATMENT STANDARDS FOR NEW SOURCES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Zinc.....	1.34	0.69
Manganese.....	10.9	8.31

(3) Subpart G—Silver Powder Formed Cathodes

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	0.85	0.45
Mercury.....	0.58	0.26
Silver.....	0.85	0.38
Zinc.....	0.17	0.085
Manganese.....	1.34	1.03

(4) Subpart G—Silver Oxide Powder Formed Cathodes

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	0.57	0.30
Mercury.....	0.39	0.17
Silver.....	0.57	0.25
Zinc.....	0.11	0.057
Manganese.....	.90	0.69

(5) Subpart G—Silver Peroxide Cathodes

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Chromium.....	0.14	0.072

PRETREATMENT STANDARDS FOR NEW SOURCES—Continued

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver applied English Units—lb/1,000,000 lb of silver applied		
Mercury.....	0.093	0.041
Silver.....	0.14	0.060
Zinc.....	0.07	0.014
Manganese.....	0.22	0.17

(6) Subpart G—Nickel Impregnated Cathodes

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of nickel applied English Units—lb/1,000,000 lb of nickel applied		
Chromium.....	5.70	3.03
Mercury.....	3.9	1.71
Nickel.....	5.70	2.49
Silver.....	5.70	2.52
Zinc.....	1.11	0.57
Manganese.....	9.00	6.90

(7) Subpart G—Cell Wash, Employee Wash, Reject Cell Handling, Floor and Equipment Wash

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of cells produced English Units—lb/1,000,000 lb of cells produced		
Chromium.....	0.037	0.020
Cyanide.....	0.039	0.016
Mercury.....	0.026	0.011
Nickel.....	0.037	0.016
Silver.....	0.037	0.016
Zinc.....	0.008	0.004
Manganese.....	0.059	0.045

(8) Subpart G—Silver Etch.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver processed English Units—lb/1,000,000 lb of silver processed		
Chromium.....	0.20	0.12
Mercury.....	0.15	0.064
Silver.....	0.20	0.094
Zinc.....	0.042	0.021
Manganese.....	0.34	0.26

(9) Subpart G—Silver Peroxide production

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver peroxide produced English Units—lb/1,000,000 lb of silver peroxide produced		
Chromium.....	0.23	0.12
Mercury.....	0.16	0.068
Silver.....	0.23	0.10
Zinc.....	0.044	0.023
Manganese.....	0.36	0.28

(10) Subpart G—Silver Powder Production.

PRETREATMENT STANDARDS FOR NEW SOURCES

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
Metric Units—mg/kg of silver powder produced English Units—lb/1,000,000 lb of silver powder produced		
Chromium.....	0.092	0.049
Mercury.....	0.063	0.027
Silver.....	0.092	0.040
Zinc.....	0.018	0.009
Manganese.....	0.15	0.11

(b) [Reserved]

§ 461.76 [Reserved]

[FR Doc. 82-30312 Filed 11-9-82; 8:45 am]

BILLING CODE 6560-50-M

The first part of the report deals with the general conditions of the country, and the second part with the details of the various districts. The first part is divided into three sections: the first section deals with the general conditions of the country, the second section with the details of the various districts, and the third section with the details of the various districts. The second part is divided into three sections: the first section deals with the details of the various districts, the second section with the details of the various districts, and the third section with the details of the various districts.

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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).

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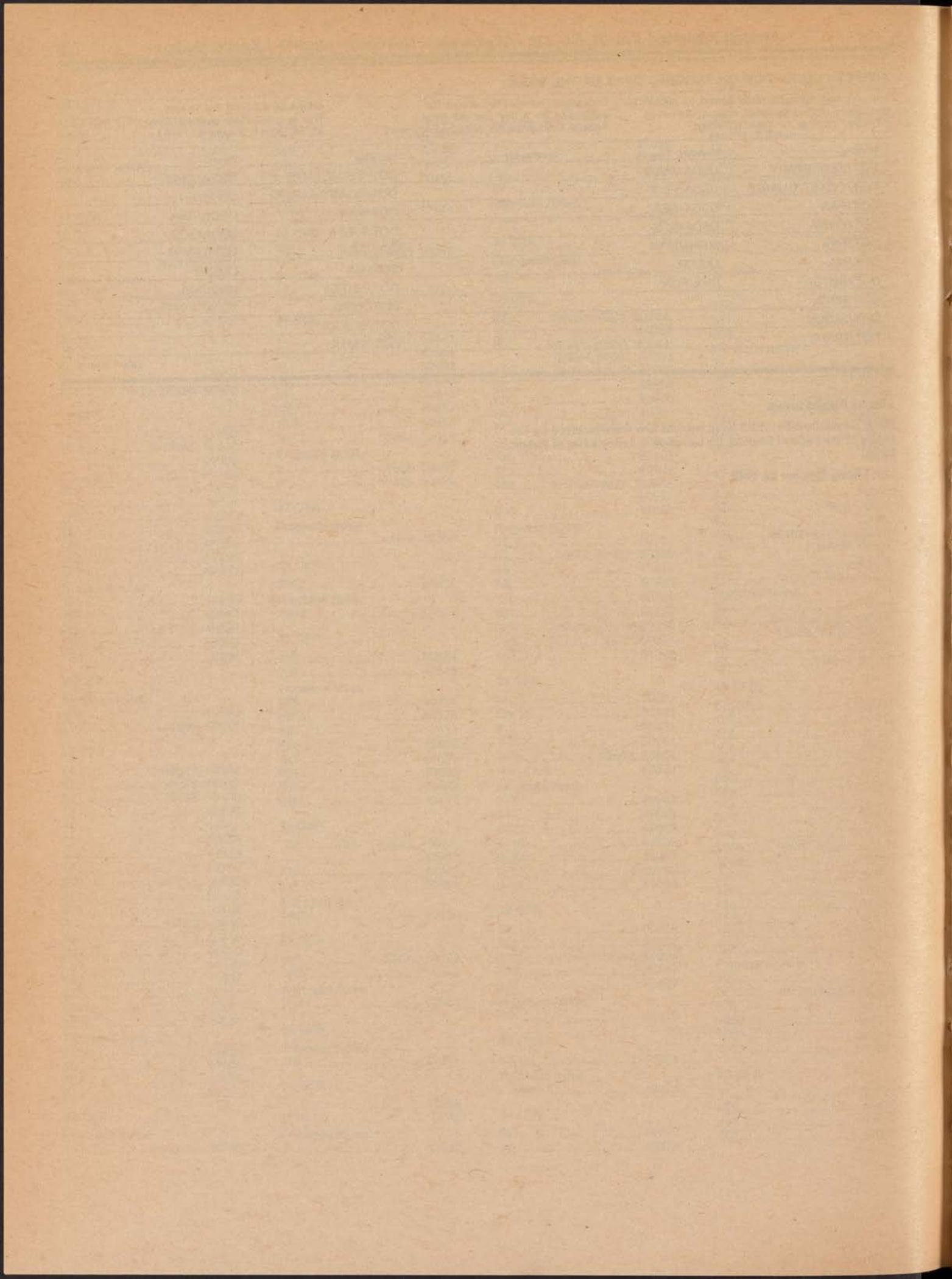
work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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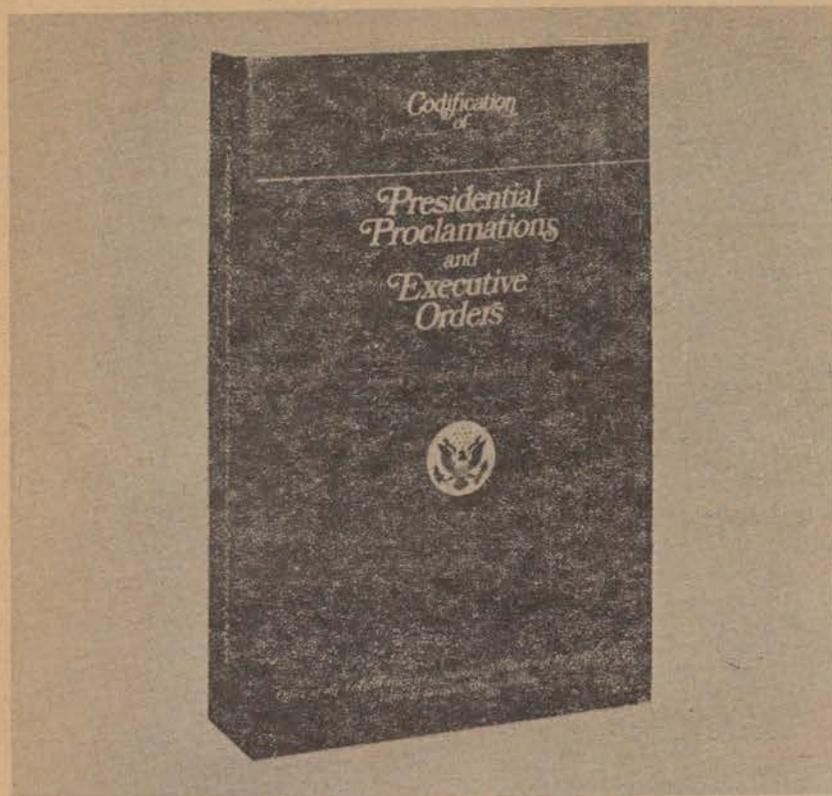
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