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federal register

Monday
November 29, 1982

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 387]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 28–December 4, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: The regulation becomes effective November 28, 1982.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. The Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on November 23, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is similar to last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.687 is added as follows:

§ 910.687 Lemon regulation 387.

The quantity of lemons grown in California and Arizona which may be handled during the period November 28, 1982, through December 4, 1982, is established at 235,000 cartons.

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

Dated: November 24, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–32635 Filed 11–26–82; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Parts 1071, 1073, 1104, and 1106

[Milk Order Nos. 106, 71, 73, and 104; Docket Nos. AO–210–A43, et al.]

Milk in the Southwest Plains and Certain Other Marketing Areas, Order Amending and Merging Orders

7 CFR parts	Marketing area	Docket Nos.
1106	Oklahoma Metropolitan.	AO–210–A43.
1071	Neosho Valley	AO–227–A35.
1073	Wichita, Kansas	AO–173–A37.
1104	Red River Valley	AO–298–A30.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action merges the Oklahoma Metropolitan; Neosho Valley; and Wichita, Kansas marketing areas and the Oklahoma counties of the Red River Valley marketing area under one order. The combined "Southwest Plains" marketing area is also expanded to include the entire State of Oklahoma. The provisions of the merged order are patterned largely after those of the Oklahoma Metropolitan order with minor modifications. The changes, which are being made concurrently with corollary amendments to the marketing areas of the Texas and the Texas Panhandle orders, are based on industry proposals considered at a public hearing in May 1980 and are necessary to reflect current marketing conditions and to assure orderly marketing in the respective areas.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of United States Code and,

therefore, is excluded from the requirements of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act, this document is exempt from such requirements since this proceeding was initiated prior to January 1, 1981.

Prior documents in this proceeding: Notice of Hearing—Issued April 25, 1980, published April 30, 1980 (45 FR 28736). Recommended Decision—issued on May 12, 1982; published May 19, 1982 (47 FR 21684). Extension of Time—issued on June 16, 1982; published June 21, 1982 (47 FR 26665). Final Decision—issued on October 4, 1982; published October 7, 1982 (47 FR 44268).

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 each 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 aforesaid 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 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 Southwest Plains order, which amends and merges the aforesaid orders, 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 Southwest Plains marketing area, and the minimum prices specified in the Southwest Plains order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Southwest Plains order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the Southwest Plains order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1106.85 of the attached Southwest Plains order.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the Southwest Plains marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of the Southwest Plains order, which amends and merges the aforesaid orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the Southwest Plains order; and

(3) The issuance of the Southwest Plains order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Parts 1106, 1071, 1073, 1104

Milk marketing orders, Milk, Dairy products.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the Oklahoma Metropolitan; Neosho Valley; Wichita, Kansas; and Red River Valley marketing areas (Parts 1106, 1071, 1073, and 1104, respectively) shall be amended and merged into one order. Parts 1071, 1073, and 1104 are thereby suspended, and such vacated Part designations shall be reserved for future assignment. The handling of milk in the merged marketing area, to be designated as the "Southwest Plains Marketing Area" (Part 1106) shall be in conformity to and in compliance with the terms and conditions of the following attached order.

For the reasons set out in the preamble, chapter X of Title 7 of the Code of Federal Regulations is amended as follows:

PARTS 1071, 1073, AND 1104—[REMOVED AND RESERVED]

1. Parts 1071, 1073, and 1104 are removed and reserved.

2. Part 1106 is revised to read as follows:

PART 1106—MILK IN SOUTHWEST PLAINS MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1106.1 General provisions.

Definitions

1106.2 Southwest Plains marketing area.
1106.3 Route disposition.
1106.4 Plant.
1106.5 Distributing plant.
1106.6 Supply plant.
1106.7 Pool plant.
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1106.20 Product prices.

Handler Reports

1106.30 Reports of receipts and utilization.
1106.31 Payroll reports.
1106.32 Other reports.

Classification of Milk

1106.40 Classes of utilization.
1106.41 Shrinkage.
1106.42 Classification of transfers and diversions.
1106.43 General classification rules.
1106.44 Classification of producer milk.
1106.45 Market administrator's reports and announcements concerning classification.

Class Prices

1106.50 Class prices.
1106.51 Basic formula price.
1106.51a Basic Class II formula price.
1106.52 Plant location adjustments for handlers.
1106.53 Announcement of class prices.
1106.54 Equivalent price.

Uniform Price

1106.60 Handler's value of milk for computing uniform price.
1106.61 Computation of uniform price.
1106.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1106.70 Producer-settlement fund.

Sec.

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

Subpart—Order Regulating Handling

General Provisions

§ 1106.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1106.2 Southwest Plains marketing area.

The "Southwest Plains marketing area", hereinafter called the "marketing area", means all territory within the boundaries of the following counties, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

Zone I.—In the State of Oklahoma

Caddo	McClain
Canadian	McIntosh
Cleveland	Okfuskee
Coal	Oklahoma
Garvin	Pittsburg
Grady	Pontotoc
Haskell	Pottawatomie
Hughes	Seminole
Latimer	Sequoyah
Le Flore	

Zone II.—In the State of Oklahoma

Alfalfa	Jefferson
Atoka	Johnston
Beaver	Kiowa
Beckham	Love
Bryan	Major
Carter	Marshall
Choctaw	McCurtain
Cimarron	Murray
Comanche	Pushmataha
Cotton	Roger Mills
Custer	Stephens
Dewey	Texzx
Ellis	Tillman
Greer	Washita
Harmon	Woods
Harper	Woodward
Jackson	

Zone III.—In the State of Oklahoma

Adair	Muskogee
Blaine	Noble
Cherokee	Nowata
Craig	Okmulgee
Creek	Osage
Delaware	Ottawa
Garfield	Pawnee
Grant	Payne
Kay	Rogers
Kingfisher	Tulsa
Lincoln	Wagoner
Logan	Washington
Mayes	

Zone IV.—In the State of Kansas

Allen	Labette
Bourbon	Montgomery
Chautauqua	Neosho
Cherokee	Wilson
Crawford	

In the State of Missouri

Barton	Newton
Jasper	Vernon

Zone V.—In the State of Kansas

Barber	Marion
Barton	McPherson
Butler	Pawnee
Comanche	Pratt
Cowley	Reno
Edwards	Rice
Ellis	Rush
Harper	Russell
Harvey	Sedgwick
Kingman	Stafford
Kiowa	Sumner

Zone VI.—In the State of Kansas

Clark	Lane
Finney	Meade
Ford	Morton
Gove	Ness
Grant	Scott
Gray	Seward
Greeley	Stanton
Hamilton	Stevens
Haskell	Trego
Hodgeman	Wichita
Kearny	

§ 1106.3 Route disposition.

"Route disposition" means any delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of any fluid milk product classified as Class I milk.

§ 1106.4 Plant.

"Plant" means the land, buildings, facilities and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another or separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1106.5 Distributing plant.

"Distributing plant" means any plant:

(a) Approved by a duly consitituted regulatory agency for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which there is route disposition in the marketing area during the month.

§ 1106.6 Supply plant.

"Supply plant" means a plant approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption from which fluid milk products are transferred or diverted to a distributing plant(s) during the month.

§ 1106.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition (except filled milk) in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at such plant, including producer milk diverted from the plant; and

(2) Route disposition (except filled milk) in the marketing area in an amount not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of the total quantity of milk that is received from dairy farmers (including producer milk diverted from the plant pursuant to § 1106.13, but excluding milk diverted to such plant) and handlers described in § 1106.9(c) is transferred or diverted pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of this section, subject to the following:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through January shall continue to so qualify in each of the following months of February through August until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of the section are not less than 50 percent of receipts or diversions, as previously specified. A plant that was a pool supply plant under the Neosho Valley, Wichita, Red River

Valley or Oklahoma Metropolitan orders (or any combination thereof) during the months of September through December 1982 shall qualify as a pool plant in each of the months of February through August 1983 until any month of such period in which the plant fails to meet the 20 percent shipping requirement.

(2) The operator of a supply plant that is located in the marketing area or in a county adjacent to the marketing area may include milk diverted pursuant to § 1160.13.(c) from such plant to plants described in paragraph (a) of this section as qualifying shipments in meeting the supply plant's monthly shipping percentages. The diverted milk used in meeting such qualifying shipments shall be limited to the milk of dairy farmers from whom at least one day's production is physically received during the month of such supply plant. Diversions in excess of three-fifths of the shipping requirement shall not be included as qualifying shipments.

(c) Any plant located in the marketing area or in a county adjacent to the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested by the cooperative association and 50 percent of more of the producer milk of members of the cooperative association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received during the month in the form of bulk fluid milk products at plants specified in paragraph (a) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(d) The shipping standards in paragraphs (b) and (c) of this section may be increased or decreased temporarily up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping standards pursuant to this paragraph, such plant shall be a nonpool plant for such month if the operator files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1106.30.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(4) A supply plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part;

(5) A plant qualified pursuant to paragraph (b) of this section which has automatic pooling status under another Federal order; or

(6) That portion of a plant that is not approved by a duly consitituted regulatory agency for the receiving, processing or packaging of any fluid milk product for fluid disposition and is physically separated from the portion of the plant having such approval.

§ 1106.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as pool plant and is not an other order plant, a governmental agency plant, or a producer-handler plant.

(d) "Unregulated supply plant" means a nonpool plant, except another order plant, a governmental agency plant, or a producer handler plant, from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1106.7.

(e) "Governmental agency plant" means a plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk that is distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1106.9 Handler.

"Handler"means:

(a) Any person who operates one or more pool plants;

(b) Any cooperative association with respect to the milk of producers which it causes to be diverted pursuant to § 1106.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the

handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered.

(d) Any person who operates a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person who operates an other order plant described in § 1106.7(e).

§ 1106.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route distribution in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production, pool plants, and other order plants;

(c) Who disposes of no other source milk as Class I milk except receipts from other order plants and by increasing the nonfat milk solids content of the fluid milk products received from his own farm production, pool plants, or other order plants; and

(d) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

§ 1106.11 [Reserved]

§ 1106.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for fluid consumption by a duly constituted regulatory agency and whose milk is:

(1) Received at a pool plant or by a handler described in § 1106.9(c); or

(2) Diverted pursuant to § 1106.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency that operates a plant exempt pursuant to § 1106.8(e);

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1106.44(a)(8)(iii) and the corresponding step of § 1106.44(b);

(4) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order; or

(5) Any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during any of the immediately preceding months of September through November more than one-third of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of approval from a duly constituted regulatory agency for the fluid consumption of such milk or the application of § 1106.13(d) (4) and (5)) unless such pool plant was a nonpool plant during any of such immediately preceding months; *Provided*, That this provision shall not apply during any of the months of February–July 1983.

§ 1106.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk from a producer that is:

(a) Received by the operator of a pool plant directly from such producer. Any milk picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month, shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. The paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1106.9(c), is the handler for such milk.

(b) Received by a handler described in § 1106.9(c).

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant, without limit in any month. Such milk shall be priced at the location of the plant to which diverted.

(d) Diverted by the operator of a pool plant or by a cooperative association from a pool plant to a nonpool plant (other than a producer-handler plant), subject to the following conditions:

(1) In any month, milk of a producer shall not be eligible for diversion from a pool plant under this section unless at least one day's production from such producer is physically received at a pool plant during the month;

(2) The total quantity of milk diverted by a cooperative association in any month shall not exceed the total quantity of producer milk that the cooperative association caused to be delivered to and was physically received at pool plants during the month;

(3) The operator of a pool plant other than a cooperative association may divert any milk that is not under the control of a cooperative association that is diverting milk during the month pursuant to paragraph (d)(2) of this section. The total quantity of milk so diverted in any month shall not exceed the total quantity of milk that was physically received at pool plant(s) as producer milk for which the plant operator is the handler;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d) (2) and (3) of this section shall not be producer milk. In such event, the diverting handler may designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to so designate, milk diverted on the last day of the month, then the second-to-last-day of the month, and so on, shall be excluded until all diversions in excess of the prescribed limits are accounted for;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk. In such event, the diverting handler may designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to so designate, milk diverted on the last day of the month, then the second-to-last-day of the month, and so on, shall be excluded until all diversions in excess of the prescribed limit are accounted for;

(6) If a dairy farmer loses his producer status under this order (except as a result of temporary loss of approval from a duly constituted regulatory agency for the production of milk for fluid consumption), his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant; and

(7) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1106.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1106.40(b)(1) from any source other than producers, handlers described in § 1106.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1106.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1106.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1106.40(b)(1)) for which the handler fails to establish a disposition.

§ 1106.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey, and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1106.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1106.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1106.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or milk products for its members.

§ 1106.19 [Reserved]

§ 1106.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 11061.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1106.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1106.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1106.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1106.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report for each of the handler's plants with respect to its receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1106.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1106.9 (a), (b) and (c) who pays producers pursuant to § 1106.73 shall report to the market administrator the following information with respect to the handler's partial and final payments for producer milk received during such month;

(1) The name and address of each producer;

(2) The amount paid each producer; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1106.76(b) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month;

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized in writing by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundredweight and the net amount paid each dairy farmer.

§ 1106.32 Other reports.

(a) On or before the 21st day of each month, each handler described in § 1106.9(a) who is required pursuant to § 1106.71(c) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month;

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1106.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 7th day after the end of each month, each handler described in § 1106.9(a), (b), and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month.

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and the total pounds of milk diverted to each plant that is not a pool plant;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim and butterfat received from a handler described in § 1106.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) On or before the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator and to the market administrator the name and location of the transferor-plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a) through (c) of this section and § 1106.30 and 1106.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(e) Each handler who causes milk to be diverted shall, prior to such diversion, report to the market administrator his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

Classification of Milk

§ 1106.40 Classes of utilization.

Except as provided in § 1106.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1106.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section.

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition.

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1106.15; and

(6) In shrinkage assigned pursuant to § 1106.41(a) to the receipts specified in § 1106.41(a)(2) and in shrinkage specified in § 1106.41(b) and (c).

§ 1106.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1106.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat;

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1106.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1106.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1106.42 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 divertee-plant after the computations pursuant to § 1106.44(a)(12) and the corresponding step of § 1106.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1106.44(a)(7) or the corresponding step of § 1106.44(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 divertor-handler received during the month other source milk to be allocated pursuant to § 1106.44(a) (11) or (12) or the corresponding steps of § 1106.44(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 divertee-plant.

(b) *Transfers and diversions to other order 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 an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1106.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report or receipts and utilization filed pursuant to § 1106.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plants from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipt from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's

utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1106.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1106.9(c) to another handler's pool plant shall be classified pursuant to § 1106.44 pro rata with producer milk received at the transferee-handler's plant and the value thereof at the class prices shall be included in the pool plant handler's value of milk pursuant to § 1106.60.

§ 1106.43 General classification rules.

In determining the classification of producer milk pursuant to § 1160.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1106.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1106.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1106.40, 1106.41, and 1106.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1106.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1106.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1106.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1106.9(a) for each pool plant of the handler separately the classification of producer milk and milk received from a handler described in § 1106.9(c), by allocating the handler's receipts of skim milk and butterfat to the utilization of such receipts by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1108.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts.

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1106.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1106.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1106.12(b)(5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1106.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1106.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1106.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1106.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1106.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1106.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1106.45 Market Administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1106.44(a)(12) and the corresponding step of § 1106.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1106.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the amount and class utilization of milk received by each handler from producers whose milk is being marketed by such cooperative association. For the purpose of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

Class Prices

§ 1106.50 Class prices.

Subject to the provisions of § 1106.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price in Zone I shall be the basic formula price for the second preceding month plus $1.98.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1106.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1106.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1106.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1106.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1106.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1106.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1106.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Economics and Statistics Service of the Department for the third preceding month, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative porportions of milk determined pursuant to paragraph (c) of this section.

§ 1106.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1106.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1106.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (9) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1106.2, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone I	No Adjustment.
Zone II	Plus 7 cents.
Zone III	Minus 10 cents.
Zone IV	Minus 33 cents.
Zone V	Minus 18 cents.
Zone VI	Minus 13 cents.

(2) For a plant located in any of the following Kansas counties, the adjustment shall be as follows:

(i) *Minus 24 cents.* Anderson, Atchison, Brown, Chase, Clay, Cloud, Coffey, Dickinson, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Morris, Nemaha, Osage, Ottawa, Pottawatomie, Republic, Riley, Saline, Shawnee, Wabaunsee, Washington, Wyandotte.

(ii) *Minus 23 cents.* Elk, Greenwood, Woodson.

(iii) *Minus 18 cents.* Cheyenne, Decatur, Ellsworth, Graham, Jewell, Lincoln, Logan, Mitchell, Norton, Osborne, Phillips, Rawlins, Rooks, Sheridan, Sherman, Smith, Thomas, Wallace.

(3) For a plant located in any of the following Missouri counties, the adjustment shall be as follows:

(i) *Minus 24 cents.* Adair, Andrew, Atchison, Audrain, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Chariton, Clark, Clay, Clinton, Cole, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Miller, Moniteau, Monroe, Montgomery, Morgan, Nodaway, Osage, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, Saline, Schuyler, Scotland, Shelby, Sullivan, St. Clair, Worth.

(ii) *Minus 31 cents.* Bollinger, Cape Girardeau, Perry, St. Francois, Ste. Genevieve.

(iii) *Minus 38 cents.* Berry, Butler, Carter, Cedar, Christian, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Franklin, Gasconade, Greene, Howell, Iron, Jefferson, Laclede, Lawrence, Madison, Maries, McDonald, Mississippi, New Madrid, Oregon, Ozark, Pemiscot, Phelps, Polk, Pulaski, Reynolds, Ripley, St. Charles, St. Louis, City of St. Louis, Scott, Shannon, Stoddard, Stone, Taney, Texas, Warren, Washington, Wayne, Webster, Wright.

(4) For a plant located in any of the following Louisiana parishes the adjustments shall be as follows:

(i) *Plus 49 cents.* Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Sabine, Tensas, Union, Webster, West Carroll, Winn.

(ii) *Plus 68 cents.* Allen, Avoyelles, Beauregard, East Feliciana, Evangeline, Livingston, Rapides, St. Helena, St. Tammany, Tangipahoa, Vernon, Washington, West Feliciana.

(iii) *Plus 87 cents.* Acadia Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson Davis, Jefferson, Lafayette, Lafourche, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Terrebonne, Vermilion, West Baton Rouge.

(5) For a plant located in any of the following Texas counties the adjustment shall be as follows:

(i) *Plus 22 cents.* Archer, Baylor, Clay, Hardeman, Montague, Wichita, Wilbarger.

(ii) *Plus 25 cents.* Bowie and Cass.

(iii) *Plus 27 cents.* Armstrong, Briscoe, Carson, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

(iv) *Plus 34 cents.* Camp, Collin, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Grayson, Hill, Hood, Hopkins, Hunt, Johnson, Kaufman, Lamar, Morris, Parker, Rains, Red River, Rockwall, Somervell, Tarrant, Titus, Upshur, Van Zandt, Wise, Wood.

(v) *Plus 37 cents.* El Paso.

(vi) *Plus 40 cents.* Gregg, Harrison, Marion, Panola, Rusk, Smith.

(vii) *Plus 44 cents.* Bailey, Castro, Cochran, Cottle, Crosby, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Lamb, Lubbock, Lynn, Motley, Terry, Yoakum.

(viii) *Plus 49 cents.* Anderson, Bell, Bosque, Cherokee, Comanche, Coryell, Erath, Falls, Freestone, Hamilton, Henderson, Lampasas, Limestone, McLennan, Mills, Navarro.

(ix) *Plus 52 cents.* Angelina, Houston, Jasper, Leon, Nacogdoches, Newton, Polk, Sabine, San Augustine, Shelby, Trinity, Tyler.

(x) *Plus 54 cents.* Brazos, Burleson, Grimes, Madison, Milam, Robertson, Walker.

(xi) *Plus 59 cents.* Andrews, Borden, Brown, Callahan, Coke, Coleman, Dawson, Eastland, Ector, Fisher, Foard, Glasscock, Haskell, Howard, Jack, Jones, Kent, King, Knox, Martin, Midland, Mitchell, Nolan, Palo Pinto, Runnels, Scurry, Shackelford, Stephens, Sterling, Stonewall, Taylor, Throckmorton, Tom Green, Young.

(xii) *Plus 64 cents.* Bastrop, Burnet, Lee, Travis, Williamson.

(xiii) *Plus 70 cents.* Austin, Brazoria, Chambers, Colorado, Fayette, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, San Jacinto, Waller, Washington.

(xiv) *Plus 76 cents.* Bexar, Caldwell, Comal, DeWitt, Gonzales, Guadalupe, Hays, Jackson, Lavaca, Matagorda, Wharton, Wilson.

(xv) *Plus 87 cents.* Aransas, Bee, Calhoun, Goliad, Karnes, Live Oak, Refugio, Victoria.

(xvi) *Plus 100 cents.* Brooks, Duval, Jim Wells, Kenedy, Kleberg, Nueces, San Patricio.

(xvii) *Plus 109 cents.* Cameron, Hidalgo, Willacy.

(xviii) All other areas in the State of Texas not listed shall be plus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is from the city hall in Oklahoma City, Oklahoma (based on the shortest hard-

surfaced highway distance as determined by the market administrator).

(6) For a plant located in any of the following New Mexico counties the adjustments shall be as follows:

(i) *Plus 22 cents.* Chaves, Colfax, Curry, DeBaca, Eddy, Lea, Quay, Roosevelt, San Juan, Union.

(ii) *Plus 37 cents.* Bernalillo, Catron, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Rio Arriba, Sandoval, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Valencia.

(7) For a plant located in any of the following Colorado counties the adjustments shall be as follows:

(i) *Plus 10 cents.* Baca, Bent, Cheyenne, Kiowa, Kit Carson, Lincoln, Logan, Phillips, Prowers, Sedgwick, Washington, Yuma.

(ii) *Plus 22 cents.* Archuleta, La Plata, Montezuma.

(iii) *Plus 32 cents.* Adams, Arapahoe, Boulder, Clear Creek, Crowley, Custer, Denver, Douglas, Elbert, El Paso, Gilpin, Huerfano, Jefferson, Larimer, Las Animas, Morgan, Otero, Park, Pueblo, Teller, Weld.

(iv) No adjustment.

Any Colorado county not specified in paragraph (a)(7)(i), (ii) or (iii) of this section.

(8) For a plant located in any of the following Arkansas counties the adjustments shall be as follows:

(i) *Minus 21 cents.* Benton, Boone, Carroll, Marion, Washington.

(ii) *Plus 25 cents.* Little River and Miller.

(iii) No adjustment.

Any Arkansas county not specified in paragraph (a)(8) (i) or (ii) of this section.

(9) For a plant located outside the areas described in paragraph (a)(1) through (8) of this section, the adjustment shall be minus 10 cents plus an additional reduction of 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the city halls in Tulsa or Ponca City, Oklahoma (based on the shortest hard-surfaced highway distance as determined by the market administrator).

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1106.44(a)(12) the pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Multiply the remaining pounds of skim milk in Class I by 105 percent;

(3) Subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers, handlers described in § 1106.9(c), and diverted milk from other pool plants;

(4) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(5) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(4) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(6) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(5) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1106.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(5) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(5) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(7) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (6) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the final Class II price and the Class III price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1106.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1106.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1106.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1106.9(c) that were classified in each class pursuant to §§ 1106.43 (a) and 1106.44 (c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1106.44(a)(14) and the corresponding step of § 1106.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1106.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1106.44(a)(9) and the corresponding step of § 1106.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and

butterfat subtracted from Class I pursuant to § 1106.44(a)(7)(i) through (iv) and (vii) and the corresponding step of § 1106.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(7)(v) and (vi) and the corresponding step of § 1106.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(11) and the corresponding step of § 1106.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract for a handler described in § 1106.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to another handler's pool plant during the month.

§ 1106.61 Computation of uniform price.

The market administrator shall compute for each month the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1106.60 for all handlers who filed the reports prescribed in § 1106.30 for the month and who made the payments pursuant to § 1106.71 for the preceding month;

(b) Add not less than one-half of the unobligated balance in the producer-settlement fund;

(c) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments computed pursuant to § 1106.75;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1106.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "uniform price" for milk received from producers.

§ 1106.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the applicable uniform price pursuant to § 1106.61 for such month.

Payments for Milk

§ 1106.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1106.71, 1106.76, and 1106.77, and from which he shall make all payments pursuant to §§ 1106.72 and 1106.77, except that payments to a cooperative association pursuant to § 1106.72 shall be offset by any payments due from such cooperative association pursuant to § 1106.71 that have not been received by the market administrator.

§ 1106.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of the month the amount, if any, by which the amount specified paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1106.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1106.75, of such handler's receipts of producer milk and milk received from handlers pursuant to § 1106.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1106.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1106.60(f).

(b) Subject to paragraph (d) of this section, each person who operated a plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator on or before the 25th day after the end of each month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1106 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to § 1106.73. Payment shall be made to the market administrator or or before the day prior to the dates specified in § 1106.73 and such payments shall continue until the handler has met all payment obligations for 3 consecutive months.

(d) The following conditions shall apply with respect to payments prescribed in paragraphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator.

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(3) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1106.73(b) and (d).

§ 1106.72 Payments from the producer-settlement fund.

(a) On or before the 15th day after the end of each month the market administrator shall pay to each handler except one making payment pursuant to § 1106.71(c) the amount, if any, by which the amount computed pursuant to § 1106.71(a)(2) exceeds the amount computed pursuant to § 1106.71(a)(1).

(b) If the market administrator received payment from a handler(s) pursuant to § 1106.71(c), he shall distribute such amount plus any amount due such handler(s) pursuant to paragraph (a) of this section to producers and to cooperative associations in the same manner as provided in § 1106.73. In the event the handler fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due to producers of such handler and complete such payments when the remaining amount is received.

(c) If at any time the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1106.73 Payments to producers and to cooperative associations.

(a) Except as provided in § 1106.71(c) and paragraphs (b), (d) and (f) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1)(i) On or before the last day of each month of March through July to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer, provided that the deductions do not exceed the value of the milk received during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(ii) On or before the last day of each month of August through February to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer from whom the handler received milk, except that the amount deducted shall not exceed the value of the milk received during the partial payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(2) On or before the 17th day of the following month, an amount equal to not less than the appropriate uniform price adjusted by the butterfat differential and location adjustments to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1106.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer, provided that the deductions do not exceed the value of the milk received during the final payment period and the handler has paid such deductions to assignees by the date payment is otherwise due to the producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1106.72(a) for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Except as provided in paragraph (f) of this section, in the case of a cooperative association which the market administrator determines is authorized by those producers for whom it markets milk to collect payment for their milk and which has so requested any handler in writing, such handler other than one specified in § 1106.71(c) shall on or before the 2nd day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from those producers for whom it markets milk as determined by the market administrator an amount equal to not less than the amount due such producers as determined pursuant to paragraph (a) of this section.

(c) In making payments to producers pursuant to paragraph (a) of this section, or to a cooperative association pursuant to paragraph (b) of this section, each handler shall furnish such producer or cooperative association with respect to each of the producers for whom it markets milk and from whom the handler received milk during the month, a written statement showing:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds, and, with respect to final payments, the average butterfat content of the milk for which payment is being made;

(3) The minimum rate of payment required by the order and the rate of payment used if such rate is other than the applicable minimum rate;

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(d) Except as provided in § 1106.71(c) and paragraph (f) of this section, each handler pursuant to § 1106.9(a) who receives milk from a cooperative association as a handler pursuant to § 1106.9(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 2nd day prior to the last day of the month for milk received during the first 15 days of the month, not less than the applicable partial payment rate specified for such month in paragraph (a)(1) of this section; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the uniform price as adjusted pursuant to §§ 1106.74 and 1106.75, less any payments made pursuant to paragraph (a)(1) of this section.

(e) Except as provided in § 1106.71(c), each handler who received bulk fluid milk or bulk fluid cream products from a pool plant operated by a cooperative association shall pay the following amounts for such products to the cooperative association:

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate specified for such month in paragraph (a)(1) of this section. If the handler so elects, such price may be adjusted by

the butterfat differential specified in § 1106.74 for the preceding month.

(2) On or before the 15th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1106.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1106.74, less any payments made by the handler pursuant to paragraph (e)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant including the applicable administrative assessment rate.

(f) If the application of § 1106.71(d)(2) results in a delay in payment by the market administrator to handlers, the payments prescribed in paragraph (a), (b) and (d) of this section may be delayed by the same number of days.

(g) If the market administrator does not receive the full payment required of a handler pursuant to § 1106.71(c), he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

§ 1106.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. § 1106.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments required pursuant to § 1106.73, the uniform price computed pursuant to § 1106.61 shall be adjusted by the amounts set forth in § 1106.52 according to the location of the plant where the milk being priced was received.

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the uniform price shall be adjusted by the amount set forth in § 1106.52 that is applicable at the location of the nonpool plant from which the milk was received (except that the adjusted uniform price shall not be less than the Class III price).

§ 1106.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1106.30(b) and § 1106.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1106.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1106.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1106.60 for such handler shall include, in lieu of the value of other source milk specified in § 1106.60(f) less the value of such other source milk specified in § 1106.71(a)(2)(ii), a value of milk determined pursuant to § 1106.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1106.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1106.30(b) and 1106.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if

requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1106.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1106.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1106.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1106.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which results in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next date for making payment set forth in the provision under which the error occurred. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler, except that the market administrator shall offset any monies due a handler against monies due from such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required pursuant to § 1106.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1106.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1106.71, 1106.73, 1106.76, 1106.77, 1106.85, or 1106.86 shall be increased 1 percent beginning on the first day after the due date, and on the same day of each subsequent month until such obligation is paid, subject to the following conditions:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(c) All monies collected pursuant to this section shall be paid to the administrative assessment fund maintained by the market administrator.

Administrative Assessment and Marketing Service Deduction

§ 1106.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1106.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1106.9(c);

(c) Other source milk allocated to Class I pursuant to § 1106.44(a)(7) and (11) and the corresponding steps of § 1106.44(b), except such other source milk that is excluded from the computations pursuant to § 1106.60(d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat specified in § 1106.76(a)(2).

§ 1106.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 1106.73, shall deduct 7 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk of such producer (except a handler's own farm production) for whom the marketing services set forth in this paragraph are not being performed by a cooperative association as determined by the Secretary. Each handler making such deductions shall pay the deductions to the market administrator on or before the 15th day after the end of the month. The monies shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide producers with market information. The services shall be performed by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing the services set fourth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deduction to the cooperative association rendering such services accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

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

Effective date: January 1, 1983.

Signed at Washington, D.C. on November 22, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

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DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0026]

Money Market Deposit Account

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has established a new deposit account as required by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320 ("Garn-St Germain Act" or

"Act"). This new account will be an insured deposit account under 12 U.S.C. §§ 1726 and 1813. The new deposit account has the following principal characteristics: (1) An initial deposit of no less than $2,500; (2) an average balance requirement of no less than $2,500 where the average balance may be computed over any period up to one month at a depository institution's discretion; (3) no minimum maturity requirement; (4) a requirement that depository institutions reserve the right to require at least seven days notice prior to withdrawal or transfer of funds; (5) no interest rate ceiling on deposits which satisfy the initial and average balance requirements; (6) a ceiling equal to the NOW account rate ceiling for deposits which do not meet the average balance requirement; (7) no more than six preauthorized, automatic or other third party transfers per month, of which no more than three can be checks; and (8) availability to all depositors.

EFFECTIVE DATE: December 14, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Priest, Attorney, Office of the Comptroller of the Currency (202/447–1880); F. Douglas Birdzell, Counsel, and Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389–4147); Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446); Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202/452–3281); or Elaine Boutilier, Attorney-Adviser, Treasury Department (202/566–8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. No. 96–221; 12 U.S.C. 3501 *et seq.*) ("DIDA") was enacted to provide for the orderly phase out and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant. Under DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods including the creation of new account categories not subject to interest rate limitations or with interest rate ceilings set at market rates of interest.

The DIDA was amended by section 327 of the Garn-St Germain Act. That Act requires the Committee to "issue a regulation authorizing a new deposit account, effective no later than [December 14, 1982]." The Act also provides that the new account "shall be directly equivalent to and competitive with money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940." The Act further provides that "[n]o limitation on the maximum rate or rates of interest payable on deposit accounts shall apply to the [new] account." Finally, the Act provides that the new account "shall not be subject to transaction account reserves, even though no minimum maturity is required, and even though up to three preauthorized or automatic transfers and three transfers to third parties are permitted monthly."

The Committee requested comments on the new acount required by the Garn-St Germain Act. 47 FR 46530 (October 19, 1982). The comments are summarized below.

Comments

On October 19, 1982, the Committee published in the **Federal Register** a request for comments on the new account. The Act requires the Committee to issue a regulation that authorizes the new account effective no later than December 14, 1982. Thus, in order to permit the Committee to analyze the comments, and to permit adequate time for depository institutions to be able to offer the new account by December 14, 1982, the request for comments stated that comments must be received by November 3, 1982. The request for comments listed a number of specific issues upon which comments were solicited. It also solicited comment on any other aspect of the account which the public wished to address, particularly with respect to characteristics that would make the account "directly equivalent to and competitive with" money market funds.

The Committee received 1,227 comment letters by November 3, 1982. An additional 233 letters were received after that date and considered by the Committee at its public meeting on November 15, 1982. The commenters included 904 commercial banks and bank holding companies, 347 savings and loan associations, 67 mutual savings banks, 4 credit unions, 18 state and federal regulators, 5 money market mutual funds and related institutions, 39 depository institution trade associations and 76 individuals or other businesses.

A great majority of the commenters expressed strong support for the creation of the new account under the Garn-St Germain Act that would allow depository institutions to compete more effectively with money market funds. A significant number of commenters urged the Committee not to limit the account's competitiveness and marketability through excessive regulation of its features. Although support for the general concept of the new competitive account was very strong, some commenters did express serious concerns. For example, a number of commenters felt that federal deposit insurance on the new account might give depository institutions a competitive advantage over money market funds. Similarly, at least one commenter felt that depository institutions would have a competitive advantage over money market funds if no restrictions were imposed on the interest payable on the new account. Other commenters expressed concern that the cost to depository institutions of shifts of funds from lower yielding deposit accounts to the new account might weaken some depository institutions. Most commenters who expressed the above concerns urged the Committee to meet those concerns through appropriate structuring of the new account.

In addition to giving their general appraisals of the new account, most commenters addressed the specific issues upon which the Committee solicited comments. The first of these issues is the appropriate minimum initial deposit requirement (if any) regarding the new account. There was no general consensus on this issue. Approximately 60 percent of the commercial bank commenters felt that the required initial deposit should be under $5,000. Banks expressing this preference were divided as to whether the account minimum should be left to each institution's discretion or established (generally in the amount of $2,500) by the Committee. Approximately 22 percent of the thrift institution commenters supported institutional discretion, over half supported a minimum less than or equal to $3,000 (generally at the $2,500 level), and 26 percent supported an account minimum over $3,000 (with $5,000 the most common preference of this group). There was no consensus regarding the initial minimum balance among individuals and businesses, trade association or money market fund related commenters. However, individuals and businesses most frequently cited a preference for institutional discretion on this issue.

The most common concern cited in justifying a high minimum-balance was the cost impact of funds internally shifting out of low yielding savings accounts into the new higher yielding account. Those advocating a lower minimum denomination often mentioned the need for the account to be competitive with money market funds because those funds typically have low minimums.

The Committee also solicited comments on a minimum maintenance

balance. Often citing a desire for account simplicity, a majority of all commenters (including 62 percent of the depository institutions and 70 percent of the trade associations) indicated that the minimum maintenance balance should be the same as the minimum amount required to open the account. However, regulators, money market funds, and individuals and other businesses tended to support institutional discretion regarding maintenance balances. Those commenters that supported a maintenance balance different from any minimum initial balance often noted that money market funds generally allow investors' balances to decline below their initial required investment without penalty.

Comment was also specifically solicited on whether institutions should be required to pay a lower rate on deposits which fall below any minimum maintenance balance the Committee may impose. Sixty five percent of the depository institution commenters and a majority of individuals supported a mandatory lower rate on balances below any required maintenance balance. Many of these commenters indicated that the cost of maintaining small accounts with transaction features would warrant a lower interest rate. In contrast, a majority of regulators favored leaving the rate payable on balances under any maintenance balance to the discretion of depository institutions. Those favoring this approach often noted that money market funds do not pay a lower rate on small accounts.

In response to the Committee's request for comment on a minimum draft denomination requirement, a majority of commerical banks and savings and loan associations stated that this was a matter that should be left to a depository institution's discretion. This view was also shared by over 40 percent of the mutual savings banks and large majorities of regulators, trade associations and individuals. In contrast, money market mutual funds were in favor of a minimum draft denomination requirement. Those opposed to such a requirement asserted that it would be difficult to enforce, would be unnecessary given expected numerical limitations on transactions, and would be noncompetitive with money market funds because those funds are free to set any minimum denomination. Those favoring the requirement often cited their perception that a $500 minimum check denomination is generally required by money market mutual funds.

Regarding the desirability of a requirement that institutions reserve the right to require seven days (or some other time period) notice prior to withdrawal from the account, 58 percent of all depository institution commenters were opposed to such a requirement. A substantial majority of all other classes of commenters, with the exception of money market funds and individuals, also opposed the requirement. However, some of these commenters appear to have mistakenly believed that the issue was whether depository institutions must require prior notice for withdrawals. Those who understood that the issue involved only reserving the right to require notice most often indicated that the requirement would be perceived by depositors as restricting the liquidity of the account. Some of those commenters favoring the requirement noted that it would provide depository institutions with a mechanism which may be needed in extraordinary circumstances. They noted that, given remote possibility of such circumstances, the right to require notice would probably never be exercised.

Commenters were divided on the issue of whether loans to a depositor should be permitted for the purpose of allowing the depositor to meet any initial deposit requirement. Regulators, trade associations and a slight majority of commercial banks thought such loans should be permitted, while money market funds and 75 percent of the thrifts thought such loans should not be permitted. Those favoring the loans noted that money market funds are subject to no loan restrictions and further stated that any prohibition on loans would be difficult to enforce. Those opposed to the loans felt they would undermine any minimum initial deposit requirement the Committee may adopt.

Regarding the issue of additional deposits into the account, including sweeps from other accounts, substantial majorities of all categories of commenters stated that no such restrictions should be imposed.

The Committee also requested comments on the establishment of a maximum maturity requirement on the account and on the imposition of restrictions on the maximum time period a depository institution could guarantee an interest rate. Commenters as a whole were strongly opposed to a required maximum maturity. However, results were mixed regarding the issue of a maximum period for which a rate of interest could be guaranteed. Money market funds and mutual savings bank trade groups unanimously favored such a restriction and a majority of mutual savings banks shared this view. In contrast, a majority of commercial banks, regulators, thrifts, trade associations and individuals preferred no restriction. Those favoring the restriction most frequently mentioned a maximum rate guarantee period of seven days, but many favoring the restriction suggested either from 7 to 30 days or 30 days or more. Those favoring the restriction felt that, if it were not imposed, all interest rate regulated accounts would be effectively deregulated. Those opposing restriction states that its absence would assist asset/liability management, provide flexibility and enhance the competitiveness of the new account.

The request for comments also included the issue of appropriate enforcement requirements regarding any monthly numerical limits the Committee may establish concerning transactions on the account. The Committee specifically requested comments on the desirability of monitoring accounts on an *ex post* basis, the appropriate definition of month, and whether the date on which a draft is written or the date on which it is paid by an institution should control for purposes of any monthly limit on the number of drafts. A large majority of commenters favored enforcement through *ex post* monitoring. However, there was also significant support for leaving the enforcement method to an institution's discretion. Finally, 12 percent of the commenters favored a requirement that all drafts over a numerical limit be dishonored. Often citing the processing difficulties involved in reading the date of a draft, two thirds of the commenters indicated a preference for using the date of payment, rather than the date a draft is written, for monitoring compliance. However, some commenters noted that use of the date of payment might cause inadvertant violations of a numerical limit where payees held checks for substantial periods prior to obtaining payment. Roughly one fourth of the commenters indicated that the institution should be able to choose either the date on which a draft is written or the date upon which it is paid. With regard to the definition of month for compliance purposes, no consensus was reached. A slight plurality of commenters favored a statement cycle, but institutional discretion and the calendar month were also strongly supported.

The Committee also requested comments on whether any restrictions should be established regarding

overdraft credit arrangements offered in connection with the new account. Often citing the need for flexibility and competitiveness, a majority of depository institutions, regulators, trade associations and individuals opposed any restriction on overdraft arrangements. However, money market funds took the opposite position. Those commenters favoring a restriction indicated that the new account is not a transaction account and, therefore, the accommodation of overdrafts would be inappropriate.

The request for comment asked whether the Committee should allow unlimited withdrawals by mail, telephone, messenger, or in person. The request for comments noted in this regard that it wasl the opinion of the Committee's staff that telephone transfers should be regarded as preauthorized transfers if the transfer is to a third person or to another deposit account of the same depositor. Over 70 percent of the commenters favored unlimited withdrawals of the type specified in the request for comments. In addition, many commenters disagreed with the staff's opinion that telephone transfers from the new account to another account of the same depositor should be considered as preauthorized transfers.

Regarding whether 30 days (or some other period) would be sufficient lead time for institutions to implement operational changes for the new account, commenters were almost evenly divided. Many commenters noted that the time needed would be directly related to the degree of complexity of the Committee's implementing regulations.

Discussion of Account Features

After carefully considering the public's comments and giving particular attention to the Act's requirement that the new account be directly equivalent to and competitive with money market funds, the Committee determined the characteristics of the new account. These characteristics are discussed below.

Interest Rate Ceiling

Section 327 of the Act provides that "[n]o limitation on the maximum rate or rates of interest on deposit accounts shall apply to the account. . . ." Based on this clear and explicit legislative guidance, and additional corroborative legislative history, the Committee determined to impose no limitation on the maximum rate of interest that can be paid on deposits in the new account which meet the minimum balance requirements discussed below.

Notably, despite the clear guidance in the Act and its legislative history regarding interest rate ceilings, at least one commenter suggested that the Committee should impose limits on the amount of interest that can be paid on the new account. The commenter noted that a money market fund must pay a yield which reflects the return on its portfolio minus appropriate fees. The commenter suggested that, given this fact, a ceilingless account would be inconsistent with the Act's requirement that the new account be "directly equivalent to and competitive with money market mutual funds." This commenter suggested that a ceiling should be imposed whether or not the account was insured.

Whether or not the Committee has discretion to impose an interest rate ceiling on the new account, it is clear from the language of the Act and its legislative history that Congress plainly envisioned that no ceiling would apply to the new account. The Committee finds no inconsistency or conflict between the determination not to impose a ceiling and the requirement of the Act that the account be directly equivalent to and competitive with money market funds. Therefore, the Committee's decision to impose no limit on the rate of interest that can be paid on the new account is clearly appropriate under, and consistent with, the Act.

Minimum Balance Requirements

Although the Act does not specify a required minimum denomination, the Conference Report (S. Rep. No. 641, 97th Cong., 2d Sess. (1982)) and other legislative history indicate a Congressional intent that the minimum not exceed $5,000. As noted earlier, the public's comments on the account did not indicate a consensus on the question of a required initial balance. However, there was considerable support for $5,000, $2,500 and no required minimum balance. Notably, information available to the Committee indicates that, although not legally required to do so, 59 percent of the money market funds have minimum balance requirements of $1,000 or less and 85 percent have minimum balance requirements of $3,000 or less.

The Committee determined to impose an initial balance requirement on the new account of $2,500. Depository institutions are free to establish higher minimums if they wish. In reaching this determination, the Committee took into consideration, among other things, the public comments, the above noted practices of money market funds and the potential earnings impact on depository institutions posed by internal shifts in their deposits from lower yielding accounts to the higher yielding Money Market Deposit Account. The Committee believes that a minimum initial deposit requirement of $2,500 will allow depository institutions to compete effectively with money market funds without unduly affecting their costs.

For much the same reasons as those which led to the decision to set a minimum initial balance requirement, the Committee has established a minimum balance requirement of $2,500 for funds maintained in the new account. As with the minimum initial balance requirement, depository institutions are free to set higher balance requirements if they wish. In considering what minimum balance requirement is appropriate for the new account, the Committee considered, among other things, the fact that money market funds typically permit shareholders to maintain balances well below their required minimum initial balance and still earn a market rate of interest. However, the Committee also considered the fact that two thirds of the commenters, often citing the need for operational simplicity, favored a required minimum balance that was the same as any required minimum initial deposit. There was not a substantial number of commenters supporting a minimum balance lower than any initial deposit requirement. Given this fact, and its belief that a $2,500 minimum balance requirement will still allow depository institutions to compete with money market funds, the Committee determined that the account will have a required minimum balance of $2,500.

Averaging the Balance

In order to permit flexibility to depository institutions, the Committee determined to allow each institution to determine compliance with the minimum balance requirement (but not the minimum initial balance requirement) by using an average daily balance calculated over any computation period it chooses, such as one day, one week or one month, provided that such a computation period is no longer than one month. Thus, for example, an institution could choose to determine compliance with the minimum balance requirement through the use of a one week computation period. A depositor will have met the requirement if the average daily balance in the account during the one week computation period is equal to or above $2,500.

In order to make the minimum balance requirement effective, the Committee has determined that a ceiling rate of interest no higher than the

institution's NOW account ceiling rate (currently 5¼ percent) will be imposed on accounts which fail to meet the $2,500 minimum balance requirement. Institutions may pay a lower rate if they choose. A majority of commenters favored such a penalty rate. The NOW account ceiling rate will apply for the entire computation period in which the average balance in the account is less than $2,500. For example, an institution which uses an average balance computed over a seven day period must pay a depositor a rate not in excess of the NOW account ceiling rate for the entire seven day period if the depositor's average daily balance during that seven day period was less than $2,500. Depending on the computation period chosen and the interest crediting practices of the institution, the lower rate may have to be imposed on an *ex post* basis.

A few commenters expressed concern that the requirement of a penalty rate of interest might be in violation of the statutory mandate that the account be ceilingless. The Committee does not believe this to be the case. It notes that Congress left it within the Committee's discretion to establish an account with a minimum balance, which could be as high as $5,000. The Committee believes that Congress mandated only that no interest rate ceiling should apply to accounts that meet any such requirement, if established. Therefore, the Committee believes that it has acted within its authority, and has provided additional flexibility to institutions, by providing for the account to pay a penalty rate of interest on balances below the $2,500 required balance chosen by the Committee.

Maturity

Section 327 of the Garn-St Germain Act provides that the account will not be subject to transaction account reserve requirements "even though no minimum maturity is required." The creation of this exception to the transaction account reserve requirements strongly suggests that Congress intended that the Committee establish the new account without imposing a minimum maturity. This intent is also indicated by the requirement of section 327 that the account be "directly equivalent to and competitive with money market mutual funds." Money market funds generally do not establish a minimum maturity and are not required to do so by law or regulation. Finally, that Congress intended the account to have no minimum maturity is supported by the Senate Report, which states that the account "should have no minimum maturity." S. Rep. No. 536, 97th Cong., 2d Sess. 19 (1982).

The Committee carefully considered the above legislative language and history regarding Congressional intent on the issue of minimum maturity. The Committee determined that the establishment of a minimum maturity would be inconsistent with Congressional intent and would not result in an account directly equivalent to and competitive with money market funds. Therefore, the Committee determined to impose no minimum maturity on the account.

The Committee did determine, however, to prevent depository institutions from effectively offering the account as a long-term deposit. The Committee determined to impose a maximum limitation of one month on the length of time a depository institution may commit itself to pay any rate of interest or commit itself to employ any method of calculation of the rate of interest on the new account. The Committee also determined to prohibit an institution from conditioning the rate of interest paid or the method of calculation of the rate of interest paid on the new account on the length of time a deposit is maintained, if that length of time is longer than one month. Accordingly, a depository institution may not obligate itself to pay the 91-day Treasury bill rate for a period of six months. Nor may a depository institution, in effect, guarantee a specified or indexed rate of interest for over one month by agreeing to pay a rate (*e.g.*, 30%) for one month on the condition that the deposit will be maintained for over one month (*e.g.*, 90 days). In establishing these limitations, the Committee recognized that an institution does have the latitude to establish a maturity of one month or less on the account.

In establishing the above described limitations, the Committee noted that approximately three fifths of the commenters did not favor a limitation on the guarantee of a rate, and over 90 percent of the commenters preferred no limitation on the maturity of the account. However, the Committee also noted that money market funds are not empowered to guarantee a rate of return on investments. For this reason, and the fact that allowing depository institutions to guarantee a rate for over one month could effectively deregulate virtually all deposit accounts now subject to interest rate ceilings, the Committee established the above described limitations.

Reservation of Notice

The Committee imposed a requirement that institutions reserve the right to require seven days prior notice of withdrawals or transfers from the new account. The Committee believes that this is not inconsistent with the previously discussed Congressional intent that the account have no minimum maturity. This is because the Committee did not provide that institutions must require prior notice for transactions or withdrawals. Rather, the Committee merely provided that institutions must reserve the right to require such prior notice. The Committee determined that if an institution chooses to exercise its right to require notice, it must apply that requirement equally to all depositors that maintain the new account.

In establishing a reservation of notice requirement, the Committee noted that a majority of respondents to the Committee's request for comments did not believe that a required reservation of notice was needed and, therefore, did not favor such a requirement. However, under the Investment Company Act of 1940, money market funds may delay redemptions of shares for up to seven days. This is similar to the current regulatory requirement that depository institutions reserve the right to require notice of withdrawals from savings deposits and NOW accounts. Such a reservation requirement distinguishes the new account from demand deposit accounts upon which (under current law) interest may not be paid. For these reasons, and to give institutions a degree of flexibility in unusual circumstances, the Committee established the above described reservation of notice requirement. Based on experience with savings deposits, it is likely that such a notice requirement will be exercised only under extreme circumstances.

Transaction Features

Section 327 of the Act provides that the new account will not be subject to transaction account reserve requirements "even though up to three preauthorized or automatic transfers and three transfers to third parties are permitted monthly." The creation of this exception to the Federal Reserve Board's transaction account reserve requirements strongly suggests that Congress intended the Committee to establish the account with at least such transaction features.

Under current industry practice, and under the rules of relevant regulatory agencies, preauthorized and automatic transfers include transfers of funds to a third party as well as transfers of funds to another account of the depositor if such transfers are effected pursuant to

an agreement made in advance or an arrangement to pay a third party or transfer funds to another account at a predetermined time or on a fixed schedule. For example, a transfer made pursuant to an agreement between a depository institution and its customer that funds would be transferred from one account to another at a specified interval (*e.g.*, the 10th, 20th and 30th of each month) or used to pay specific or recurrent charges (*e.g.*, a mortgage or insurance payment) would be a preauthorized or automatic transfer. However, the Committee has determined that telephone transfers made to another account of the depositor in the same institution will not be considered under this regulation as preauthorized or automatic transfers.

The Act provides no guidance as to the meaning of the phrase "transfers to third parties." However, the Act's legislative history clearly indicates that the language was intended to include checks. The Committee determined that, under the new account, third party transfers can be checks or any transfer that could be effected by means of an automatic or preauthorized transfer.

For the present time, the Committee decided to authorize an account with transaction features limited to those suggested by the Act's reference to three preauthorized or automatic transfers and three third party transfers per month. Given the previously discussed definition of those terms, depository institutions must restrict preauthorized or automatic transfers from the new account to other accounts of the depositor or to third parties to a maximum of six transfers per month, of which no more than three can be checks. However, this regulation imposes no limit on the number of telephone transfers from the new account to another account of the same depositor at the same depository institution. It is noted, however, that the question of such unlimited telephone transfers will be reconsidered at the Committee's next meeting. Depository institutions are, therefore, advised that, in the future, unlimited telephone transfers from the new account to other accounts of the same customer may not be permitted.

In establishing the monthly numerical limits on permissible transactions, the Committee recognized that money market funds do not impose numerical restrictions on transactions. However, the Committee believes that it is appropriate to authorize the new account at this time with the above described limited transaction features and to consider at its next meeting whether to offer an account with more extensive third party payment capabilities. The Committee notes that institutions are free to offer the new account with more limited (or no) transaction features if they so desire.

Although the Committee limited the number of checks under the new account, it imposed no minimum denomination concerning those checks. It notes that, although money market funds commonly impose such requirements, they are not required to do so, but rather do so as a matter of choice. The Committee determined to give depository institutions this same flexibility. A majority of the responses to the Committee's request for comments on this issue favored giving institutions this flexibility.

For reasons similar to those outlined above concerning checks, the Committee also imposed no minimum denomination requirement concerning preauthorized or automatic transfers. As with the minimum denomination of checks, institutions are free to use their discretion as to what minimum denomination requirements (if any) they wish to impose concerning preauthorized or automatic transfers.

Although, as discussed above, the Committee established limitations on automatic and preauthorized transfers of funds in the new account, the Committee imposed no limitations on the size or frequency of withdrawals from the account, or transfers from the account to other accounts of the same depositor where such withdrawals or transfers are effected by mail, telephone, messenger, automated teller machine or in person. For purposes of this regulation, a withdrawal means the receipt by a depositor of direct payment from a depository institution of funds he has deposited in that institution.

Additions to the Account

The Committee determined to impose no restrictions on the size or frequency of additions to the new account, including additions effected by sweeps from other accounts into the new account. A substantial majority of all commenters were opposed to such restrictions.

Availability to All Depositors

The Act does not specify which persons or entities are eligible for the new account. However, the Senate Report indicates that the account shall be available to all depository institution customers. S. Rep. No. 536, 97th Cong., 2d Sess. 19 (1982). Other legislative history provides an equally clear indication that this was the Congressional intent. *See* 128 Cong. Rec. H8436 (daily ed. Oct. 1, 1982) (remarks of Reps. Stanton and St Germain). Furthermore, money market mutual funds are not restricted as to the types of entities from whom they may accept funds and the Act states that the new account "shall be directly equivalent to and competitive with" such funds. Given these facts, the Committee determined that the institutions can make the account available to all persons and entities.

Compliance Related Provisions

The Committee adopted a number of compliance related provisions regarding the new account. In order to ensure compliance with the account's minimum initial deposit and balance requirements, the Committee prohibited loans for the purpose of meeting those requirements. A slight majority of commenters on this issue favored such a prohibition. Similarly, in order to preserve the efficacy of the previously described numerical limits on preauthorized or automatic transfers and checks, the Committee provided that the rate of interest, or other fees, on an overdraft credit arrangement on an account to which withdrawals from the new account can be paid must not be less than those imposed on overdraft arrangements of customers who do not have deposits in the new account. The Committee noted that almost two thirds of the commenters on this issue did not favor such a provision. However, the Committee believes that the provision is necessary in order to discourage account arrangements which would circumvent the numerical limit on the new account's transactional capacities. The Committee notes that the provision relates only to fees or other charges on an account to which withdrawals from the new account can be paid. It does not govern the fees that a depository institution may wish to impose regarding overdrafts on the new account.

The previously discussed rules adopted by the Committee regarding the new account contain several requirements expressed in monthly terms (*e.g.*, the monthly numerical restrictions on transactions, the monthly limit on agreements to pay any interest rate, and the permissible use of an average monthly balance for maintenance balance purposes.) To provide institutions with a maximum degree of flexibility, the Committee provided that, for purposes of compliance with its rules for the new account which are expressed in monthly terms, an institution may use either the calendar month or a statement cycle of at least four weeks, but not longer than 31 days. However, it is noted that an

institution must consistently utilize either the calender month or a particular statement cycle.

Similarly, the Committee decided to give institutions the option of using either the date written on a check or the date on which a check is paid for purposes of determining compliance with the limit of three checks per month. It is noted, however, that an institution must consistently adhere to the use of one date or the other. For example, an institution which has chosen to utilize the date of payment method may not count one check as of the day it was written in order to circumvent the three checks per month limit.

Finally, the Committee adopted a requirement which provides that institutions must either prevent transactions in excess of the numerical limitations adopted by the Committee or adopt procedures to monitor accounts on an *ex post* basis and contact depositors who exceed those limits on more than an occasional basis. For depositors who continue to violate the limits on transactions after being contacted, institutions will be required to either close the account or take away the account's transfer and draft capacity. A large majority of commenters favored enforcement through *ex post* monitoring. The Committee notes in this regard that the above described enforcement requirement establishes only the minimum a depository institution must do to avoid permitting transactions in excess of those allowed on the new account. An institution is free to impose additional measures, such as a service charge for checks over the three per month limit.

Effective Date

The Garn-St Germain Act requires that this regulation authorizing the new account be effective no later than December 14, 1982. At its public meeting held November 15, 1982 (29 days prior to December 14), the Committee voted to authorize the account. Later the same day, the Committee issued a press release which announced and described the new account.

Notably, approximately one half of the comment letters received by the Committee indicated that 30 days would be sufficient lead time for institutions to implement the account; the other half felt that more lead time would be required. Given the requirements of the Act and the commenters' opinions regarding the account's effective date, the Committee determined to make this regulation effective, and thus the account available, on December 14, 1982.

In deciding to make this regulation effective on December 14, 1982, the Committee was aware that the Administrative Procedure Act (5 U.S.C. 553(d)) generally requires a regulation to be published in the **Federal Register** at least 30 days prior to its effective date unless the regulation is excepted from this requirement. The Committee determined that two exceptions in the Administrative Procedure Act apply to this regulation. First, the Administrative Procedure Act excepts from the 30-day delayed effectiveness requirement a substantive rule which "relieves a restriction." 5 U.S.C. 553(d)(1). The Committee is of the opinion that this regulation is such a rule since it will remove numerous restrictions on depository institutions with respect to the deposit services they may offer their customers. The Senate Report is replete with references to the way interest rate ceilings and other regulatory limitations have disadvantaged depository institutions in their ability to compete, for consumer savings with less regulated entities. By authorizing the new account, this regulation clearly relieves many of those restrictions.

The Administrative Procedure Act also excepts from the 30-day delayed effectiveness requirement a rule where an agency finds "for good cause" that the rule should be published with less than a 30-day delayed effectiveness. The Committee determined for good cause that this regulation should be effective on December 14, 1982. The Committee relied on several factors in making this determination. First, the Garn-St Germain Act specifically states that the regulation is to be effective no later than 60 days after enactment, *i.e.*, no later than December 14, 1982. Second, that Act's legislative history makes it clear, not only that the regulation is to be effective no later than December 14, 1982, but that the account is to be available to customers no later than that date. Third, the legislative history also indicates that the new account is to be available no later than that date so that depository institutions can begin to stem the outflows of their deposits. Finally, depository institutions have had advance notice, including the notice supplied by the Committee's October 19, 1982, request for comments and the Committee's November 15, 1982, press release, that the regulation would be effective no later than December 14, 1982.

The Committee considered the potential effect on small entities of its establishment of the new deposit account, as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the Committee's action, in and of itself, imposes no new reporting or recordkeeping requirements. Consistent with the Committee's statutory mandate to eliminate deposit interest rate ceilings, its establishment of the new account enables all depository institutions to compete more effectively in the marketplace for short-term funds. Depositors generally should benefit from the Committee's action since the new instrument provides them with another investment alternative that pays a market rate of return. If low-yielding deposits shift into the new account, depository institutions may experience increased costs as a result of this action. However, their competitive position vis-a-vis nondepository competitors is enhanced by their ability to offer a competitive short-term instrument at market rates. The new funds attracted by the new instrument (as well as the funds in existing accounts that might otherwise have left the institution) can be invested at a positive spread and may, therefore, at least partially offset the higher costs associated with the shifting of low-yielding accounts.

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—[AMENDED]

Pursuant to its authority under Title II of Pub. L. No. 96-221 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and mutual savings banks, and pursuant to the authority granted by section 327 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320 (to be codified at 12 U.S.C. § 3503), the Committee amends Part 1204 (Interest on Deposits) by adding a new § 1204.122, effective December 14, 1982, to read as follows:

§ 1204.122 Money Market Deposit Account.

(a) Commercial banks, mutual savings banks, and savings and loan associations ("depository institutions") may pay interest at any rate on a deposit account as described in this section with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (b) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a depository institution shall not pay interest in excess of the ceiling rate for NOW accounts (12 CFR § 1204.108) for the entire computation period, as

described in paragraph (b) of this section.

(b) The average balance for this account may be calculated on the basis of the average daily balance over any computation period selected by an institution, which is not longer than one month. (For purposes of this paragraph and paragraphs (c) and (e) of this section, a "month" shall mean, at a depository institution's option, either a calendar month or a statement cycle of at least four weeks but no longer than 31 days.)

(c) A depository institution is not required to establish a maturity on this account. However, it may do so provided that the maturity is no longer than one month. Furthermore, a depository institution may not obligate itself to pay any interest rate or obligate itself to employ any method of calculation of an interest rate on this account for a period longer than one month. A depository institution may not condition the interest rate paid or the method of calculation of the interest rate paid upon the period of time funds remain on deposit in this account, if that period is longer than one month.

(d) Depository institutions must reserve the right to require at least seven days notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by a depository institution on one depositor, it must be applied equally to all other depositors holding this account at the same institution.

(e) (1) Depository institutions are not required to limit the number of transfers of funds from this account to another account of the same depositor, or the number of withdrawals (*i.e.*, payments directly to the depositor), when such transfers or withdrawals are made by mail, telephone, messenger, automated teller machine or in person. Depository institutions must restrict all preauthorized (including automatic) transfers of funds from this account to a maximum of six per month. Three of such transfers may be by check, draft or similar device drawn by the depositor to third parties. Telephone transfers to third parties are regarded as preauthorized transfers. There is no required minimum denomination for the transfers allowed by this section.

(2) In order to ensure that no more than the permitted number of transfers are made, depository institutions must either:

(i) prevent transfers of funds in this account which are in excess of the limits established by this paragraph, or

(ii) adopt procedures to monitor those transfers on an *ex post* basis and contact customers who exceed the limits established by this paragraph on more than an occasional basis. For customers who continue to violate those limits after being contacted by the depository institution, the institution will be required to either close the account or take away the account's transfer and draft capacities.

(3) Depository institutions, at their option, may use on a consistent basis either the date on a check or the date it is paid in applying the limit on checks established by this paragraph.

(4) The rate of interest or other charges imposed on an overdraft credit arrangement on an account to which withdrawals from this account can be paid must be not less than those imposed on overdrafts for customers who do not maintain this account.

(f) Depository institutions may offer the account authorized by this section to any depositor.

(g) Depository institutions are not required to impose restrictions on the number of additional deposits (including sweeps from other accounts) into this account.

(h) A depository institution is not permitted to lend funds to a depositor to meet the $2,500 balance requirements of this account.

By order of the Committee, November 23, 1982.

Gordon Eastburn,

Acting Executive Secretary.

[FR Doc. 82-32605 Filed 11-26-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-48-AD; Amdt. 39-4481]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 Series Airplanes

Correction

In FR Doc. 82-29724 appearing on page 47803 in the issue for Thursday, October 28, 1982, make the following correction:

In the heading for the document, the Amendment number now reading "Amdt. 39-448" should have read "Amdt. 39-4481".

BILLING CODE: 1505-01-M

14 CFR Part 39

[Docket No. 82-NM-99-AD; Amdt. 39-4502]

Airworthiness Directives: Avions Marcel Dassault-Breguet Aviation (AMD-BA) Fan Jet Falcon 10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to AMD-BA Falcon 10 airplanes which requires inspection and modification or replacement of parts of the landing gear control selector solenoid valve assembly to ensure that the landing gear will operate properly in both the normal and emergency control modes. Several cases of the landing gear failing to operate through normal control were caused by breaking of the pilot valve ball push-rods in the landing gear selector solenoid valves. In addition, it has been found that out of limits liners cause an abnormally high operating force of the slide decompression spool which may prevent emergency extension of the landing gear.

DATE: Effective December 6, 1982.

ADDRESSES: The service bulletins specified in this Airworthiness Directive may be obtained upon request to the AMD-BA Representative, c/o F. J. C., Teterboro Airport, New Jersey 07608, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The French Director General of Civil Aviation (DGAC) has classified AMD-BA Service Bulletins F10-0149, F10-0168, F10-0173, and F10-0174 as mandatory. Inspection and modification or replacement of parts of the landing gear control selector solenoid valve assembly is required. There have been several incidents in which the landing gear was unable to fully extend or retract caused by the pilot valve ball push-rods failing in the landing gear control selector solenoid valves. Furthermore, an operational test on the selector solenoid valve detected a condition of out of tolerance liners which causes an abnormally high operating force of the

decompression slide spool which may have prevented emergency extension of the landing gear. The DGAC is requiring the installation of:

a. New Pilot valve ball push-rods.

b. A modified selector solenoid valve.

c. A stiffer spring in the landing gear control assembly in accordance with AMD-BA Service Bulletins Nos. F10-0168, Revision 1; F10-0173; F10-0174; and F10-0149, Revision 1.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which will require inspections and modification or replacement of parts as previously specified.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Avions Marcel Dassault-Breguet Aviation: Applies to all AMD-BA Falcon 10 airplanes certificated in all categories. Compliance is required within the next 250 hours time in service or 90 days, whichever occurs first, after the effective date of this AD, unless already accomplished.

1. To prevent the potential failure of the landing gear to extend or retract, inspect and modify or replace, if necessary, (a) the pilot valve ball pushrod; (b) the selector solenoid valve; and (c) the spring in the landing gear control selector solenoid valve assembly in accordance with the Accomplishment Instructions of Avions Marcel Dassault-Breguet Aviation Service Bulletins Nos. F10-0149, Revision 1, dated November 22, 1978; F10-0168, Revision 1, dated February 8, 1979; F10-0173 dated November 22, 1978; and F10-0174 dated November 22, 1978.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective December 6, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on November 16, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-32326 Filed 11-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-100-AD; Amdt. 39-4503]

Airworthiness Directives: British Aerospace (Formerly Hawker Siddeley) Model H.S. 748 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to British Aerospace Model H.S. 748 airplanes which requires removal of two resistors existing in the cabin pressurization system spill valve actuator circuit. A fire has occurred in an adjacent wire bundle as a result of the 6 ohm 10 watt resistors overheating. The removal of the resistors eliminates the heat source that caused the fire.

DATE: Effective December 6, 1982.

ADDRESSES: The service bulletins specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace H.S. 748 Service Bulletin No. 21/106 as mandatory. Previously, British Aerospace had released H.S. 748 Service Bulletin No. 21/105 (Modification 6318) which recommended replacement of two existing 6 ohm 10 watt resistors in the control field circuit of the spill valve actuator by two 6 ohm 50 watt resistors. Overheating of the 10 watt resistors resulted in a fire in an adjacent cable loom in the distribution panel. Subsequently, British Aerospace released H.S. 748 Service Bulletin No. 21/106 (Modification 6641) recommending removal of the resistors since in-service experience has proven these resistors can be deleted without any passenger discomfort. This deletion also improves spill valve operation reliability. The CAA requires removal of the resistors in accordance with the latest service bulletin.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires removal of two resistors existing in the cabin pressurization system spill valve actuator circuit in accordance with British Aerospace H.S. 748 Service Bulletin No. 21/106.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace (formerly Hawker Siddeley): Applies to all H.S. 748 airplanes with Modifications 2743 or 5263 incorporated. Compliance is required as indicated unless already accomplished. To eliminate a heat source which may cause a fire in the cabin wiring accomplish the following within the next 100 hours time in service or 60 days, whichever occurs first, after the effective date of this AD:

1. Remove two cable assemblies (including resistors), Parts No. 2V19699 and 3V19699, for aircraft having Modification 6318 incorporated or, on aircraft without Modification 6318 incorporated, remove two resistor assemblies, Part No. 10V15130, in accordance with the Accomplishment Instructions of British Aerospace H.S. 748 Service Bulletin No. 21/106, dated March 23, 1981.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective December 6, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on November 16, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-32327 Filed 11-26-82 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CEF-6-AD; Amendment 39-4506]

Airworthiness Directives; Britten-Norman Models BN-2, BN-2A, BN-2A-2, BN-2A-3, BN-2A-6, BN-2A-8, BN-2A-9, BN-2A-20, BN-2A-21, BN-2A-26, BN-2A-27, BN-2A MKIII, BN-2A MKIII-3 BN-2A MKIII-3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Britten-Norman Models BN-2 Series Islander and BN2A MKIII Series Trislander airplanes (all serial numbers) which requires inspection and, if necessary, replacement or modification of carburetor air box shutters. There have been several reports of cracks in these shutters and failures resulting from these cracks which affected engine power. This action will assure that these cracks are detected and corrective action taken before failures occur.

EFFECTIVE DATE: December 2, 1982.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Pilatus Britten-Norman Service Bulletin Number BN-2/SB.144, Issue: 1 dated July 10, 1980, applicable to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge Airport, Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

C. Christie, Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/0 American Embassy, Brussels, Belgium, Telephone 513.38.30; or Paul Cormaci, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: There have been several reports of carburetor air box shutters cracking on the Britten-Norman Models BN-2 and BN2A MKIII Series airplanes. Some resulted in carburetor shutter valve binding due to loosening or separation of the shutter from the shaft. Instances of power reduction due to these conditions have also been reported. To correct this condition, the manufacturer has issued Pilatus Britten-Norman Service Bulletin Number BN-2/SB.144, Issue: 1, dated July 10, 1980, which recommends inspection and modification of the carburetor air box shutters. The manufacturer recommends inspection of these shutters for cracks within 10 hours time-in-service after the service instructions are received and modification of the shutters as soon as possible after receipt of the service bulletin.

The FAA has reviewed the service reports on the conditions described above and find that no incidents of these conditions have been reported since October 1981. Accordingly, the FAA concludes that voluntary compliance with the manufacturer's service bulletin is at this time preventing the occurrence of service incidents because of this condition. The FAA also finds that in view of the facts set forth above, the compliance time recommended by the manufacturer may impose a hardship on the owners/operators of these airplanes without a commensurate increase in safety and that a compliance time of 100 hours time-in-service after the effective date of this AD for the initial inspection and 100 hours time-in-service for the repetitive inspection is more appropriate. However, the FAA also recognizes that the voluntary compliance can at any time be discontinued and that a potential unairworthy condition exists in these products that may create a hazard if not controlled by the action in the manufacturer's service information or other similar equally effective action.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring inspection and, if necessary, repair or modification of the carburetor air box shutters in accordance with Pilatus Britten-Norman mandatory Service Bulletin Number BN-2/SB.144, Issue: 1 dated July 10, 1980, on Pilatus Britten-Norman Models BN-2 Series and BN-2A MKIII Series airplanes. Since an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Britten-Norman: Applies to Models BN-2, BN-2A, BN-2A-2, BN-2A-3, BN-2A-6, BN-2A-8, BN-2A-9, BN-2A-20, BN-2A-21, BN-2A-26, BN-2A-27, BN-2A MKIII, BN-2A MKIII-2, and BN-2A MKIII-3 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent possible failure of the carburetor air box shutter, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD and at intervals not exceeding 100 hours time-in-service thereafter:

(1) Visually inspect the carburetor air box shutters for cracks or excessive bolt hole wear in accordance with procedures set forth in the "Inspection" section of Pilatus Britten-Norman Limited Service Bulletin Number BN-2/SB.144, Issue: 1, dated July 10, 1980 (hereinafter referred to as the service bulletin).

(A) Prior to further flight, replace any carburetor air box shutter found cracked with new shutter in accordance with "Rectification" section of the service bulletin.

(B) If excessive bolt hole wear is found prior to further flight, modify the shutter in accordance with the "Rectification" section of the service bulletin.

(b) On or before November 1, 1983, replace or modify the air box shutter in accordance with paragraph (a)(1)(A) or (a)(1)(B) of this AD.

(c) The inspection required by paragraph (a)(1) may be discontinued when the modifications or replacements prescribed in paragraphs (a)(1)(A) and (a)(1)(B) of this AD are accomplished.

(d) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective on December 2, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on November 15, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-32329 Filed 11-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-98-AD; Amdt. 39-4501]

Airworthiness Directives: Fokker VFW B.V. Model F27 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Fokker VFW B.V. Model F27 airplanes which requires inspections, replacements, or modifications, as necessary, of certain electrical cables. This action is necessary as a result of service experience where electrical wiring (cables) chafed fuel lines and oxygen lines in the cockpit and nacelles. This condition, if allowed to continue, could result in a fire.

DATES: Effective December 6, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Service Manager, Fokker Aircraft, 2361 Jefferson Davis Highway, Arlington, Virginia 22202, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Netherlands civil air authority (RLD) has classified Fokker F27 Service Bulletin F27/24-68, Revision 1, as mandatory. This service bulletin requires inspection, replacement, or modification, as necessary, of electrical wiring, fuel lines, and oxygen lines in the cockpit and nacelles in order to detect and prevent chafing of the electrical wiring (cables). A production line investigation was conducted as a result of in-service experience on the F27 to identify the areas of potential chafing. This condition, if allowed to continue, could cause failure of the wiring and/or cutting into fuel and oxygen lines resulting in loss of electrical service or fire.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the inspection, replacement, or modification, as necessary, of electrical wiring, fuel lines, and oxygen lines in the cockpit and nacelles in accordance with Fokker Service Bulletin F27/24-68, Revision 1. Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Fokker—VFW B.V.: Applies to Model F27 airplanes series 100, 200, 300, 400, 500, 600, and 700, certificated in all categories, serial numbers 10102 to 10596. Compliance required as indicated to detect and prevent electrical wiring chafing or damage to fuel lines and oxygen lines in the cockpit and nacelles.

Accomplish the following within the next 100 hours time in service or 30 days, whichever occurs first, after the effective date of this AD, unless already accomplished:

1. Inspect, replace, or modify, as necessary, the electrical cable looms (bundles), fuel lines, and oxygen lines in the cockpit and nacelles in accordance with the Accomplishment Instructions of paragraph 2

of Fokker Service Bulletin F27/24–68, Revision 1, dated March 19, 1981.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective December 6, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significantly/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 16, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[Fr Doc. 82-32325 Filed 11-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-24; Amdt. 39-4507]

Airworthiness Directives; General Electric Company CF6-45 Series and CF6-50 Series Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection for front flange cracking of the high pressure turbine (HPT) spacer/impeller and replacement as necessary in CF6–45 and CF6–50 series model engines. The AD is necessary to detect cracks in the front flange of the spacer/impeller which may result in rupture of the spacer and subsequent engine failure.

DATES: Effective date—December 30, 1982.

Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable service bulletins [1] may be obtained from General Electric Company, Neumann Way, Cincinnati, Ohio 45215.

A copy of each of the service bulletins is contained in the Rules Docket, FAA, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Arthur W. Nelson, Transport Engine Section, ANE–141, Engine Certification Branch, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7347.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to General Electric Company CF6–45 and CF6–50 series model turbofan engines was published in the **Federal Register** on July 22, 1982 (45 FR 31701). An extension to the closing date for the submission of comments was published in the **Federal Register** on August 9, 1982 (47 FR 34429). There had been at least eight instances of cracking in the front flange of HPT spacer/impellers in CF6–45 and CF6–50 series model engines. Although none of the cracks had propagated through the flange, they had extended up to 22" circumferentially and posed a potential threat to the integrity of the HPT rotor. Because this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require inspection of the front flange for cracking and replacement as necessary.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. Five comments were received in response to the Notice of Proposed Rulemaking (NPRM). Two commentators recommended adoption of the AD as written. One commentator said the proposed AD would have no appreciable effect on flight operations, and two commentators originally indicated the proposed AD would cause unscheduled engine removals. However, one commentator later found that unscheduled engine removals would not be necessary.

One of the commentators did not believe the spacer/impeller cracking problem constituted a flight safety or serious engine failure hazard and suggested the inspection threshold be changed to 6,600 cycles with subsequent inspections corresponding to the stage 1 HPT disk inspections required by AD 82–08–51.

The HPT of the CF6–45/50 engine is a critical, highly stressed area, and the potential separation of the spacer/impeller is an unsafe condition that could result in an uncontained engine failure. Further, extension of the threshold inspection beyond the proposed 5,000 cycles would make the complete separation of the front flange of the spacer/impeller a probable occurrence. Sicne the integrity of the HPT rotor with a separated spacer/impeller front flange has not been demonstrated, the requested revision cannot be granted.

Another commentator suggested that the cyclic limit be changed to a cycle/hour limit, whichever occurs later, because of the commentator's heavy use of derated takeoff and cruise power.

Because of the variation in power-use practices among the various affected operators, the AD has not been modified. However, the AD provides, on request of the operator, the FAA may approve an equivalent means of compliance.

One commentator also suggested that the fluorescent penetrant inspection accomplished in accordance with Service Bulletin 72–627 for rework of the spacer/impeller be accepted as an equivalent to the fluorescent penetrant inspection required by Service Bulletin 72–748.

The FAA agrees that the two inspections are equivalent and has revised the AD accordingly.

The FAA has given careful consideration to the comments which were received and has determined that sufficient evidence exists in the public interest of aviation safety to adopt the proposed rule with only the minor change noted above. Since this change is clarifying and relaxatory in nature, additional notice and public procedure hereon are unnecessary.

Approximately 1,666 engines will be affected by this AD. It is estimated that the AD will cause 6 engines to be removed from the present through 1983 at a cost of $825,000. It is also estimated that four aircraft using these engines will experience an increased removal

[1] The service bulletins are filed as a part of the original document.

rate due to the cyclic limits imposed by this AD at a cost of $412,500. Based on these figures, the total cost impact of this AD is estimated to be $1,237,500. Therefore, the proposed rule is not considered to be major under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected since the rule affects only operators of B747, DC10, and A300 aircraft in which the CF6–45, –50 engines are installed, none of which are believed to be small entities.

List of Subjects in 14 CFR Part 39

Engines, Aircraft, and Aviation safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

General Electric Company: Applies to the CF6–45 series and CF6–50 series model turbofan engines.

Compliance required as indicated.

To prevent potential separation of the spacer/impeller which could result in uncontained engine failure, accomplish the following:

(a) Perform fluorescent penetrant inspection of the HPT Spacer/Impeller, Part Numbers 9045M59P07, P08, P10, P12; 9173M55P01, P02, P03; 9198M92PO1, P02, P03, P04, P05, P06, P07, P08, P09, P10; 9190M82P02, P03; 9234M25P01, P02, P03; and 9234M25P04 in accordance with General Electric CF6–50/45 Service Bulletin 72–748, Revision 1, dated June 9, 1982, or later revision approved by the Manager, Engine Certification Branch, FAA, New England Region, Burlington, Massachusetts 01803, per the following schedule:

Prior to the accumulation of 5,000 cycles in service, or within 3,000 cycles since the last inspection, or within the next 100 cycles after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,000 cycles since last inspection.

Note.—Established life limits for the part shall not be exceeded.

(b) Spacer/impellers with any crack indications shall be removed from service prior to further flight.

(c) Spacer/impeller inspections which have been performed prior to the effective date of this AD which are identical to the inspection requirements of Service Bulletin 72–748 are considered to be an acceptable means of compliance with the initial inspection requirements of Paragraph (a).

(d) Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be used if approved by the Manager, Engine Certification Branch, FAA, New England Region.

(e) Airplanes may be ferried in accordance with the provisions of Federal Aviation Regulation 21.197 to a base where the AD can be accomplished.

This amendment becomes effective on December 30, 1982.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89, Federal Aviation Regulations (14 CFR 11.89).)

Note.—For reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A regulatory evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on November 16, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–32269 Filed 11–26–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–101–AD; Amdt. 39–4504]

Airworthiness Directives: Nihon Aeroplane Manufacturing Company (NAMCO) Model YS–11/11A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to NAMCO Model YS–11/11A airplanes which requires modification of terminal wiring for the D.C. generators to prevent a potential failure of Direct Current electrical power system. Incidents have been reported where failure of a wiring terminal on one generator has caused the D.C. generators on both engines of Nihon Aeroplane Manufacturing Company YS–11 airplanes to fail.

DATE: Effective December 6, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Lear Siegler, Inc., Power Equipment Division, 17600 Broadway Avenue, Maple Heights, Ohio 44137, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Japan Civil Aviation Bureau (JCAB) has classified Lear Siegler, Inc., Service Bulletin No. 30029–02 as mandatory. This service bulletin describes the modification of the terminal wiring for D.C. generator, LSI–PED Model G29–7BT, used in parallel operation with LSI Control Units GC34–2 and GC34–2M. This equipment is used in the Nihon Aeroplane Manufacturing Company YS–11 airplanes. Failure of one terminal lug (D terminal) has caused loss of both generator outputs in parallel operation.

This airplane model is manufactured in Japan and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires modification of the terminal wiring of the LSI/PED Model G29–7BT D.C. generators used in NAMCO YS–11 airplanes in accordance with the Accomplishment Instructions of Lear Siegler, Inc., Service Bulletin No. 30029–02.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Nihon Aeroplane Manufacturing Company: Applies to Model YS–11/11A series airplanes, certificated in all categories. Compliance required within the next 250 hours time in service or 90 days, whichever occurs first, after the effective date of this AD, unless previously accomplished. To prevent the loss of both D.C. generator outputs:

1. Modify the terminal wiring on the D.C. generators in accordance with the

Accomplishment Instructions of Lear Siegler, Inc., Service Bulletin No. 30029–02 dated November 16, 1980.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective December 6, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on November 16, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–32328 Filed 11–26–82; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Reg. ER–1304; Amdt. 61]

Tariffs; Filing Exemptions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is updating its rules listing carrier classes that are exempt from filing tariffs, and to make it clear that tariff filing in these areas is prohibited. The change is made at the Board's own initiative to more fully reflect, and to eliminate any lack of understanding about, the extent of this exemption authority.

DATES: Adopted: November 18, 1982. Effective: November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Rules and Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: 14 CFR 221.3 sets forth general rules concerning the requirements to file and observe tariffs under section 403 of the Act and lists some of the major exemptions from these requirements granted by the Board. Section 221.3(e) contains the exemptions adopted in ER–1246 (46 FR 46787, April 22, 1981), permitting direct air carriers to cease filing many types of domestic passenger fare tariffs and to allow rate reductions from all such tariffs still filed. Section 221.3(d) sets forth an exemption adopted in ER–1125 (44 FR 33056, June 8, 1979), requiring the cessation of tariff-filing by air carriers and foreign air carriers with respect to their charter operations.

This section needs updating to reflect the fact that other major classes of operations of air carriers and foreign air carriers have been made subject to prohibitive exemptions from the tariff-filing requirement: domestic cargo transportation (14 CFR Part 291); indirect air transportation of property (14 CFR Parts 296 and 297); and the operations, other than interline service with section 401 carriers, of air taxis and commuters (14 CFR Part 298). In addition to amending § 221.3(d) to add these categories, the Board finds that its language should be changed to make clear that tariff filing on these subjects is prohibited.

From time to time the Board's staff has received inquiries, usually from transportation consumers, reflecting uncertainty as to the legal status of tariffs under these exemptions, although their explanatory texts were intended to make clear that after the specified date those tariffs would have no function or validity as a matter of Federal law. Unless the Board clearly specifies to the contrary, exemptions from section 403 are prohibitive. The Board does not normally allow the filing of non-required tariffs for "informational" or any other purposes. Such filings could mislead the public if they were incorporated by reference into contracts of carriage, since they would not be supervised by the Board, and users of air transportation might not be aware of their existence until a dispute arose. The only exceptions will be where the exemptions are expressly made permissive, as in the case of the tariff flexibility provisions of ER–1246.

Since this is a rule of procedure consolidating and clarifying exemptions from the requirements to file tariffs, the Board finds notice and public procedure unnecessary and finds good cause to make the rule effective upon publication in the **Federal Register.**

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

PART 221—[AMENDED]

Accordingly, in 14 CFR Part 221, Tariffs, the Civil Aeronautics Board amends § 221.3(d) to read as follows:

1. The authority for 14 CFR Part 221 is:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.

2. Section 221.3(d) is revised to read:

§ 221.3 Carrier's duty.

* * * * *

(d) *Exemption authority.* Air carriers and foreign air carriers, both direct and indirect, are exempted from the requirement of section 403 of the Act and any requirement of this chapter to file, and shall not file with the Board, tariffs for operations under the following provisions:

(1) Part 291, *Domestic Cargo Transportation;*

(2) Part 296, *Indirect Air Transportation of Property;*

(3) Part 297, *Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations;*

(4) Part 298, *Exemption For Air Taxi Operations* except to the extent noted in § 298.11(b);

(5) Part 380, *Public Charters.*

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR. Doc. 82–32563 Filed 11–26–82; 8:45 am]

BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Rule related notice.

SUMMARY: The Federal Trade Commission suspends the effective date of the amendment to its Appliance

Labeling Rule establishing new ranges of comparability used on required labels for dishwashers.

On August 31, 1982, the Commission published new ranges of comparability for dishwashers.[1] The ranges were based on energy usage information derived by the manufacturers by following test procedures prescribed by the Department of Energy (DOE). The manufacturers submitted this information to the Commission by June 1, 1982, pursuant to § 305.8(b) of the rule. Subsequent to the publication of the ranges, Commission staff members learned from DOE staff engineers that a revised test procedure for dishwashers that would result in different, more accurate energy usage information would be published in final form within weeks of the effective date of the new ranges. In order to provide consumers with the most accurate and representative energy usage information, and to avoid confusion, therefore, the Commission is suspending the effective date of the August 31 amendment establishing new dishwasher ranges. As soon as DOE's new dishwasher test procedure is published in final form, the Commission will calculate, establish and publish in the **Federal Register** new dishwasher ranges based on the new test. Until new ranges are published, the ranges published on March 25, 1980 [2] remain in effect.

EFFECTIVE DATE: November 29, 1982.

FOR FURTHER INFORMATION CONTACT: James Mills, 202–376–2891, or Lucerne D. Winfrey, 202–376–2805, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges, which show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule, are published in the **Federal Register** by the Commission no more often than annually, and are called "ranges of comparability." The figures to be used on the ranges are provided by the Commission after an analysis of data submitted by appliance manufacturers, who derive the energy costs of efficiencies of their appliances by following test procedures prescribed by the Department of Energy (DOE). One element used in calculating the ranges is the representative average unit cost of the energy used by the appliances, which is calculated annually by DOE. Because this average cost usually changes annually, and because appliance models are constantly being added, changed, or dropped by manufacturers, the ranges of comparability are likely to change from year to year. This was the case with the ranges for dishwashers and the August 31 notice published the new range figures, which, under §§ 305.10 and 305.11 of the rule, were to be used in the labeling and advertising of dishwashers beginning November 29, 1982.

The immediate effect of the revised DOE test procedure[3] on the ranges of comparability will result from the fact that the estimated annual operating cost for dishwashers will be calculated using 322 representative average-use cycles, rather than the 416 cycles required by the present test. DOE determined that the 322 figure was a more accurate estimate of the number of times the average consumer uses a dishwasher annually.

In order to enable the industry to use this more representative information on labels as soon as possible, therefore, the Commission hereby suspends the November 29 effective date of the August 31 amendment establishing dishwasher ranges based on the present DOE test.

As soon as the new DOE test is published in final form, the Commission will calculate and publish in the **Federal Register** new ranges for use with the figures derived from the new DOE test. In the interim, the present ranges, which were published on March 25, 1980, remain in effect.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

(Sec. 324 of the Energy Policy and Conservation Act. (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1976), 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, (5 U.S.C. 553))

James A. Tobin,
Acting Secretary.

[FR Doc. 82–32658 Filed 11–26–82; 8:45 am]
BILLING CODE 6750–01–M

[1] 47 FR 38272. The effective date for use of the new ranges was November 29, 1982.

[2] 45 FR 19520.

[3] Proposed on June 17, 1982 (47 FR 26143). The current test procedures for dishwashers are found in 10 CFR 430.22(c).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM83–4–000; Order No. 265]

Discontinuance of Form No. 5, Electric Utility Company Monthly Statement

Issued: November 22, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) discontinues its Form No. 5, "Electric Utility Company Monthly Statement", and deletes the Commission's regulation which prescribed the form. The Energy Information Administration has indicated that it needs the information in form No. 5 for its functions and that it will assume the authority to collect the form under the designation Form No. EIA–826, "Electric Utility Company Monthly Statement."

EFFECTIVE DATE: This final rule is effective for all Form No. 5 reports filed on or after January 1, 1983.

ADDRESS: Copies of Form No. EIA–826 will be available at: U.S. Department of Energy, Room 1F–048, Energy Information Administration, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Federal Energy Regulatory Commission, Office of Program Management, 825 North Capitol Street, N.E., Room 3313A, Washington, D.C. 20426, (202) 357–5250.

SUPPLEMENTARY INFORMATION: By this rule, the Federal Energy Regulatory Commission (Commission) is discontinuing FERC Form No. 5, "Electric Utility Company Monthly Statement", and is eliminating the regulation prescribing that form, 18 CFR 141.25. The elimination of the form and its corresponding regulation is part of the Commission's ongoing program to review and evaluate all of the Commission's data requirements for regulatory purposes and to eliminate unnecessary reporting burdens.

I. Background and Discussion

Certain electric utilities have been required to report on a monthly basis on Form No. 5 [1] information concerning

[1] The Commission has collected information in the Form No. 5 under sections 4(a), 304, 309, and 311 of the Federal Power Act pursuant to a delegation of authority from the Secretary of Energy to the

sales of electric energy to different categories of customers and certain other selected items of income and plant, such as depreciation and amortization and information related to construction work in progress. Each Form No. 5 report has been due within forty days after the end of the reporting month. The information collected through Form No. 5 has been used by the Energy Information Administration (EIA) to prepare statistical reports and by the Department of Commerce.

The EIA has indicates that it needs this information to perform its functions and has proposed to collect the Form No. 5 data under the designation "Form No. EIA–826, Electric Utility Company Monthly Statement." *See* 47 FR 46357 (Oct. 18, 1982). Because of this and because the Commission has determined that it is not essential for the Commission to gather the information, the requirement to file the Form No. 5 with the Commission is being deleted.[2]

EIA has informed the Commission that it will begin collection of Form No. EIA–826 on January 1, 1983. This rule deleting Form No. 5 from the Commission's regulations will therefore be effective January 1, 1983. Any reports filed on or after that date must be filed with EIA.

II. Public Procedures

Prior notice and opportunity for public comment are unnecessary for this rulemaking under 5 U.S.C. 553(b)(B). The data requirement eliminated by this rulemaking will be assumed by EIA without a gap in the collection of the information. The change is therefore minor, since it has no substantive effect.

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

List of Subjects in 18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 141 of Title I, Chapter I, Code of Federal Regulations effective January 1, 1983, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

Commission. Delegation Order No. 0204–1 (October 1, 1977).

[2] The Commission retains a general interest in reports of these electric power plant data. However, the Commission can obtain any information it desires from the new Form No. EIA–826 upon discontinuance of the Form No. 5.

PART 141—[AMENDED]

§ 141.25 [Removed]

1. Part 141 of Title 18 of the Code of Federal Regulations is amended in its table of contents and text by removing § 141.25 in its entirety.

[FR Doc. 82–32396 Filed 11–26–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 10, 11, 141, 148, 151, 152, and 162

[T.D. 82–224]

Conforming Customs Regulations Amendments

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: In accordance with Customs policy of periodically reviewing its regulations to ensure that they are current, this document makes certain conforming changes to the Customs Regulations which are necessary because of various executive, legislative, and administrative actions. The changes merely conform the regulations to existing law or practice. They are nonsubstantive and essentially are procedural.

EFFECTIVE DATE: November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Jesse V. Vitello, Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to keep its regulations current, the Customs Service has determined that various executive, legislative, and administrative actions require conforming amendments to numerous parts of the Customs Regulations (Chapter I, Title 19, Code of Federal Regulations (19 CFR Chapter I)). Following is a list of these actions, the affected sections of the regulations, and the necessary changes:

Discussion of Changes

1. Notes 1 through 4 following the index in Part 4, Customs Regulations (19 CFR Part 4), relating to vessels in foreign and domestic trades, are no longer needed. The notes summarize Treasury Decisions which waived the navigation laws under specified circumstances and for specified purposes. These waivers have no particular significance to distinguish them from the other 123 waivers which have been granted since 1951. In fact, two of the waivers have been rendered obsolete by the completion of the St. Lawrence Seaway. Accordingly, Notes 1 through 4 are being removed from Part 4.

2. Footnote 3 to section 4.2, Customs Regulations (19 CFR 4.2), relating to reporting the arrival and entry of vessels, in one paragraph incorrectly refers to section 401(n), Tariff Act of 1930, as amended, instead of section 432a, and in another paragraph, section 401(n), Tariff Act of 1930, as amended, instead of section 401(k). These cites are being corrected.

3. Customs Form 1400–A, "Record of Vessels Engaged in Foreign Trade—Cleared or Granted Permit to Proceed", and Customs Form 1401–A, "Record of Vessels Engaged in Foreign Trade—Entered or Arrived Under Permit to Proceed", have been abolished, requiring an amendment to § 4.95, Customs Regulations (19 CFR 4.95), relating to records of the entry and clearance of vessels.

4. Navigation Fee No. 6 ("Receiving official bond not otherwise provided for"), collected principally from vessels in the Alaska trade, has been abolished, requiring amendments to paragraphs (a)(1) and (f) of § 4.98, Customs Regulations (19 CFR 4.98).

5. The reference to item 802.40, Tarriff Schedules of the United States (TSUS) (19 U.S.C. 1202), in section 10.66(c), Customs Regulations (19 CFR 10.66(c)), relating to horses exported for temporary exhibition or racing and returned, and footnote 62a is being deleted. Item 802.40 was removed from the TSUS pursuant to Presidential Proclamation 4707, dated December 11, 1979, under the authority of the Trade Act of 1974, by which horses were made unconditionally free of duty under Schedule 1, Part 1, TSUS.

6. Customs Form 7531–A, "Transfer Certificate Of Wool Or Camel Hair Imported Conditionally Free Of Duty Under Item 306.00, Tariff Schedules Of The United States, Or Wastes, Noils, Or Yarns Produced Therefrom", has been abolished, requiring amendments to §§10.94(e) and 10.95(d), Customs Regulations (19 CFR 10.94(e), 10.95(d)), relating to the recordkeeping of enumerated articles of wool and hair. Customs Form 7531–A was abolished in 1981 when such articles were made conditionally free and duty suspended through 1983.

7. Sections 10.114 through 10.119, Customs Regulations (19 CFR 10.114–10.119), relating to instruments and apparatus imported for educational and scientific institutions, have been superseded by amendments to the Department of Commerce regulations set forth in 15 CFR Part 301, which were published in the **Federal Register** on July 28, 1982 (47 FR 32515). Accordingly, Part 10, Customs Regulations (19 CFR Part 10), is being amended by revising § 10.114 and removing §§ 10.115 through 10.119.

8. Sections 4591, 4812, and 4831, Internal Revenue Code of 1954 and the regulations of the Internal Revenue Service (26 CFR Part 45, Subparts E, G, and H, respectively), governing the packing and stamping of oleomargarine, adulterated butter, and filled cheese have been repealed by Pub. L. 94–455 and 93–490. Accordingly § 11.5, Customs Regulations (19 CFR 11.5), which refers to those laws, is being removed.

9. Section 141.11(b), Customs Regulations (19 CFR 141.11(b)), relating to the release of merchandise directly to common carriers and right of entry by such carriers, is being amended to reflect changes in entry procedures as a result of Pub. L. 95–410, the "Customs Procedural Reform and Simplification Act of 1978", which made numerous changes in laws administered by Customs relating to the entry of imported merchandise. A document amending the Customs Regulations to establish new procedures needed to reflect these changes was published as T.D. 79–221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

One of the regulations changes made by T.D. 79–221 set forth a revised entry concept under which the documentation necessary to obtain the release of merchandise is the "entry." The additional documentation necessary to appraise and classify the merchandise and to collect accurate statistics is designated the "entry summary" and is required to be filed, with estimated duties attached, within 10-working days after the time of entry.

Section 141.11(b) presently provides that delivery of merchandise by the carrier will be deemed the appropriate certificate required by 484(h), Tariff Act of 1930, as amended (19 U.S.C. 1484(h)), in the case of immediate delivery or when the entry is made with the appropriate duties deposited. To conform the regulations to the law, the language in § 141.11(b) must be modified to indicate that the delivery of the merchandise by the carrier will be deemed the appropriate certification by section 484(h), in the case of merchandise released with an entry, to be later followed by an entry summary. In addition, the language in § 141.11(b) must be modified to reflect the change in terminology when the complete entry package is filed with Customs and release of the merchandise is obtained under that package.

10. Section 141.83(a), Customs Regulations (19 CFR 141.83(a)), relating to the type of invoice required for various shipments of merchandise, is being amended by removing the reference to paragraph (c) and substituting (d) in its place. In addition, the language following "paragraph (c) of this section." is to be eliminated. These changes are necessary to conform the regulation to changes in entry requirements and procedures as a result of the enactment of Pub. L. 95–410.

11. Section 148.87(b), Customs Regulations (19 CFR 148.87(b)), lists the public international organizations currently entitled to free entry privileges. However, the list is not current because it does not contain the names of certain public international organizations entitled to these privileges. Accordingly, §148.87(b) is being amended to add these organizations to the list of designated organizations.

12. Section 151.41, Customs Regulations (19 CFR 151.41), relating to the entry of petroleum and petroleum products, refers to the "current edition of the ASTM–IP Petroleum Measurement Tables (American Edition), published by the American Society for Testing and Materials * * *" (ASTM). The reference to the ASTM published version, which is the approved version, was inserted when ASTM was the organization publishing these tables. Presently, they are being published by the American Petroleum Institute. However, it is expected that other organizations may publish the tables in the future. Therefore, because they are the same mathematically regardless who publishes them, it is not necessary to identify the publisher in the regulation. Accordingly, § 151.41 is being amended by inserting "approved" for "published."

13. Section 151.42(b)(4), Customs Regulations (19 CFR 151.42(b)(4)), relating to controls on unlading and gauging petroleum and petroleum products, is being amended by inserting "conducted" for "performed". This change is being made because it conforms with a recent Customs ruling holding that shore tank gauges are "conducted" by public gaugers rather than "performed". The word "conduct" means to manage, to control, or to direct. Section 151.42(b)(4) applies to situations where public gaugers do not gauge the shore tank independently, but merely witness and certify gauges taken physically by the importing company's personnel. Thus, the gauge is done under the control and direction of the public gauger, who submits a report to Customs regarding the gauge. In effect, such gauges are "conducted" by the public gauger.

14. Customs Form 5561, "Notice of Action And/Or Request For Information", has been abolished and replaced by new Customs Form 28, "Request For Information", requiring an amendment to § 152.2, Customs Regulations (19 CFR 152.2), relating to the notification given to importers of increased duties.

15. Section 162.41, Customs Regulations (19 CFR 162.41), relating to merchandise entered by false invoice or declaration, which implements Pub. L. 95–410, is being amended because it omits language which would exclude entries filed before April 1, 1979. Sections 159.11 and 159.12, Customs Regulations, which also implement Pub. L. 95–410, contain the appropriate exclusionary language.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as these amendments merely conform the Customs Regulations to existing law or practice, pursuant to 5 U.S.C. 553(b)(3), notice and public procedure thereon are unnecessary and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because these amendments will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by section 3 of the E.O. is not required.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*), or any other statute.

Drafting Information

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

List of Subjects

19 CFR Part 4

Vessels, Reporting requirements.

19 CFR Part 10

Exports.

19 CFR Part 11

Packaging and containers.

19 CFR Part 141

Imports.

19 CFR Part 148

International organizations.

19 CFR Part 151

Petroleum and petroleum products.

19 CFR Part 152

Classification and appraisement of merchandise.

19 CFR Part 162

Seizures and forfeitures.

Amendments to the Regulations

Parts 4, 10, 11, 141, 148, 151, 152, and 162, Customs Regulations (19 CFR Parts 4, 10, 11, 141, 148, 151, 152, 162), are amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: November 9, 1982.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. Part 4 is amended by removing Notes 1–4 following the table of contents.

§ 4.2 [Amended]

2. Footnote 3 to § 4.2 is amended by removing "Tariff Act of 1930, sec. 401(n), as amended; 19 U.S.C. 1432a" from the second paragraph and "Tariff Act of 1930, sec 401(n), as amended; 19 U.S.C. 1401(n))" from the third paragraph, and inserting, in their place, "(Tariff Act of 1930, sec. 432a, as amended; 19 U.S.C. 1432a" and "(Tariff Act of 1930, sec. 401(k), as amended; 19 U.S.C. 1401(k))."

3. Section 4.95 is revised to read as follows:

§ 4.95 Records of entry and clearance of vessels.

Permanent records shall be prepared at each customhouse of all entries of vessels on Customs Form 1400 and of all clearances and permits to proceed on Customs Form 1401. Whenever a vessel is diverted, as provided for in section 4.91 (a) or (b), Customs Form 1401 shall be amended to show the new destination. [MCLs ⅞₂; ²⅞₂ FACLs 78, Supp. ⅞₂; 84, Supp. ⅞₂. TDs 50617, 52258, 52583, 52608, 52681, 52958, 53336, 54421.] These records shall be open to public inspection.

§ 4.98 [Amended]

4. Item 6 in paragraph (a)(1) of § 4.98 is removed and reserved.

5. Section 4.98 is further amended by removing and reserving paragraph (f).

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. Section 10.66(c) is amended by revising the introductory text to read as follows:

§ 10.66 Articles exported for temporary exhibition and returned; horses exported for horse racing and returned; procedures on entry.

* * * * *

(c) Articles claimed to be exempt from duty under item 802.20 or 802.30, Tariff Schedules of the United States (19 U.S.C. 1202), may be returned free of duty without formal entry and without regard to the requirements of paragraph (a) or (b) of this section if: * * *

§ 10.66 [Amended]

2. Section 10.66(c) is further amended by removing footnote 62a.

3. Section 10.94(e) is revised to read as follows:

§ 10.94 Manufacturing records.

* * * * *

(e) In the case of preliminary processors, such as pullers, sorters, washers, scourers, or carbonizers, a transfer certificate on the appropriate Customs form, covering wool or hair processed and transferred by any one of them shall be submitted to the district director as an abstract of his records of manufacture. This method of recordkeeping may only be used if the processor has received custody (not ownership) of the wool or hair from a transferor who has been relieved by the district director of liability under bond for the use of the wool or hair in accordance with § 10.95(d). (Sec. 101, 76 Stat. 72; Sch. 3, Part 1C, Hdnote 6, Tariff Schedules of the United States) [T.D.'s 53266, 53399, 55565.]

4. The first three sentences of § 10.95(d) are revised to read as follows:

§ 10.95 Records and reports of enumerated articles of wool or hair delivered; transfer certificates.

* * * * *

(d) When the ownership of wool or hair is transferred by one bonded manufacturer, processor, or dealer to another manufacturer, processor, or dealer the transfer shall be covered by a transfer certificate on the appropriate Customs form. When a transferor transfers custody (not ownership) of wool or hair, no transfer certificate is required unless the transferor in writing specifically requests the district director to be relieved of his liability under his bond.[86a] When the transfer is made by a dealer, the transfer certificate shall be supported by copies of processors invoices or reports (showing processing losses and net return) for any wool or hair processed outside the custody of the dealer. * * *

5. Section 10.114 is revised to read as follows:

§ 10.114 General provisions.

The consolidated regulations of the Commerce and Treasury Departments relating to the entry of instruments and apparatus for educational and scientific institutions are contained in 15 CFR Part 301.

§§ 10.115 through 10.119 [Removed and Reserved]

6. Part 10 is amended by removing and reserving §§ 10.115 through 10.119.

PART 11—PACKING AND STAMPING; MARKING

§ 11.5 [Removed and Reserved]

Part 11 is amended by removing and reserving § 11.5.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 141—ENTRY OF MERCHANDISE

1. Section 141.11(b) is revised to read as follows:

§ 141.11 Evidence of right to make entry for importations by other than common carrier.

* * * * *

(b) *Merchandise released directly to carrier*—Where, in accordance with subsection (j) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), merchandise is released from Customs custody (either under immediate delivery procedures in accordance with the provisions of Subpart C of Part 142 of this chapter, or after an entry has been filed in accordance with Subpart A of Part 142 of this chapter, or after an entry summary, which shall serve as both the entry and entry summary has been filed with estimated duties attached where appropriate in accordance with Subpart B of this chapter), to the carrier by whom the merchandise was brought to the port, the delivery of the merchandise by the

carrier to the person filing the entry summary with estimated duties attached shall be deemed to be the certification required by subsection (h), section 484, Tariff Act of 1930. Customs responsibility under this optional entry procedure is limited to the collection of duties, and constitutes no representation whatsoever regarding the right of any person to obtain possession of the merchandise from the carrier. Consequently, no Customs official shall be liable to any person in respect to the delivery of merchandise released from Customs custody in accordance with the provisions of this paragraph.

2. Section 141.83(a) is revised to read as follows:

§ 141.83 Type of invoice required.

(a) *Special Customs Invoice*—A Special Customs Invoice (Customs Form 5515) shall be filed for each shipment of merchandise (1) which is subject to a rate of duty dependent in any manner on value (including such merchandise entered under a conditionally free provision when all free entry documents and evidence required to establish the exemption from duty are not produced at the time of filing the entry summary), and (2) which is determined by the district director to have an aggregate purchase price over $500, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, or in the case of merchandise not imported in pursuance of a purchase or agreement to purchase, an aggregate value over $500 as determined in accordance with section 152.21 of this chapter. However, a special Customs invoice is not required for merchandise which is excepted from the requirements for both a special Customs invoice and a commercial invoice by paragraph (d) of this section.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)

* * * * *

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.87 [Amended]

The table in § 148.87(b) is amended as follows:

1. By inserting "African Development Fund" before "Asian Development Bank" in the column headed "Organization", "11977" in the opposite column under the heading "Executive Order", and "March 14, 1977" in the opposite column under the heading "Date".

2. By inserting "International Fertilizer Development Center" before "International Finance Corporation" in the column headed "Organization", "11977" in the opposite column under the heading "Executive Order", and "March 14, 1977" in the opposite column under the heading "Date".

3. By inserting "International Maritime Satellite Organization" before "International Monetary Fund" in the column headed "Organization", "12238" in the opposite column under the heading "Executive Order", and "April 22, 1980" in the opposite column under the heading "Date".

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

§ 151.41 [Amended]

1. Section 151.41 is amended by inserting "approved" in place of "published".

§ 151.42 [Amended]

2. Section 151.42(b)(4) is amended by inserting "conducted" in place of "performed".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

§ 152.2 [Amended]

Section 152.2 is amended by inserting "Customs Form 28" in place of "Customs Form 5561".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 162—RECORDKEEPING INSPECTION, SEARCH, AND SEIZURE

Section 162.41 is amended by adding a new paragraph (d) to read as follows:

§ 162.41 Merchandise entered by false invoice, declaration, other document or statement subject to forfeiture.

* * * * *

(d) *Applicability*—The provisions of this section shall apply to entries of merchandise for consumption or withdrawals of merchandise for consumption made on or after April 1, 1979.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 82-32548 Filed 11-26-82; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Excepted Stimulant and Depressant Compounds

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule

SUMMARY: This final rule lists the products which have been granted excepted status under the Controlled Substances Act since the last notice was published on March 31, 1977 (42 FR 17300). This listing will be used to update the Table of Excepted Prescription Drugs to Part 1308. Further, all excepted products which are no longer marketed will be removed from this Table.

EFFECTIVE DATE: November 29, 1982.

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

SUPPLEMENTARY INFORMATION: On February 17, 1982, the Acting Administrator of the Drug Enforcement Administration issued a notice of proposed rulemaking published at 47 FR 6888 to list those products which have been granted excepted status under the Controlled Substances Act since March 31, 1977 (42 FR 17300). This list of excepted products will be used to updated the Table of Excepted Prescription Drugs to Part 1308. To further update the Table, the Acting Administrator proposed to remove from the Table those excepted products which are no longer marketed. These exceptions are granted pursuant to Section 202(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821(d)).

The notice of proposed rulemaking invited interested persons to submit comments or objections in writing on or before March 19, 1982. A comment was received from the Saint Alphonsus Regional Medical Center which supported the proposed updated listing of excepted products. Additional comments were received from the A.H. Robins Company.

A.H. Robins pointed out that a number of products identical to those whose New Drug Applications (NDAs) were withdrawn by the Food and Drug

Administration (FDA), as noted in a July 14, 1981, **Federal Register** notice (46 FR 36248–9), were included in the proposed list of excepted products. Further, A.H. Robins Company commented that some of the products granted excepted status contain combinations of anticholinergic and sedative drugs which were the subject of a November 11, 1975, FDA **Federal Register** notice. In this notice the FDA placed barbiturate/belladonna alkaloid combinations under the purview of the DESI review and required that manufacturing Abbreviated New Drug Applications (ANDAs) be conditionally approved for continued marketing while studies were being conducted.

Clearly the issues of concern to A.H. Robins Company pertain to the marketing status of drug products, an area in which the FDA, and not DEA, has jurisdiction. Therefore, DEA submitted the proposed updated list of excepted products along with A.H. Robins' comments to the FDA for a determination of the marketing status of the proposed excepted products. The FDA responded by denoting a number of products which are no longer marketed or which have been discontinued by the manufacturer.

Based on FDA's response, DEA has revised the proposed list of excepted products by deleting those products which are no longer marketed or which have been discontinued by the manufacturer. It is important to note that the granting of an exception by the DEA pursuant to 21 U.S.C. 812(d) does not confer marketing approval on any drug product. This final rule pertains only to the granting of exceptions to controlled drug products pursuant to 21 U.S.C. 812(d). Further comments or questions pertaining to the marketing status of drug products, including those granted excepted status under the CSA, should be directed to the FDA.

List of Subjects in 21 CFR Part 1308

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

PART 1308—[AMENDED]

Therefore, under the authority vested in the Attorney General by Section 202(d) of the Act (21 U.S.C. 812(d)), and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration, Office of Diversion Control, pursuant to 47 FR 43370–1, the Deputy Assistant Administrator of the DEA Office of Diversion Control hereby amends 21 CFR Part 1308, Table of Excepted Prescription Drugs as follows by:

1. Removing from the Table all products which are no longer marketed or listed; these products are designated by the entry "DISC" in the status column, and

2. Adding in the appropriate place, the following list of products which have been granted exceptions since March 31, 1977:

* * * * *

TABLE OF EXCEPTED PRESCRIPTION DRUGS

Trade name or other designation	Form of product	Product composition		Manufacturer or supplier name	NDC code
Alised revised	TB	Phenobarbital	16.2000MG	Elder P. B. Company	00163-0120
		Atropine sulfate	0.1300MG		
Allergy formula	TB	Phenobarbital	16.2000MG	Delaau J. W. Inc	
		Ephedrine sulfate	24.3000MG		
		Belladonna P.E.	5.0000MG		
		Chlorpheniramine maleate	4.0000MG		
Amobell improved	CA	Amobarbital	15.0000MG	Bock Pharmacal Co	00563-0159
		Belladonna extract	10.0000MG		
Anisotropine methylbromide W PB	TB	Phenobarbital	15.0000MG	Bolar Pharm Co	00725-0109
		Anisotropine methylbromide	50.0000MG		
Anti-spas	TB	Phenobarbital	16.2000MG	Borneman & Sons	
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
Antispasmodic	TB	Phenobarbital	16.2000MG	Three P Products	46198-0245
		Hyoscine HBR	0.0065MG		
		Atropine sulfate	0.0194MG		
		Hyoscyamine sulfate	0.1037MG		
Antispasmodic elixir	EL	Phenobarbital	16.2000MG/5ML	Stayner Corporation	00123-0670
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Antispasmodic	TB	Phenobarbital	16.2000MG	Chromalloy Pharm Inc	00413-01103
		Hyocyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
Antispasmodic	TB	Phenobarbital	16.2000MG	Gen-King Products	03547-0777
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
Antispasmodic	EL	Phenobarbital	16.2000MG/5ML	Three P Products	46198-0301
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500MG/5ML		
Antispasmodic compound white	TB	Phenobarbital	16.2000MG	Stayner Corporation	00123-0149
		Atropine sulfate	0.0194MG		
		Scopolamine HBR	0.0065MG		
		Hyoscyamine sulfate	0.1037MG		
Antispasmodic green	TB	Phenobarbital	16.2000MG	Drummer Labs	45124-0877
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Scopolamine HBR	0.0065MG		
Antispasmodic grn-white	CA	Phenobarbital	16.2000MG	Drummer Labs	45124-0802
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Scopolamine HBR	0.0065MG		
Antrocol	CA	Phenobarbital	16.0000MG	Poythress & Co Inc	00095-0041
		Atropine sulfate	0.1950MG		
Antrocol	TB	Phenobarbital	16.0000MG	Poythress & Co Inc	00095-0040
		Atropine sulfate	0.1950MG		

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition		Manufacturer or supplier name	NDC code
Antrocol elixir	EL	Phenobarbital	3.000MG	Poythress & Co Inc	00095-0042
		Atropine sulfate	0.0390MG		
Asmacol	TB	Butabarbital	15.0000MG	Vale Chemical Co	00377-0027
		Aminophylline	180.0000MG		
		Phenylpropanolamine HCL	25.0000MG		
Atropine with phenobarbital	TB	Phenobarbital	16.2000MG	Delavau J.W.S. Inc	
		Atropine sulfate	0.1296MG		
Atrosed	TB	Phenobarbital	16.2000MG	Freeport Drug Co	10433-0652
		Atropine sulfate	0.0195MG		
		Hyoscine HBR	0.0065MG		
		Hyoscyamine sulfate	0.1040MG		
Axotal	TB	Butalbital	50.0000MG	Adria Laboratories	00013-1211
		Acetaminophen	325.0000MG		
		Caffeine	40.0000MG		
Azlytal	TB	Phenobarbital	32.4000MG	U.S. Ethicals Inc	00313-0281
		Hyoscyamine sulfate	0.2074MG		
		Atropine sulfate	0.0388MG		
		Hyoscine HBR	0.0130MG		
Barbeloid (revised)	TB	Phenobarbital	16.2000MG	Vale Chemical Co	00377-0365
		Hyoscine HBR	0.0065MG		
		Atropine sulfate	0.0194MG		
		Hyoscyamine sulfate	0.1037MG		
Barbeloid yellow	TB	Phenobarbital	16.2000MG	Vale Chemical Co	00377-0498
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Scopolamine HBR	0.0065MG		
Barbidonna	EL	Phenobarbital	16.0000MG/5ML	Wallace Laboratories	00037-0305
		Hyoscyamine sulfate	0.1286MG/5ML		
		Atropine sulfate	0.0250MG/5ML		
		Scopolamine HBR	0.0074MG/5ML		
Barbidonna	TB	Phenobarbital	16.0000MG	Wallace Laboratories	00037-0301
		Hyoscyamine sulfate	0.1286MG		
		Atropine sulfate	0.0250MG		
		Scopolamine HBR	0.0074MG		
Barbidonna No. 2	TB	Phenobarbital	32.0000MG	Wallace Laboratories	00037-0311
		Hyoscyamine sulfate	0.1286MG		
		Atropine sulfate	0.0250MG		
		Scopolamine HBR	0.0074MG		
Belladonna alkaloids with phenobarbital	EL	Phenobarbital	16.2000MG/5ML	G and W Labs	
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Scopolamine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Belladonna alkaloids with phenobarbital	EL	Phenobarbital	16.2000MG/5ML	Kaiser Found. Hosp.	00179-0045
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Belladonna Ext. & Phenobarbital	TB	Phenobarbital	16.2000MG	Drummer Labs	45124-0846
		Belladonna extract TB	10.8000MG		
Belladonna with phenobarbital	TB	Phenobarbital	15.0000MG	Rugby Laboratories	00536-3360
		Belladonna leaf	15.0000MG		
Belladonna with butabarbital	TB	Butabarbital sodium	15.0000MG	Rugby Laboratories	00536-3409
		Belladonna leaf P.E.	15.0000MG		
Belladonna with phenobarbital	TB	Phenobarbital	16.2000MG	Delavau J. W. S. Inc	10311-0033
		Belladonna P.E.	10.8000MG		
Bellastal	LQ	Phenobarbital	16.2000MG/5ML	U.S. Ethicals Inc	00313-0087
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Bentomine with phenobarbital	CA	Phenobarbital	16.0000MG	Rugby Laboratories	00536-3368
		Dicyclomine HCL	10.0000MG		
Bilcholans	CA	Phenobarbital	16.2000MG	Quaker City Pharm Co	10885-4102
		Atropine sulfate	0.2592MG		
		Ox bile P.E.	24.3000MG		
		Dehydrocholic acid	64.8000MG		
Broncholate	CA	Phenobarbital	8.0000MG	Bock Pharmacal Co	00563-0277
		Ephedrine sulfate	25.0000MG		
		Theophylline anhydrous	125.0000MG		
		Guaifenesin	100.0000MG		
Budonna rose	TB	Butabarbital sodium	15.0000MG	Caldwell & Bloor Co	00361-2332
		Hyoscyamine sulfate	0.1380MG		
		Hyoscine HBR	0.0270MG		
		Atropine sulfate	0.0670MG		
Buren (improved)	TB	Butabarbital	15.0000MG	Ascher & Company	00225-0345
		Phenazopyridine HCL	150.0000MG		
		1-hyoscyamine sulfate	0.1250MG		
C.D.P. plus	CA	Chlordiazepoxide HCL	5.0000MG	Generix Drug Corp	00182-1029
		Clidinium bromide	2.5000MG		
Caldonna green	TB	Butabarbital sodium	16.0000MG	Caldwell & Bloor Co	00361-2398
		Hyoscyamine HBR	0.1280MG		
		Hyoscine HBR	0.0070MG		
		Atropine sulfate	0.0240MG		
Cantil with phenobarbital	TB	Phenobarbital	16.0000MG	Merrell-National Lab	00068-0034

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition		Manufacturer or supplier name	NDC code
		Mepenzolate bromide	25.0000MG		
Chlordiazepoxide with clidinium bromide	CA	Chlordiazepoxide HCL	5.0000MG	Chelsea Laboratories	46193-0948
		Clidinium bromide	2.5000MG		
Chlordinium	CA	Chlordiazepoxide HCL	5.0000MG	Bioline Labs Inc	00719-1208
		Clidinium bromide	2.5000MG		
Choloxital chartreuse	TB	Phenobarbital	8.1000MG	Caldwell & Bloor Co	00361-2387
		Dehydrocholic acid	16.2000MG		
		Ox bile extract	16.2000MG		
		Polysorbate 80	64.8000MG		
		Oleic acid	72.9000MG		
		Belladonna P.E.	8.1000MG		
Clindex	CA	Chlordiazepoxide HCL	5.0000MG	Rugby Laboratories	00536-3490
		Clidinium bromide	2.5000MG		
Dainite	TB	Pentobarbital sodium	16.0000MG	Wallace Laboratories	00037-1330
		Aminophylline	200.0000MG		
		Ephedrine HCL	16.2000MG		
		Aluminum hydroxide gel dried	325.0000MG		
		Benzocaine	16.2000MG		
Dainite-KI	TB	Phenobarbital	16.2000MG	Wallace Laboratories	00037-0340
		Aminophylline	200.0000MG		
		Ephedrine HCL	16.2000MG		
		Potassium iodide	325.0000MG		
		Aluminum hydroxide gel dried	160.0000MG		
		Benzocaine	160.0000MG		
Dicyclomine HCL with PB	TB	Phenobarbital	15.0000MG	Chelsea Laboratories	46193-0926
		Dicyclomine HCL	20.0000MG		
Do	CA	Phenobarbital	15.0000MG	Chelsea Laboratories	46193-0925
		Dicyclomine	10.0000MG		
Dicyclomine HCL with phenobarbital	TB	Phenobarbital	20.0000MG	Bolar Pharm Co	00725-1004
		Dicyclomine HCL	15.0000MG		
Do	CA	Phenobarbital	15.0000MG	Bolar Pharm Co	00725-0002
		Dicyclomine HCL	10.0000MG		
Do	CA	Phenobarbital	15.0000MG	Drummer Labs	45124-0838
		Dicyclomine HCL	10.0000MG		
Do	TB	Phenobarbital	15.0000MG	Rugby Laboratories	00536-3378
		Dicyclomine HCL	20.0000MG		
Dicyclomine with PB	TB	Phenobarbital	15.0000MG	Three P Products	46198-0219
		Dicyclomine	20.0000MG		
Drummergal	TB	Phenobarbital	20.0000MG	Drummer Labs	45124-0886
		Ergotamine tartrate	0.3000MG		
		Hyoscyamine (as sulfate)	0.1000MG		
Ergo-phen	TB	Phenobarbital	20.0000MG	Rugby Laboratories	
		Ergotamine tartrate	0.3000MG		
		Hyoscyamine sulfate	0.1000MG		
Ezol	CA	Butalbital	50.0000MG	Stewart-Jackson	45985-0578
		Acetaminophen	360.0000MG		
		Caffeine	40.0000MG		
Glycopyrrolate with phenobarbital	TB	Phenobarbital	16.2000MG	Bolar Pharm Co	00725-0108
		Glycopyrrolate	2.0000MG		
Do	TB	Phenobarbital	16.2000MG	Bolar Pharm Co	00725-0107
		Glycopyrrolate	1.0000MG		
Hexabamate No. 1	TB	Meprobamate	200.0000MG	Rugby Laboratories	00536-3900
		Tridihexethyl chloride	25.0000MG		
Hexabamate No. 2	TB	Meprobamate	400.0000MG	Rugby Laboratories	00536-3901
		Tridihexethyl	25.0000MG		
Hyosital green	EL	Phenobarbital	15.0000MG/4ML	Caldwell & Bloor Co	00361-3043
		Atropine sulfate	0.0194MG/4ML		
		Hyoscyamine sulfate	0.1037MG/4ML		
		Hyoscine HBR	0.0065MG/4ML		
Hyosital pink	TB	Phenobarbital	16.2000MG	Caldwell & Bloor Co	00361-2427
		Atropine sulfate	0.0194MG		
		Hyoscyamine sulfate	0.1037MG		
		Hyoscine HBR	0.0065MG		
Hyosital white	TB	Phenobarbital	16.2000MG	Caldwell & Bloor Co	00361-2131
		Atropine sulfate	0.0194MG		
		Hyoscyamine sulfate	0.1037MG		
		Hyoscine HBR	0.0065MG		
Hyosophen	TB	Phenobarbital	16.0000MG	Rugby Laboratories	00536-3925
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
		Hyoscyamine sulfate	0.1037MG		
Hyosophen tablets	TB	Phenobarbital	16.2000MG	Rugby Laboratories	00536-3920
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Scopolamine HBR	0.0065MG		
Hytrophen	TB	Phenobarbital	16.2000MG	Maceslin & Company	00358-0028
		Belladonna alkaloids	0.1046MG		
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
Isuprel compound	EL	Phenobarbital	6.0000MG/15ML	Breon Labs	00057-0874
		Isoproterenol HCL	2.5000MG/15ML		
		Ephedrine sulfate	12.0000MG/15ML		
		Theophylline	45.0000MG/15ML		
		Potassium iodide	150.0000MG/15ML		
		Alcohol	1.8000MG/15ML		
Luftodil	TB	Phenobarbital	16.0000MG	Wallace Laboratories	00037-0501
		Theophylline	100.0000MG		
		Ephedrine HCL	24.0000MG		
		Guaifenesin	200.0000MG		
Lufyllin-epg	TB	Phenobarbital	16.0000MG	Wallace Laboratories	00037-0561

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition		Manufacturer or supplier name	NDC code
		Dyphylline	100.0000MG		
		Guaifenesin	200.0000MG		
		Ephedrine HCL	16.0000MG		
Do	EL	Phenobarbital	16.0000MG/10ML	Wallace Laboratories	00037-0565
		Dyphylline	100.0000MG/10ML		
		Guaifenesin	200.0000MG/10ML		
		Ephedrine HCL	16.0000MG/10ML		
		Alcohol	0.5500ML/10ML		
Malatal	TB	Phenobarbital	16.2000MG	Mallard Inc	00166-0748
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
		Hyoscyamine sulfate	0.1037MG		
Mannitol hexanitrate and phenobarbital	TB	Phenobarbital	16.0000MG	Drummer Labs	45124-0849
		Mannitol hexanitrate	32.0000MG		
Medigesic plus	CA	Butalbital	50.000MG	Medics Pharmaceutics	00184-0211
		Acetaminophen	400.000MG		
		Caffeine	30.0000MG		
Medigesic plus modified formula	CA	Butalbital	50.0000MG	Medics Pharmaceutics	00184-0212
		Acetaminophen	325.0000MG		
		Caffeine	40.0000MG		
Mudrane	TB	Phenobarbital	8.0000MG	Poythress & Co. Inc	00095-0050
		Potassium iodide	195.0000MG		
		Aminophylline	130.0000MG		
		Ephedrine HCL	16.0000MG		
Mudrane GG	TB	Phenobarbital	8.0000MG	Poythress & Co. Inc	00095-0051
		Aminophylline	130.0000MG		
		Ephedrine HCL	16.0000MG		
		Guaifenesin	100.0000MG		
Neoquess revised	TB	Phenobarbital	16.2000MG	O'Neal Jones Feldman	00456-0313
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
Omnibel	LQ	Phenobarbital	16.2000MG/5ML	Delta Drug (Fla.)	00827-0069
		Hyoscine HBR	0.0065MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscyamine sulfate	0.1037MG/5ML		
Omnibel	TB	Phenobarbital	16.2000MG	Delta Drug (Fla.)	00827-0068
		Hyoscyamine sulfate	0.1037MG		
		Hyoscine HBR	0.0065MG		
		Atropine sulfate	0.0194MG		
Orgaphen	EL	Phenobarbital	13.0000MG/5ML	Wallace Laboratories	00037-5011
		Organidin	30.0000MG/5ML		
		Alcohol	0.3500ML/5ML		
Orgaphen	TB	Phenobarbital	13.0000MG	Wallace Laboratories	00037-5022
		Organidin	30.0000MG		
P & H No. 1	TB	Phenobarbital	16.0000MG	Halsom Drug Company	00729-0560
		Hyoscyamine HBR	0.1296MG		
P & H No. 2	TB	Phenobarbital	32.0000MG	Halsom Drug Company	00729-0561
		Hyoscyamine HBR	0.2592MG		
PB Phe-Bell	TB	Phenobarbital	16.2000MG	Lanpar Company	
		Belladonna P.E	10.8000MG		
Pharmased liquid	LQ	Phenobarbital	16.2000MG/5ML	Pharmecon Inc	00783-0502
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Pheno-donna No. 1	TB	Phenobarbital	15.0000MG	Ion Laboratories	11808-0333
		Belladonna extract	10.8000MG		
Pheno-donna No. 2	TB	Phenobarbital sodium	16.2000MG	Ion Laboratories	11808-0033
		Belladonna extract	10.0000MG		
Phenobarbital and atropine pink	TB	Phenobarbital	16.2000MG	Caldwell & Bloor Co	00361-2168
		Atropine	0.2160MG		
Phenobarbital and hyoscyamine sulfate	TB	Phenobarbital	16.2000MG	Medco Supply Co	00764-2057
		Hyoscyamine sulfate	0.1296MG		
Phrenilin new formulation	TB	Butalbital	50.0000MG	Carnrick Labs	00086-0050
		Acetaminophen	325.0000MG		
Propantheline bromide with PB	TB	Phenobarbital	15.0000MG	Three P Products	46198-0226
		Propantheline bromide	15.0000MG		
Pulsaphen gray	TB	Phenobarbital	15.0000MG	Wesley Pharmacal Co	00917-0113
		Passiflora extract	1.0000MG		
		Hyoscyamus extract	22.0000MG		
Quakerdonal	TB	Phenobarbital	16.2000MG	Quaker City Pharm. Co	10885-5262
		Hyoscyamine sulfate	0.1060MG		
		Hyoscine HBR	0.0070MG		
		Homatropine methylbromide	0.5670MG		
Relaxadon	TB	Phenobarbital	16.2000MG	Geneva Generics	00781-1105
		Belladonna alkaloids	0.1296MG		
Respirol modified	TB	Phenobarbital	8.0000MG	Mallard Inc	00166-0760
		Theophylline	130.0000MG		
		Ephedrine HCL	24.0000MG		
Secobarbital and P.E.T.N	XC	Secobarbital	50.0000MG	Barrows Pharmacal	
		Pentaerythritol tetranitrate	30.0000MG		
Sedacord	LQ	Phenobarbital	16.2000MG/5ML	Arend Miller Pharm	00567-1386
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Sedacord TD	CA	Phenobarbital	50.0000MG	Arend Miller Pharm	00567-1384
		Atropine sulfate	0.0600MG		
		Hyoscyamine sulfate	0.3000MG		
		Hyoscine HBR	0.0200MG		

TABLE OF EXCEPTED PRESCRIPTION DRUGS—Continued

Trade name or other designation	Form of product	Product composition		Manufacturer or supplier name	NDC code
Sedapap-10 white	TB	Butalbital	50.0000MG	Mayrand Pharm. Inc	00259-1278
		Acetaminophen	648.0000MG		
Seds	TB	Phenobarbital	16.2000MG	Pasadena Research	00418-4072
		Hyoscyamine sulfate	0.1037MG		
		Scopolamine HBR	0.0065MG		
		Atropine sulfate	0.0194MG		
Spasaid	EL	Phenobarbital	16.2000MG/5ML	Century Pharm. Inc	00436-0504
		Hyoscyamine sulfate	0.1037MG/5ML		
		Atropine sulfate	0.0194MG/5ML		
		Hyoscine HBR	0.0065MG/5ML		
		Alcohol	1.1500ML/5ML		
Spasmatol	TB	Phenobarbital	16.2000MG	Lasalle Laboratories	48534-0108
		Hyoscyamine sulfate	0.1037MG		
		Hyoscine HBR	0.0065MG		
		Atropine sulfate	0.0194MG		
Special formula 7012	TB	Phenobarbital	16.2000MG	Ferndale Labs	00496-0370
		Belladonna extract	16.2000MG		
		Pseudoephedrine HCL	25.0000MG		
		Phenylpropanolamine HCL	25.0000MG		
Stomal	CA	Phenobarbital	16.2000MG	Foy Labs Inc	00494-0710
		Hyoscyamine sulfate	0.1037MG		
		Atropine sulfate	0.0194MG		
		Hyoscine HBR	0.0065MG		
Theocord	TB	Phenobarbital	8.0000MG	Professional Service	49335-1203
		Theophylline anhydrous	130.0000MG		
		Ephedrine HCL	24.0000MG		
Theodrine antiasthmatic	TB	Phenobarbital	8.0000MG	Rugby Laboratories	00536-4648
		Theophylline	130.0000MG		
		Ephedrine HCL	24.0000MG		
Theophed pink	TB	Phenobarbital	8.1000MG	Caldwell & Bloor Co	00361-2369
		Theophylline	129.6000MG		
		Ephedrine sulfate	24.3000MG		
Theophylline ephedrine HCL and PB	TB	Phenobarbital	8.1000MG	Chromalloy Pharm Inc	00413-0531
		Ephedrine HCL	24.3000MG		
		Theophylline	129.6000MG		
Tri-hexabamate	TB	Meprobamate	200.0000MG	Schein Henry Inc	00364-0459
		Tridihexethyl chloride	25.0000MG		
Tri-hexabamate	TB	Meprobamate	400.0000MG	Schein Henry Inc	00364-0460
		Tridihexethyl chloride	25.0000MG		
Wescophen-S purple	TB	Phenobarbital	30.0000MG	Wesley Pharmacal Co	00917-0109
		Hyoscyamus extract	46.0000MG		
		Valerian powder	30.0000MG		
		Passiflora extract	30.0000MG		

These matters have been informally discussed with the Office of Management and Budget (OMB). It has been determined that they are minor internal management matters not requiring formal OMB review.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that these matters will have no significant negative impact upon small businesses or other entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 501 *et seq.* The addition of preparations to the list of excepted prescription drugs has the effect of exempting them from certain sections of the Controlled Substances Act of 1970 and regulations.

Dated: November 15, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 82-32203 Filed 11-26-82; 8:45 am]

BILLING CODE 4410-09-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Changes in Office Names and Position Titles Resulting From Reorganization; Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; correction.

SUMMARY: On October 18, 1982, the Commission published an amendment to its regulations to reflect the recent reorganization of the offices and positions at the Washington, D.C. Headquarters Office. See 47 FR 46274. In order to correct one printing error affecting 29 CFR 1601.70 and 1601.71, the Commission is republishing that change.

DATE: This Final Rule is effective November 29, 1982.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Counsel, Legal Services, Nicholas M. Inzeo (634-6690) or Jeffery M. Mallamad (634-6132).

For the Commission.

Clarence Thomas,

Chairman.

On page 46275 is the issue of Monday, October 18, 1982, the amendatory instruction number "14" should have read as follows:

"14. Sections 1601.70 (b) and (e) and 1601.71 (a), (b) and (c) are amended by removing "Director, State and Local Division, Office of Field Services (OFS)" and replacing it with "Program Director, Office Program Operations" wherever it appears."

[FR Doc. 82-32104 Filed 11-26-82; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 826

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Steep-Slope Remining

Correction

In FR Doc. 82–30863 beginning on page 51316 in the issue of Friday, November 12, 1982, make the following change:

On page 51321, second column, § 826.12(b), thirteenth line, insert "to" after "writing".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS DOYLE (FFG 39) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS DOYLE (FFG 39) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: November 12, 1982.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS DOYLE (FFG 39) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS DOYLE (FFG 39) is a member of the FFG 7 class of ship for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship.

Moreover, it has been determined, in accordance with 32 CFR Part 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
. . . . .		
USS DOYLE	FFG 39	1.6

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
. . . . .		
USS DOYLE (FFG 39)	FFG 39	2.75

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
. . . . .		
USS DOYLE	FFG 39	2.75

(E.O. 11964; 33 U.S.C. 1605)

Dated: November 12, 1982.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 82–32555 Filed 11–26–82; 8:45 am]

BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Part 1

Standards for Program Evaluation

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The VA (Veterans Administration) is hereby setting forth a regulation to implement section 213 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Pub. L. 93–508. Section 213 requires that the Administrator of Veterans Affairs measure and evaluate on a continuing basis all programs authorized under title 38, United States Code, and that the general standards for such evaluations be prescribed by regulation. This regulation will implement the applicable provisions of the law by establishing the general standards for program evaluations.

EFFECTIVE DATE: This regulation is effective November 19, 1982.

FOR FURTHER INFORMATION CONTACT: Frederick C. Humphreys, Program Evaluation Service (074), Office of Program Planning and Evaluation, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2947.

SUPPLEMENTARY INFORMATION: This regulation provides general standards for conducting program evaluations. These standards are required by law. A program evaluation is conducted to determine if the program being evaluated is fulfilling its legislative

mandate. The evaluation will examine the efficiency/effectiveness of program management and the impact of the program on beneficiaries. The evaluation is conducted by VA employees assigned to a staff entity other than the one subject to the evaluation.

The Veterans Administration has determined that this regulation is not 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. This regulation will result in no major increases in costs or prices. It 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.

This regulation comes within exceptions to the general Veterans Administration policy of prior publication of proposed rules for public notice and comment as contained in 38 CFR 1.12. This regulation implements a statutory provision which mandates that standards be set forth as rules, the substance of which are purely matters of internal agency procedure and practice.

This final rule is not subject to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354) since it does not come within the term "rule" as defined in that Act (5 U.S.C. 601(2)); in any case, this rule of internal agency procedure and practice will clearly not have a significant economic impact on a substantial number of small entities.

There is no Catalog of Federal Domestic Assistance Number involved.

List of Subjects in 38 CFR Part 1

Administration practice and procedure.

Approved: November 19, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 1—GENERAL PROVISIONS

Part 1—General Provisions is amended by adding a new § 1.15 and an undesignated heading to read as follows:

Program Evaluation

§ 1.15 Standards for program evaluation.

(a) The Veterans Administration will evaluate all programs authorized under title 38, United States Code. These evaluations will be conducted so as to determine each program's effectiveness in achieving its stated goals and in achieving such goals in relation to their cost. In addition, these evaluations will determine each program's impact on related programs and its structure and mechanism for delivery of services. All programs will be evaluated on a continuing basis and all evaluations will be conducted by Veterans Administration staff assigned to an organizational entity other than those responsible for program administration. These evaluations will be conducted with sufficient frequency to allow for an assessment of the continued effectiveness of the programs.

(b) The program evaluation will be designed to determine if the existing program supports the intent of the law. A program evaluation must identify goals and objectives that support this intent, contain a method to measure fulfillment of the objectives, ascertain the degree to which goals and objectives are met, and report the findings and conclusions to Congress, as well as make them available to the public.

(c) The goals must be clear, specific, and measurable. To be clear they must be readily understood, free from doubt or confusion, and specific goals must be explicitly set forth. They must be measurable by objective means. These means can include use of existing record systems, observations, and information from other sources.

(d) All program evaluations require a detailed evaluation plan. The evaluation plan must clearly state the objectives of the program evaluation, the methodology to be used, resources to be committed, and a timetable of major phases.

(e) Each program evaluation must be objective. It must report the accomplishments as well as the shortcomings of the program in an unbiased way. The program evaluation must have findings that give decision-makers information which is of a level of detail and importance to enable decisions to be made affecting either direction or operation. The information in the program evaluation must be timely, and must contain information of sufficient currency that decisions based on the data in the evaluation can be made with a high degree of confidence in tha data.

(f) Each program evaluation requires a systematic research design to collect the data necessary to measure the objectives. This research design should conform to the following:

(1) *Rationale.* The research design for each evaluation should contain a specific rationale and should be structured to determine possible cause and effect relationships.

(2) *Relevancy.* It must deal with issues currently existing within the program, within the Agency, and within the environment in which the program operates.

(3) *Validity.* The degree of statistical validity should be assessed within the research design. Alternative include an assessment of cost of data collection vs. results necessary to support decisions.

(4) *Reliability.* Use of the same research design by others should yield the same findings.

(g) The final program evaluation report will be reviewed for comments and concurrence by relevant organizations within the Veterans Administration, but in no case should this review unreasonably delay the results of the evaluation. Where disagreement exists, the dissenting organization's position should be summarized for a decision by the Administrator.

(h) The final program evaluation report will be forwarded, with approved recommendations, to the concerned organization. An action plan to accomplish the approved recommendations will be forwarded for evaluation by the evaluating entity.

(i) Program evaluation results should be integrated to the maximum extent possible into Veterans Administration plans and budget submissions to ensure continuity with other Veterans Administration management processes.

(38 U.S.C. 219, Pub. L. 95–508)

[FR Doc. 82-32544 Filed 11-26-82; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[FRA Docket No. RSFC–6, Notice 6]

Railroad Freight Car Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Amendment of final rule.

SUMMARY: This document amends the final rule published on October 29, 1982 (47 FR 49026), which extended the compliance date for equipping the side doors of railroad box cars with safety hangers or the equivalent, from November 1, 1982 until December 1, 1982. This amendment further extends the compliance date until December 1, 1983. This action is being taken in response to a petition of the Association

of American Railroads (AAR) for extension of the compliance date.

EFFECTIVE DATE: This amendment will become effective December 1, 1982.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426–0897.

SUPPLEMENTARY INFORMATION: On June 24, 1982, FRA published a notice of public hearing and an amendment of final rule which extended the compliance date for equipping the side doors of railroad box cars with safety hangers or the equivalent until November 1, 1982 (47 FR 27293). The purpose of this four month extension was to enable FRA to hold public hearings and receive written comments from interested persons on the AAR's request to extend that compliance date until December 31, 1985. To provide additional time to consider the AAR request before making a final decision, FRA further extended the compliance date to December 1, 1982.

Extension of the compliance date to December 31, 1985 was strongly supported by the railroad industry. In written comments and statements made at the hearing, spokesmen for major railroads indicated that approximately 45,000 cars equipped with plug doors have been retrofitted with safety hangers. However, these spokemen alsc indicated that a number of considerations preclude completion of the task of retrofitting the remaining 55,000 plug door cars before the end of 1985.

There is a wide variety of door styles and sizes in the nation's box car fleet. Each requires a specific safety hanger application that has been engineered and designed to ensure proper functioning and compliance with AAR clearance restrictions. Consequently, it is not economically feasible to inventory the necessary parts for each application at every repair facility.

Cars to be retrofitted with safety hangers are scattered throughout the country and are moved frequently. They have to be located, withdrawn from service and moved to distant facilities that have the necessary parts to do the job. This task is further complicated by the fact that many of the cars that lack safety hangers are often assigned to individual shippers who are reluctant to release the cars for retrofitting.

Because of the reduced demand for rail transportation, many cars that have not yet been retrofitted with safety hangers have been removed from service and placed in storage. Decreased revenues have compelled many railroads to reduce their car repair forces and to concentrate their diminished resources on making "running" light repairs and servicing those cars that remain in service.

The railroad industry has acted to reduce the risk of plug doors falling from cars. The AAR Field Manual of Interchange Rules requires the following to be stencilled on the exterior of each plug door: "Doors must be closed before moving car" (Rule 88). Plug doors that are not closed tend to become disloged or damaged during train and switching movements.

The Railway Labor Executives' Association (RLEA) opposed the AAR request for a three-year extension of the compliance date. It contended that the railroads have had a reasonable opportunity to retrofit the entire car fleet, citing past AAR statements to the effect that the average car is placed on a repair track twice a year. RLEA further contended that if any such extension is given by FRA, it should be limited to those individual railroads that can clearly demonstrate a good faith effort to comply. All other railroads should either bring their cars into compliance or withdraw them from service. However, RLEA does not oppose a one-year extension of the compliance date to December 1, 1983.

FRA accident/incident records show that between January 1, 1978 and October 1, 1982 (57 months), three railroad employees were killed by defective plug doors. Each of these employees was a carman. Each was struck by a plug door that fell from a stationary car that he was inspecting or repairing.

The first fatality occurred in 1979 when two carmen inspecting a car on a repair track, opened a plug door that had both of its top arms missing. The second fatality occurred in 1980 when a carman who had been sent to a warehouse track to repair a car, attempted to open a plug door that had both top arms missing. It is doubtful that either of these accidents would have been avoided had the car been equipped with safety hangers since the safety hanger for the door that fell from the car probably would have also been missing or ineffective. The third fatality occurred when two carmen attempted to reinstall an improperly repaired plug door on a car that had been equipped with safety hangers. These fatal accidents clearly demonstrate the need for the railroad industry to intensify its efforts to make employees aware of the hazards posed by attempting to operate defective plug doors. FRA will closely monitor those efforts and, if necessary, take remedial action to assure the safety of railroad employees.

In recognition of the railroad industry's action to reduce the risk of plug doors falling from cars, the complexity of the task of retrofitting an estimated 55,000 plug door cars with safety door hangers, and the diminished resources available to the industry to perform this task, FRA has decided that extension of the compliance date to December 1, 1983, is warranted.

To avoid the disruption of rail service and public inconvenience that would result if all plug door box cars not equipped with safety hangers were to be removed from service on the current compliance date of December 1, 1982, this amendment shall become effective in less than 30 days on December 1, 1982.

List of Subjects in 49 CFR Part 215

Railroad safety.

Regulatory Impact

FRA has reviewed this amendment under the standards established by Executive Order 12291 and DOT's order on regulatory policies and procedures. FRA has concluded that the amendment is not a major rule under the terms of Executive Order 12291 or a significant rule under DOT criteria.

The amendment has been reviewed according to the requirements of the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1184, September 19, 1980). FRA has not identified any significant economic impact from the rule change that will affect small entities. Based on this fact, it is certified that the amendment will not have a significant impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

The amendment does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

List of Subjects in 49 CFR Part 215

Railroads safety.

PART 215—[AMENDED]

The Amendment

In consideration of the foregoing, § 215.121(d) of Part 215 of Title 49, Code of Federal Regulations, is revised, effective December 1, 1982, to read as follows:

§ 215.121 Defective car body.

* * * * *

(d) After December 1, 1983, the car is a box car and its side doors are not equipped with operative hangers, or the equivalent, to prevent the doors from becoming disengaged.

* * * * *

(Secs. 202 and 209, 84 Stat. 971 and 975, 45 U.S.C. 431 and 438; and § 1.49(m) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(m))

Issued in Washington, D.C., on November 24, 1982.

John M. Mason,

Acting Administrator.

[FR Doc. 82-32722 Filed 11-26-82; 10:38 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Commission Organization; Delegation of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The purpose of this document is to revise the delegation of authority to the Office of Special Counsel. Under the revised delegation of authority, the Special Counsel will be required to petition for permission to intervene in Commission preceedings, and will be permitted to do so only upon approval by a majority of the Commission. Because this change in rule involves the internal organization and procedures of the Commission, it is issued in final form, and public comment is not being requested.

EFFECTIVE: November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, 202-275-0956.

SUPPLEMENTARY INFORMATION: On October 6, 1982, the Commission decided to revise the delegation of authority for the Office of Special Counsel. Under the revised delegation of authority, the Special Counsel will be required to petition for permission to intervene in Commission proceedings, and will be permitted to do so only upon approval by a majority of the Commission.

Also, the Office of Special Counsel may execute its responsibilities either by assisting parties to Commission proceedings [and not participating as a party] or by participating itself as a party. In other words, the Office of Special Counsel may not participate as a party in an individual proceeding *and,* at the same time, assist other parties to that proceeding.

Finally, the revised delegation enumerates certain types of proceedings in which the Special Counsel's participation or assistance may contribute to the public interest.

Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 1011—[AMENDED]

Accordingly, 49 CFR 1011.8 is revised to read a follows:

§ 1011.8 Delegation of Authority by the Interstate Commerce Commission to Specific Bureaus and Offices of the Commission.

(a) *Office of Special Counsel.* (1) There is established an Office of Special Counsel. (2) The Office shall be headed by an officer to be known as the Special Counsel, who shall be appointed by the Chairman, subject to the approval of a majority of the Commission. (3) The mission of the Office will be to contribute to the development of a complete record in proceedings in which important aspects of the public interest otherwise would not be adequately explored, in particular, proceedings affecting the interests of bus passengers, household goods shippers, owner-operators, and Class II and III rail carriers and the shippers they serve. The Special Counsel may execute its responsibilities by assisting parties to such Commission proceedings (but not participating in such proceedings) and services. (5) The Special Counsel will participate as a party in Commission proceedings, including rulemaking proceedings, only upon submission of a petition to do so and approval of the petition by a majority of the Commission. (6) So that parties having need of the assistance of the Office of Special Counsel will be adequately informed, the Office of Hearings is directed, in noticing cases for public hearings, to advise parties of the availability of this program.

(b) [Reserved]

(49 U.S.C. 10321 and 5 U.S.C. 553)

This is not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources.

This change to the rules will have no adverse effect on small entities.

Decided: November 15, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison. Commissioner Sterrett did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-32546 Filed 11-26-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 229
Monday, November 29, 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 Part 984

Walnuts Grown in California; Proposed Free and Reserve Percentages for the 1982–83 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on the establishment of marketing percentages for California walnuts for the 1982–83 marketing year to allocate this season's supplies between domestic and export markets. The 1982–83 marketing year began August 1, 1982. The proposal is intended to make ample supplies of this season's walnuts available for domestic needs and all of the excess available for export. The percentages are authorized by the Federal marketing order for walnuts grown in California.

DATES: Comments must be received by December 14, 1982.

Proposed Effective Dates: August 1, 1982 through July 31, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 24 handlers.

J. S. Miller has determined that this proposal should be published with less than a 60-day comment period. If established, free and reserve percentages for the 1982–83 crop year would apply to all walnuts certified as merchandise from August 1, 1982, the beginning of that crop year. As handlers are now receiving and processing 1982 crop walnuts in volume, they need to know as soon as possible what volume regulations may apply to the handling of this crop so they can plan their operations accordingly.

The authority to establish the free and reserve percentages under consideration is pursuant to § 984.49 of the marketing agreement and Order No. 984, both as amended (7 CFR Part 984), regulating the handling of walnuts grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Walnut Marketing Board, hereinafter referred to as the "Board", which works with USDA in administering the order.

Pursuant to § 984.48 of the order, the Board based its recommendation for free and reserve percentages of 77 percent and 23 percent, respectively, on estimates of supply and combined inshell and shelled domestic trade demand for the current marketing year. Estimated trade demand was adjusted to account for supplies of walnuts carried in from the 1981–82 marketing year and for supplies deemed desirable to be carried out on July 31, 1983, for early season domestic use next year until the 1983 crop is available for market.

The estimated 1982 walnut production is well in excess of the 1982–83 marketing year domestic needs. While the proposal is designed to tailor the supply to domestic demand, it would still ensure the availability of ample supplies of walnuts for domestic markets during that year and promote maximum usage.

Supplies in excess of domestic needs would be available chiefly for export. Any excess supplies that could not be absorbed by export markets would be used for oil, feed, or other outlets noncompetitive with outlets for free merchantable walnuts.

In considering its recommendation, the Board noted the estimates it had made one year earlier for the 1981 crop. These estimates and final results are as follows:

	Estimated kernel weight [1,000 lbs]	Final kernel weight [1,000 lbs]
Supply:		
1. Orchard-run production	172,000	180,000
2. Less: Miscellaneous farm use	800	800
3. Commercial production	171,200	179,200
4. Plus: Uncertified carrying inshell uncertified	944	944
Carryin Shelled	11,440	11,440
5. Total merchantable supply	183,584	191,584
6. Plus: Substandard creditable for reserve	8,000	6,344
7. Total Supply subject to regulation	191,584	197,928
Demand:		
8. Inshell demand	27,000	25,532
9. Plus: Desirable carryout	5,625	2,977
10. Less: Certified carryin	2,386	2,386
11. Adjusted inshell demand	30,239	26,123
12. Shelled demand	100,000	97,344
13. Plus: Desirable carryout	30,000	35,345
14. Less: Certified carryin	16,097	16,097
15. Adjusted Shelled Demand	113,903	116,592
16. Total Demand [Item 11 + Item 15]	144,142	142,715
MARKETING PERCENTAGES:		
17. Free percentage [Item 16 ÷ Item 7] = 75 pct.		
18. Reserve percentage [100 pct. − Item 17] = 25 pct.		

The Board used the estimates given in the table below in making its recommendation for the 1982–83 marketing year. Weight figures for inshell walnuts are converted to their equivalent shelled kernel weights.

	Inshell weight (1,000 lbs.)	Conversion factor (percent)	Kernel weight (1,000 lbs.)
Supply:			
1. Orchard-run production	440,000		
2. Less: Miscellaneous farm use	2,000		
3. Commercial production	438,000	40	175,200
4. Plus: Uncertified carryin inshell	415	45	187
Uncertified carryin shelled			17,880
5. Total merchantable supply			193,267
6. Plus: Substandard creditable for reserve			8,000
7. Total supply subject to regulation			201,267
Demand:			
8. Inshell demand	65,000		
9. Plus: Desirable carryout	15,000		
10. Less: Certified carryin	6,200		
11. Adjusted inshell demand	73,800	45	33,210
12. Shelled demand			100,000
13. Plus: Desirable carryout			37,500
14. Less: Certified carryin			17,465

	Inshell weight (1,000 lbs.)	Conversion factor (percent)	Kernel weight (1,000 lbs.)
15. Adjusted shelled demand			120,035
16. Total demand (item 11+item 15)			153,245
Marketing percentages:			
17. Free percentage (item 16÷item 7)=77 pct (76.1 pct rounded up by the Board).			
18. Reserve percentage (100 pct−item 17)=23 pct (23.9 pct rounded down by the Board).			

List of Subjects in 7 CFR Part 984

Marketing Agreements and Orders, Walnuts, California.

PART 984—[AMENDED]

Therefore, it is proposed to add § 984.228 to 7 CFR Part 984 as follows: (This section will not appear in the Code of Federal Regulations.)

§ 984.228 Free and reserve percentages for California walnuts during the 1982–83 marketing year.

The free and reserve percentages for California walnuts during the marketing year beginning August 1, 1982, shall be 77 percent and 23 percent, respectively.

Dated: November 19, 1982.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 82-32320 Filed 11-26-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-153 (Colorado-30)]

High-Cost Gas Produced From Tight Formations, Colorado; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

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

DATES: Comments on the proposed rule are due on January 6, 1983.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

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

SUPPLEMENTARY INFORMATION:

Issued: November 22, 1982.

I. Background

On November 8, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Plainview Formation located in Adams and Weld Counties, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Plainview Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands in Adams and Weld Counties, Colorado, and is located approximately 10 miles north of the city of Denver. The recommended area is approximately 48,000 acres and consists of Township 1 North, Range 67 West, 6th P.M., Section 31 through 33; Township 1 South, Range 67 West, 6th P.M., Sections 1 through 36; and Township 1 South, Range 68 West, 6th P.M., Sections 1 through 36. There is no Federal land within the recommended area.

The average depth to the top of the Plainview Formation is 8,586 feet and the thickness of such formation is approximately 78 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–36 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No wells drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Plainview Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 6, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–153 (Colorado–30), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make oral presentation and

therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Request should be filed with the Secretary of the Commission no later than December 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chaper I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulations.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(15) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(150) *Plainview Formation in Colorado.* RM79–76–153 (Colorado–30).

(i) *Delineation of formation.* The Plainview Formation is located in Adams and Weld Counties, Colorado, in Township 1 North, Range 67 West, Sections 31 through 33; Township 1 South, Range 67 West, Sections 1 through 36; and Township 1 South, Range 68 West, Section 1 through 36, 6th P.M.

(ii) *Depth.* The average depth to the top of the Plainview Formation is 8,586 feet. The producing interval is approximately 78 feet in thickness and begins at the base of the Skull Creek Shale and extends to the top of the Lakota Formation.

[FR Doc. 82–32430 Filed 11–26–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–050 (New Mexico—5)]

High-Cost Gas Produced From Tight Formations; New Mexico; Withdrawal of Proposed Rule

Issued: November 22, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Federal Regulatory Commission received a request from the New Mexico Oil Conservation Division and the U.S. Mineral Management Service to withdraw a recommendation previously submitted to the Commission that the Mesaverde Formation be designated as a tight formation issued in Docket No. RM 79–76–050 (New Mexico—5) on August 25, 1981, and published as a Proposed Rule in the **Federal Register** at 46 FR 43844, September 1, 1981, and corrected at 46 FR 48235, October 1, 1981. The Commission grants the request for withdrawal of the recommendation, withdraws its proposed rulemaking and terminates this docket.

DATE: This rulemaking is terminated effective November 22, 1982.

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

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. The Commission received a request from the New Mexico Oil Conservation Division and the U.S. Mineral Management Service to withdraw a recommendation previously submitted to the Commission that the Mesaverde Formation be designated as a tight formation. The Commission grants the request for withdrawal of the recommendation, withdraws its proposed rulemaking and terminates this docket.

SUPPLEMENTARY INFORMATION:

On July 30, 1981, the Federal Energy Regulatory Commission (Commission) received from the New Mexico Oil Conservation Division (New Mexico) a recommendation in accordance with § 271.703 of the Commission's regulations that the Mesaverde Formation located in portions of Rio Arriba County, New Mexico, be designated as a tight formation. The U.S. Minerals Management Service (MMS, formerly the U.S. Geological Survey), concurred in the recommendation., Pursuant to § 271.703(c)(4), a Notice of Proposed Rulemaking was issued by the Director of the Commission's Office of Pipeline and Producer Regulation on August 25, 1981 (46 FR 43844, September 1, 1981),[1] to determine whether the recommendation whould be adopted. No comments were received in response to the Notice of Proposed Rulemaking, nor did any party request that a public hearing be held.

On July 23, 1982, the Commission received a request from New Mexico to withdraw the recommendation that the Mesaverde Formation be designated as a tight formation. MMS concurred in this request by a letter which the Commission received on July 30, 1982.

The Commission hereby grants New Mexico and MMS' request that the recommendation be withdrawn and, accordingly, the Commission hereby withdraws its Proposed Rulemaking in this docket and terminates this docket. Such termination is without prejudice to any subsequent recommendation that New Mexico may submit that the Mesaverde Formation be designated as a tight formation under § 271.703.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–32394 Filed 11–26–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–134 (West Virginia–2)]

High-Cost Gas Produced From Tight Formations, West Virginia; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commision is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas of designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of West

[1] An errata was issued on October 1, 1981 (46 FR 48235).

Virginia Office of Oil and Gas that the "Maxton" sandstone of the Mauch Chunk Group and the "Big Lime" of the Greenbrier Group be designated as tight formations under §271.703(d).

DATE: Comments on the proposed rule are due on January 6, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556

SUPPLEMENTARY INFORMATION:

Issued: November 22, 1982.

I. Background

On July 30, 1982, the State of West Virginia Office of Oil & Gas (West Virginia) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 F.R. 56034, August 22, 1980), that the "Maxton" sandstone of the Mauch Chunk Group and the "Big Lime" Formation of the Greenbrier Group in southern West Virginia be designated as tight formations. Pursuant to § 271.703(c)(4) of the regulations, a Notice of Proposed Rulemaking is hereby issued to determine whether West Virginia's recommendation that "Maxton" sandstone of the Mauch Chunk Group and the "Big Lime" Formation of the Greenbrier Group be designated as tight formations should be adopted. West Virginia's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

West Virginia recommends that the "Maxton" sandstone of the Mauch Chunk Group and the "Big Lime" formation of the Grenbrier Group, both of Mississippian age, located in southern West Virginia in certain areas of Fayette, Mercer, McDowell, Raleigh and Wyoming Counties, be designated as tight formations.

The depth to the top of the "Maxton" varies from 1,200 feet in the western portion of the recommended area to 2,300 feet along the eastern border of the area.

The "Maxton" sandstone contains up to five successive sandstones referred to locally as the "Maxton", "Upper Maxton", "Middle Maxton", "Lower Maxton", and "Little Maxton" which vary in thickness from 0 feet to 100 feet. The "Maxton" is overlain by the upper portion of the Mauch Chunk Group, locally referred to as "Avis", "Ravencliff", and "Princeton", which are bounded above by the Pottsville Group of Pennsylvanian age. The "Maxton" is underlain by the lower portion of the Mauch Chunk Group referred to as "Little Lime," and "Blue Monday," which are bounded below by the Greenbrier Group. The interval between the "Maxton" and the Greenbrier Group ranges from 100 feet to 600 feet.

The "Big Lime" comprises most of the Greenbrier Group. It is underlain by the "Keener" and "Injun" formations of the Pocono Group, also of Mississippian age. The depth to the Top of the "Big Lime" formation ranges from 1,990 feet in the western part of the recommended area to 3,100 feet along the eastern edge of the area.

III. Discussion of Recommendation

West Virginia claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by West Virginia on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay sections of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

West Virginia further asserts that existing State and Federal regulations assure that development of these formations will not adversely affect any fresh water aquifers that are, or are expected to be, used as a domestic or agricultural water supply. Protection of fresh water aquifers will be assured by enforcing compliance with Section 15, Part 1, Section V of the West Virginia Administrative Regulations and Chapter 22–48a of the Code of West Virginia.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by West Virginia that the "Maxton" sandstone of the Mauch Chunk Group, and the "Big Lime" formation of the Greenbrier Group, as described and delineated in West Virginia's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 6, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–134 (West Virginia—2), and should give reasons, including supporting data, for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event West Virginia's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding new subparagraphs (140) and (141) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(140) *"Maxton" Sandstone of the Mauch Chunk Group in West Virginia.* RM79–76–134 (West Virginia-2).

(i) *Delineation of formation.* The "Maxton" sandstone of the Mauch Chuck Group is found in portions of Fayette, Mercer, McDowell, Raleigh and Wyoming Counties in southern West Virginia and is composed of five successive sandstones known localy as "Maxton", "Upper Maxton", "Middle Maxton", "Lower Maxton" and "Little Maxton". It underlies the "Avis", "Ravencliff" and "Princeton" and overlies the "Little Lime" and "Blue Monday", also members of the Mauch Chunk Group. The Mauch Group is below the Pottsville Group and above the Greenbrier Group.

(ii) *Depth.* The depth of the top of the "Maxton" sandstone varies from 1,200 feet in the western part of the area to 2,300 feet along the eastern border of the area. The individual sandstones vary in thickness from 0 feet to 100 feet.

(141) *"Big Lime" Formation of the Greenbrier Group is West Virginia.* RM79–76–134 (West Virginia-2).

(i) *Delineation of formation.* The "Big Lime" formation of the Greenbrier Group is found in portions of Fayette, Mercer, McDowell, Raleigh and Wyoming Counties in southern West Virginia. It comprises most of the Greenbrier Group and lies below the Mauch Chunk Group and above the Pocono Group.

(ii) *Depth.* The depth to the top of the "Big Lime" formation varies from 1,990 feet in the western part of the area to 3,100 feet along the eastern edge of the area.

[FR Doc. 82–32524 Filed 11–26–82; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–151 (Wyoming-14)]

High-Cost Gas Produced From Tight Formations Wyoming; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c) (5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural has produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendation of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the U.S. Department of the Interior, Minerals Management Service, that the Frontier Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on January 6, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

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

SUPPLEMENTARY INFORMATION:

Issued: November 22, 1982.

I. Background

On October 27, 1982, the United States Department of the Interior, Minerals Management Service (MMS) submitted to the Commission a recommendation, in asccordance with § 271.703 of the Commission's regulations (45 F.R. 56034, August 22, 1980), that the Frontier Formation located in Fremont County, Wyoming, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether MMS's recommendation that Frontier Formation be disignated a tight formation should be adopted. The State of Wyoming Oil and Gas Conservation Commission concurs with MMS's recommendation. MMS's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies a portion of Fremont County in the Wind River Basin of central Wyoming. The area encompasses portions of Townships 1 and 2 South, Ranges 4 and 5 East, and is contained entirely on Indian Reservation lands. The Frontier Formation consists of seven distinct sandstone members which lie between the base of the Cody Formation and the top of the Mowry formation. The average depth to the top of the first sandstone member is 8,188 feet.

III. Discussion of Recommendation

MSS claims in its submission that evidence gathered through information and testimony presented at a public hearing in MMS Docket No. W353–2 and State of Wyoming Cause No. 1, Order No. 1, Docket No. 168–82 convened by Wyoming on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atomospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

MMS further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 F.R. 53456, August 12, 1980), notice is hereby given of the proposal submitted by MMS that the Frontier Formation, as described and delineated in MMS's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washigton, D.C. 20426, on or before January 6, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–151 (Wyoming–14), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's

Division of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event MMS's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding new paragraph (d)(146) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * * * *

(146) *Frontier Formation in Wyoming.* RM79–76–151 (Wyoming–14).

(i) *Delineation of formation.* The Frontier Formation is located in Fremont County, Wyoming, in the Wind River Basin of central Wyoming. The Frontier Formation underlies Township 1 South, Range 4 East, Sections 13 through 15, 22 through 27, and 34 through 36; Township 1 South, Range 5 East, Sections 16 through 21 and 28 through 33; Township 2 South, Range 4 East, Sections 1 through 3 and 10 through 12; and Township 2 South, Range 5 East, Sections 4 through 9.

(ii) *Depth.* The Frontier Formation has an average gross thickness of 950 feet. The average depth to the top of the first productive sandstone member of the Frontier Formation is 8,188 feet.

[FR Doc. 82-32387 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-152 (Wyoming-15)]

High-Cost Gas Produced From Tight Formations, Wyoming; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the U.S. Department of the Interior, Minerals Management Service, that the Muddy, Dakota, and Lakota Formations each be designated as tight formations under § 271.703(d).

DATES: Comments on the proposed rule are due on January 6, 1983.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

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

SUPPLEMENTARY INFORMATION:

Issued: November 22, 1982.

I. Background

On October 27, 1982, the U.S. Department of the Interior, Minerals Management Service (MMS) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Muddy, Dakota, and Lakota Formations (Dakota Group) located in Fremont County, Wyoming, each be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether MMS's recommendation that the Dakota Group Formations be designated as tight formations should be adopted. The State of Wyoming Oil and Gas Conservation Commission concurs with MMS's recommendation. MMS's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended Dakota Group Formations, consisting of the Muddy, Dakota and Lakota Formations underlie a portion of Fremont County in the Wind River Basin of central Wyoming. The area encompasses portions of Townships 1 and 2 South, Ranges 4 and 5 East, and is contained entirely on Indian Reservation lands. The Muddy Formation lies between the base of the Shell Creek Formation and the top of the Dakota Formation. The average depth to the top of the Muddy Formation is 9,337 feet. The Dakota Formation lies between the base of the Muddy Formation and the top of the Lakota Formation. The average depth to the top of the Dakota Formation is 9,514 feet. The Lakota Formation lies between the base of the Dakota formation and the top of the Morrison Formation. The average depth to the top of the Lakota Formation is 9,639 feet.

III. Discussion of Recommendation

MMS claims in its submission that evidence gathered through information and testimony presented at a public hearing convened on this matter, in MMS Docket No. W354–2 and State of Wyoming Docket No. 168–82, demonstrates that:

(1) The average *in situ* gas permeability throughout the pay sections of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rates, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, are not expected to exceed the maximum allowable production rates set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

MMS further asserts that existing State and Federal Regulations assure that development of this formation will

not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by MMS that the Dakota Group Formations, as described and delineated in MMS's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 6, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–152 (Wyoming–15), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event MMS's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding new paragraph (d)(147), (148), and (149) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(147) *Muddy Formation in Wyoming.* RM79–76–152 (Wyoming–15).

(i) *Delineation of formation.* The Muddy Formation is located in Fremont County, Wyoming, in Township 1 South, Range 4 East, Sections 13 and 14, 23 through 26, 35 and 36; Township 1 South, Range 5 East, Sections 17 through 20, and 29 through 32; Township 2 South, Range 4 East, Sections 1, 2, 11 and 12; Township 2 South, Range 5 East, Sections 5 through 8.

(ii) *Depth.* The Muddy Formation lies between the base of the Shell Creek Formation and the top of the Dakota Formation. The average depth to the top of the Muddy Formation is 9,337 feet.

(148) *Dakota Formation in Wyoming.* RM79–76–152 (Wyoming–15).

(i) *Delineation of formation.* The Dakota Formation is located in Fremont County, Wyoming, in Township 1 South, Range 4 East, Sections 13 and 14, 23 through 26, 35 and 36; Township 1 South, Range 5 East, Sections 17 through 20, and 29 through 32; Township 2 South, Range 4 East, Sections 1, 2, 11 and 12; Township 2 South, Range 5 East, Sections 5 through 8.

(ii) *Depth.* The Dakota Formation lies between the base of the Muddy Formation and the top of the Lakota Formation. The average depth to the top of the Dakota Formation is 9,514 feet.

(148) *Lakota Formation in Wyoming.* RM79–76–152 (Wyoming–15).

(i) *Delineation of formation.* The Lakota Formation is located in Fremont County, Wyoming, in Township 1 South, Range 4 East, Sections 13 and 14, 23 through 26, 35 and 36; Township 1 South, Range 5 East, Sections 17 through 20, and 29 through 32; Township 2 South, Range 4 East, Sections 1, 2, 11 and 12; Township 2 South, Range 5 East, Sections 5 through 8.

(ii) *Depth.* The Lakota Formation lies between the base of the Dakota Formation and the top of the Morrison Formation. The average depth to the top of the Lakota Formation is 9,639 feet.

[FR Doc. 82–32429 Filed 11–26–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Customs Regulations Amendment Relating to the Customs Field Organization; Proposed Change in Hours of Service at a Customs Port of Entry

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule; closing of customs station and notice of change in hours of service.

SUMMARY: This document proposes to amend the Customs Regulations by deleting Lochiel, Arizona, from the list of designated Customs stations. This document also gives notice of a proposed reduction in hours of service at the Customs port of entry of Naco, Arizona. The proposed hours of service at Naco, which is presently open 24 hours a day, are 6 a.m. to 10 p.m.

These proposed changes would enable Customs to obtain more efficient use of its personnel, facilities, and resources.

DATE: Comments must be received on or before January 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Renee DeAtley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

Customs ports of entry and stations are locations where Customs officers are placed for the purpose of accepting the entry of merchandise, collecting duties, examining baggage, clearing passengers, and enforcing the various provisions of the customs laws and other laws.

The significant difference between ports of entry and stations is that at stations, the Federal Government is reimbursed for:

(1) The salaries and expenses of its officers or employees for services rendered in connection with the entry or clearance of vessels; and

(2) Except as otherwise provided by the Customs Regulations, the expenses (including any per diem allowed in lieu of subsistence), but not the salaries, of its officers or employees, for service

rendered in connection with the entry or delivery of merchandise.

As part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to importers, carriers, and the public, it is proposed to amend Part 101, Customs Regulations (19 CFR Part 101), by deleting Lochiel, Arizona, from the list of designated Customs stations, and to reduce the hours of service at the Customs port of entry of Naco, Arizona.

Lochiel, Arizona

In Fiscal Year 1981, the station at Lochiel, Arizona, did not collect any revenue, did not make any entry examinations, and did not take any enforcement action. Approximately 17 vehicles a day, most of which are noncommercial, use Lochiel to cross the U.S./Mexican border. If Lochiel were to be closed, those vehicles would clear Customs at Nogales, Arizona, 10 miles from Lochiel. Because of the minimal use of Lochiel, the annual cost of operations of $41,218 is not justified. Accordingly, Customs believes that the Lochiel station should be closed.

Naco, Arizona

Section 101.6, Customs Regulations (19 CFR 101.6), provides that, with certain exceptions, each Customs office shall be open for the transaction of general Customs business between the hours of 8:30 a.m. and 5:00 p.m., on all days of the year. If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided that the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

The port of Naco, Arizona, which is presently open 24 hours a day, experiences very little activity between the hours of 10 p.m. and 6 a.m. Approximately 38 noncommercial vehicles use the Naco port of entry to cross the U.S./Mexican border during those hours, and many of those are repeat crossers. Travelers desiring clearance during these hours may clear Customs at Douglas, Arizona, a 24-hour port located 40 miles from Naco. The reduction in hours of service would result in an annual savings of $42,130. Accordingly, Customs believes that the hours of service of the Naco port should be changed to 6 a.m. to 10 p.m.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government Agencies).

Proposed Amendment to the Regulations

PART 101—GENERAL PROVISIONS

§ 101.4 [Amended]

It is proposed to amend § 101.4(c), Customs Regulations (19 CFR 101.4(c)), by removing Lochiel, Arizona, from the list of Customs stations.

Authority

This amendment is proposed pursuant to section 301, 80 Stat. 379, section 1, 37 Stat. 434, R.S. 251, as amended, section 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 1, 66, 1624)

Comments

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

Executive Order 12291

Because the proposed amendment relates to the organization of Customs it is not a regulation or rule subject to Executive Order 12291, pursuant to section 1(a)(3) of that E.O.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, et seq.), it is hereby certified that, if promulgated, the proposal will not have a significant economic impact on a substantial number of small entities, although there may be some adverse consequences for the community of Santa Ariz, Mexico, (e.g. for reasons of convenience, limited health care access, etc.). Accordingly, this proposal is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nevertheless, written comments are specifically solicited on the effects on costs, profitability, or other economic factors of small entities affected, if any.

Drafting Information

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

William von Raab,

Commissioner of Customs.

Approved: November 8, 1982.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-32536 Filed 11-26-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 221, and 234

[Docket No. R-82-1037]

Mutual Insurance Programs Under the National Housing Act, Direct Endorsement Processing

Correction

In FR Doc. 82-32280 beginning on page 53038 of the issue for Wednesday, November 24, 1982, the comment due date in the "DATES" caption should have read "December 27, 1982".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-42-78]

Group-Term Life Insurance; Individual Selection; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to group term life insurance purchased for employees.

DATES: The public hearing will be held on January 19, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by January 5, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn:

CC:LR:T (LR–42–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 79 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, October 7, 1982 (47 FR 44343).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by January 5, 1983. Each speaker will be limited to 10 minutes for oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Acting Director, Legislation and Regulations Division.

[FR Doc. 82–32585 Filed 11–26–82; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–194–82]

Puerto Rico and Possession Tax Credit Changes; Invitation for Public Comments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Invitation for public comments.

SUMMARY: This document contains an invitation for public comments with respect to changes made to Section 936 of the Internal Revenue Code relating to the Puerto Rico and Possession Tax Credit by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982. The Service invites interested members of the public to participate, by submission of written comments (preferably seven copies), in the consideration of specific matters described below to be addressed in proposed regulations. All comments will be available for public inspection.

DATE: Comments by December 29, 1982.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–194–82) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION: The Internal Revenue Service recently established regulations projects to provide rules with respect to changes made to section 936 of the Internal Revenue Code relating to the Puerto Rico and Possession Tax Credit by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982. During the first stage of the regulations process, the Service proposes to examine the following nine matters:

1. The definition of the "product" produced in Puerto Rico and U.S. possessions (section 936 (h) (5) (B) (iv) (III));

2. The treatment of components (section 936 (h) (5) (B) (iv) (IV));

3. The treatment of contract manufacturing (section 936 (h) (5) (B) (iii) (II));

4. A business presence test for start-up operations (section 936 (h) (5) (B) (iv) (I));

5. The proper sales figure to include in the numerator of the cost sharing formula (section 936 (h) (5) (C) (i) (I) (c));

6. The allocation of non-qualifying marketing intangible income in the cost sharing option (section 936 (h) (5) (C) (i) (II));

7. The treatment of the three classes of intangibles which are granted special treatment in the cost sharing option (section 936 (h) (5) (C) (i) (II));

8. The computation of the profit split option (in particular, rules relating to the allocation of expenses) (section 936 (h) (5) (C) (ii)); and

9. Rules relating to the separate election for export sales (section 936 (h) (5) (F) (iv) (II)).

The Service invites public comment with respect to the matters listed above.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc 82–32578 Filed 11–23–82; 4:53 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–2173–2]

Standards of Performance for New Stationary Sources; Synthetic Fiber Production Facilities

Correction

In FR Doc. 82–31920, beginning on page 52932, on Tuesday, November 23, 1982, in the first column, in the "DATES" paragraph, in the fifth line "February 23, 1982" should read "December 23, 1982".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

41 CFR Parts 9–7, 9–10, and 9–18

Proposed Amendments to DOE Procurement Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: This proposed rule is to amend the DOE Procurement Regulations. A list of revisions is given below under the section entitled "Supplementary Information." The revisions are intended to update the Regulations as a result of changes in the Federal Procurement Regulations and to simplify operations by providing standard clauses for types of contracts not covered elsewhere.

DATE: Written comments should be submitted not later than December 29, 1982, to be considered.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard Langston, Procurement Policy Branch, MA931.1, Procurement and Assistance Management, Department of Energy, (202) 252–8188.

Elliot Winnick, Office of General Counsel, AGC for Procurement, and

Financial Incentives, GC44, Department of Energy, (202) 252–6902.

SUPPLEMENTARY INFORMATION:

I. Background
II. Statutory and Regulatory Requirements
III. Public Comments

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as "the Act") Pub. L. 95–91, 91 Stat. 565 (41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in him. Accordingly, the Department of Energy Procurement Regulations (DOE–PR) were promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979), 41 CFR Ch. 9.

The revisions being proposed by this notice involve construction contracts. Change 8.1 is a listing of changes to the Table of Contents. Change 8.2 revises Part 9–7, "Contract Clauses," to add a new Subpart 9–7.9 entitled "Cost Reimbursement Type Construction Contracts." This addition is necessary because the Federal Procurement Regulations provide guidance only for fixed price type construction contracts. The Department's research activities necessitate that some construction projects be contracted on a cost type basis due to the uncertainties involved in experimental projects. Change 8.3 deletes a portion of the text of § 9–10.103–1 concerning bid guarantees which references an FPR restriction which was removed by 44 FR 3448. Change 8.4 adds a new Subpart 9–18.52, "Value Engineering in Construction Contracts." Value engineering is a technique to provide contractors an incentive to develop innovative techniques to isolate and eliminate unnecessary costs without sacrificing needed performance, quality, maintainability, or reliability. When cost savings are achieved as a result of value engineering, the savings are shared with the contractor.

II. Statutory and Regulatory Requirements

A. Review Under Executive Order 12291

Inasmuch as this proposed rule relates to agency management of the procurement function, the OMB clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Plan Act

DOE has determined that this rulemaking imposes no information collection and reporting requirements on organizations and individuals external to DOE that may be subject to this regulation in accordance with the Paperwork Reduction Plan Act (44 U.S.C. 3501 et seq.).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 et seq. 1976), the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), and the DOE guidelines (10 CFR Part 1020), and therefore does not require an environmental impact statement pursuant to NEPA.

III. Public Comments

Interested persons are invited to participate by submitting data, views or arguments with respect to the proposed DOE–PR amendments set forth in this notice. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

List of Subjects in 41 CFR Parts 9–7, 9–10, and 9–18

Government procurement, Insurance, Surety bonds.

For the reasons set out in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., November 22, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

The regulations in 41 CFR Chapter 9 are proposed to be amended as set forth below.

The authority citation for Parts 9–7, 9–10 and 9–18 reads as follows:

Authority: Sec. 644, Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two-digit identification number is assigned to each specific change. The first digit represents the numerical sequence of proposed changes; thus this is Change 8 to indicate that this is the eighth time that DOE has issued a notice of proposed rulemaking for the purpose of amending 41 CFR Chapter 9. The second digit is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the eighth notice is identified as Change 8.1.

Change 8.1

The table of contents is amended by adding subpart 9–7.9 to Part 9–7 and Subpart 9–18.52 to Part 9–18 to read as follows:

* * * * *

Part 9–7—Contract Clauses.

* * * * *

Subpart 9–7.9 Cost-Reimbursement Type Construction Contracts.

* * * * *

Part 9–18—Procurement of Construction.

* * * * *

Subpart 9–18.52 Value Engineering in Construction Contracts.

* * * * *

Change 8.2

PART 9–7—CONTRACT CLAUSES

Part 9–7, "Contract Clauses," is amended to add a new Subpart 9–7.9 "Cost-Reimbursement Type Construction Contracts ". The new Subpart 9–7.9 will read as follows:

Subpart 9–7.9—Cost-Reimbursement Type Construction Contracts

Sec.

9–7.900 Scope of subpart.
9–7.901 Applicability.
9–7.902 Required clauses.
9–7.902–1 Definitions.
9–7.902–2 Specifications and drawings.
9–7.902–3 Changes.
9–7.902–4 [Reserved]
9–7.902–5 Termination for default or for convenience of the government.
9–7.902–6 Disputes.
9–7.902–7 Limitation of cost.
9–7.902–8 Allowable cost, fixed fee and payment.
9–7.902–9 [Reserved]
9–7.902–10 Material and workmanship.
9–7.902–11 Inspection and acceptance.
9–7.902–12 Superintendence by contractor.
9–7.902–13 Permits and responsibilities.
9–7.902–15 Other contracts.
9–7.902–16 Patent indemnity.
9–7.902–17 Additional bond security.
9–7.902–18 Convenant against contingent fees.

Authority: Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart 9-7.9—Cost-Reimbursement Type Construction Contracts

§ 9-7.900 Scope of subpart.

This subpart sets forth clauses for use in cost reimbursement type construction contracts.

§ 9-7.901 Applicability.

The clauses set forth in this subpart shall be used in cost reimbursement type construction contracts.

§ 9-7.902 Required clauses.

The clauses sets forth in this section shall be inserted as required in all cost-reimbursement type construction contracts.

§ 9-7.902-1 Definitions.

Insert the clause at FPR 1-7.602-1 modified by DOE-PR 9-7.602-1.

§ 9-7.902-2 Specifications and drawings.

Insert the clause at FPR 1-7.602-2.

§ 9-7.902-3 Changes.

Insert the clause in § 1-7.202-2 with the following changes in wording: Delete subparagraph (a) and substitute "The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in the plans and specifications or instructions incorporated herein." Delete the words "delivery schedule" from subparagraph (b)(1) and substitute the words "completion time."

§ 9-7.902-4 [Reserved]

§ 9-7.902-5 Termination for default or for convenience of the Government.

Insert the clause at FPR 1-8.702 except add "as supplemented by Part 9-15 of the DOE Procurement Regulation (41 CFR Part 9-15)" after the reference to "(41 CFR Part 1-15)" in paragraph (f) and made the modification required by § 1-8.700.2(a)(3).

§ 9-7.902-6 Disputes.

Insert the clause at 9-7.802-5.

§ 9-7.902-7 Limitation of cost.

Insert the clause at FPR 1-7.202-3(a) or (b) as appropriate.

§ 9-7.902-8 Allowable cost, fixed fee and payment.

Insert the clauses at § 9-50.704-13 and 9-50.704-20.

§ 9-7.902-9 [Reserved]

§ 9-7.902-10 Material and workmanship.

Insert the clause at FPR 1-7.602-9 but delete the words "at the Contractor's expense, with all shipping charges prepaid" from the fifth sentence of paragraph (a).

§ 9-7.902-11 Inspection and acceptance.

(a) All work (which term includes, but is not restricted to materials, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by the Government at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Government and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirements. No inspection or test by the Government shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of paragraph (f) of this section, except as hereinabove provided.

(b) The Contractor shall replace any material or correct any workmanship found by the Government not to conform to the contract requirements.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government may terminate the Contractor's right to proceed in accordance with the clause of this contract entitled "Termination for Default or for Convenience of the Government."

(d) The Contractor shall furnish promptly all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspection and test by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract.

(e) Should it be considered necessary or advisable by the Government at any time before acceptance of the entire work to make an examination of work already completed, by removing or

tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor and material. If completion of the work has been delayed thereby, the contractor shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Government shall be made as promptly as practicable after completion and inspection of all work required by this contract, or that portion of the work that the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Government's rights under any warranty or guarantee.

§ 9-7.902-12 Superintendence by contractor.

Insert the clause at FPR 1-7.602-12. In situations requiring extraordinary Government control, substitute the clauses at §§ 9-50.704-12 and 9-50.704-42.

§ 9-7.902-13 Permits and responsibilities.

The Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. The contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others.

§ 9-7.902-15 Other contracts.

Insert the clause at FPR 1-7.602-15.

§ 9-7.902-16 Patent indemnity.

Insert the clause at § 9-9.103-1 and see § 9-9.103-3(a).

§ 9-7.902-17 Additional bond security.

Insert the clause at FPR 1-7.602-17.

§ 9-7.902-18 Convenant against contingent fees.

Insert the clause at FPR 1-1.503.

§ 9-7.902-19 Officials not to benefit.

Insert the clause at FPR 1-7.102-17.

§ 9-7.902-20 Buy American Act.

Insert the clause at FPR 1-18.605.

§ 9-7.902-21 Convict labor.

Insert the clause at FPR 1-12.204.

§ 9-7.902-22 Equal opportunity.

Insert the clause at FPR 1-12.803-2.

§ 9-7.902-23 Labor standards provisions.

Insert the clause at § 1-18.703-1.

§ 9-7.902-24 Examination of records by the Comptroller General.

Insert the clause at FPR 1-7.103-3 as modified by § 9-7.103-3.

§ 9-7.902-25 Government property.

Insert the clause at FPR 1-7.203.21 as modified by DOE-PR 9-7.203-21.

§ 9-7.902-26 Utilization of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Insert the clause at FPR Temporary Regulation 50, Supplement 2.

§ 9-7.902-27 Price reduction for defective cost or pricing data.

Insert the clause FPR 1-3.814-1(a).

§ 9-7.902-28 Payment for overtime premiums.

Insert the clause at FPR 1-7.202-29.

§ 9-7.902-30 Subcontractor cost or pricing data.

Insert the clause at FPR 1-3.814-3(a) or FPR 1-3.814-3(b) as may be appropriate.

§ 9-7.902-31 [Reserved]

§ 9-7.902-32 Audit.

Insert the clause at FPR 1-3.814-2(a).

§ 9-7.902-34 Affirmative action for disabled veterans and veterans of the Vietnam Era.

Insert the clause required by FPR Temporary Regulation 39 as updated by 41 CFR 60-250.4 except delete the text of paragraph (d) and insert "Reserved—See 47 FR 4258."

§ 9-7.902-35 Subcontracts.

Insert the clause at FPR 1-7.202.8 modified as directed by § 9-7.202.8.

§ 9-7.902-36 [Reserved]

§ 9-7.902-37 Affirmative action for handicapped workers.

Insert the clause required by FPR Temporary Regulation 39 as updated at 41 CFR 60-741.4.

§ 9-7.902-38 Clean air and water.

Insert the clause at FPR 1-1.2302.2.

§ 9-7.902-50 Order of precedence.

Insert the clause prescribed by § 9-7.202-50.

§ 9-7.902-51 Notice and assistance regarding patent and copyright infringement.

Insert the clause at § 9-9.104.

§ 9-7.902-53 Reporting of royalties.

Insert the clause at DOE-PR 9-9.110.

§ 9-7.902-54 Utilization of women-owned business concerns.

Insert the clause at FPR Temporary Regulation 54.

§ 9-7.902-59 Stop work order.

Insert the clause at DOE-PR 9-7.402-59.

§ 9-7.903 Clauses to be used when applicable.

§ 9-7.903-1 Excusable delays.

Insert the clause at FPR 1-8.708.

§ 9-7.903-2 Negotiated overhead rates.

Insert the clause at FPR 1-3.704-1 as modified by § 9-7.203-9.

§ 9-7.903-3 Workmen's compensation insurance (Defense Base Act).

Insert the clause at FPR 1-10.402.

§ 9-7.903-4 Advance payments.

Insert the clause at FPR 1-30.414-2.

§ 9-7.903-5 Performance of work by contractor.

Insert the clause at FPR 1-18.104.

§ 9-7.903-6 Use of U.S. flag commerical vessels.

Insert the clause at FPR 1-19.108-2.

§ 9-7.903-7 Special 8(a) contract conditions.

Insert the clause at FPR 1-1.713-4(g)(1) in the contract with SBA and the clause at FPR 1-1.713-4(h) in the subcontract if an award is being made to SBA under 8(a) conditions.

§ 9-7.903-8 GSA supply sources.

Insert the clause at FPR 1-7.203-13.

§ 9-7.903-9 Interagency motor pool vehicles and related services.

Insert the clause at FPR 1-7.203-14.

§ 9-7.903-10 Interest.

Insert the clause at FPR 1-7.203-15.

§ 9-7.903-11 Preference for U.S. flag air carriers.

Insert the clause at FPR 1-1.323-2.

§ 9-7.903-12 Cost accounting standards.

Insert the applicable clause at FPR 1-3.1204.

§ 9-7.903-13 [Reserved]

§ 9-7.903-14 Progress charts and requirements for overtime work.

(a) The Contractor shall within five days or within such time as determined by the Contracting Officer, after date of commencement of work, prepare and submit to the contracting Officer for approval a practicable schedule, showing the order in which the Contractor proposes to carry on the

work, the date on which he will start the several salient features (including procurement of materials, plant and equipment) and the contemplated dates for completing the same. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress at such intervals as directed by the Contracting Officer, and shall immediately deliver to the Contracting Officer three copies thereof.

(b) If, in the opinion of the Contracting Officer, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve his progress and the Contracting Officer may require him to increase the number of shifts, or overtime operations, days of work or the amount of construction plant, or all of them, and to submit for approval such supplementary schedule or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this provision shall be grounds for determination by the Contracting Officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with the clause of the contract entitled "Termination for Default or for Convenience of the Government."

§ 9-7.903-15 Classification.

Insert the clause at DOE-PR 9-7.103-50.

§ 9-7.903-16 Notice to the Government of labor disputes.

Insert the clause at FPR 1-7.203-3.

§ 9-7.903-17 Additional technical data requirements.

Insert the clause at DOE-PR 9-9.202-3(c).

§ 9-7.903-18 Security.

Insert the clause at § 9-7.103-53.

§ 9-7.903-19 Competition in subcontracting.

Insert the clause at FPR 1-7.202-30.

§ 9-7.903-20 Rights in technical data—long form.

Insert the clause at § 9-9.202-3(e)(2).

§ 9-7.903-21 Preservation of individual occupational radiation exposure records.

Insert the clause at § 9-50.704-41.

§ 9-7.903-22 Safety and health.

Insert the clause at § 9-50.704-2(a) or § 9-50.704-2(b).

§ 9-7.903-23 Privacy Act.

Insert the clause at FPR 1-1.327-5.

§ 9-7.903-24 Subcontracting plan for small and small disadvantaged businesses.

Insert the clause at DOE-PR 9-1.710-3(c).

§ 9-7.903-25 [Reserved]

§ 9-7.903-26 Women-owned business concerns subcontracting program.

Insert the clause at FPR Temporary Regulation Number 54 if there are significant subcontracting opportunities.

§ 9-7.903-27 Shop drawings.

Insert the clause at FPR 1-7.602-36 but delete the fourth sentence of paragraph (b) and change "price" to "estimated cost" in paragraph (c).

§ 9-7.903-28 Rights in shop drawings.

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

§ 9-7.903-29 Assignments of claims.

Insert the clause at FPR 1-30.703 as modified by § 9-30.703 if the contract is negotiated in contemplation of an assignment.

§ 9-7.904 Additional clauses.

§ 9-7.904-1 Insurance—liability to third parties.

Insert the clause at FPR 1-7.204-5 as modified by § 9-7.204-5.

§ 9-7.904-2 Priorities, allocations and allotments.

Insert one of the clauses at 9-7.104-50 when appropriate.

§ 9-7.904-3 Nuclear hazards indemnity.

Insert whichever of the clauses at §§ 9-50.704-6 or 9-50.704-7 or 9-50.704-8 as may apply.

§ 9-7.904-4 Discounts.

The Contractor shall, to the extent of his ability, take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and bonifications, and when unable to take advantage of such benefits he shall promptly notify the Contracting Officer of the reason therefor. In determining the actual net cost of articles and materials of every kind required for the purpose of this contract, there shall be deducted from the gross cost thereof all cash and trade discounts, rebates, allowances, credits, commissions, and bonifications which have accrued to the benefit of the Contractor or would have so accrued but for the fault or neglect on the part of the Contractor. Such benefits lost through no fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

§ 9-7.904-5 Direct payments.

If bills for purchase of material, machinery or equipment, or payrolls covering employment of laborers or mechanics incurred by the Contractor or by any subcontractor hereunder are not paid promptly by the Contractor or subcontractor as the case may be, the Contracting Officer may, in his discretion, withhold from payments otherwise due the Contractor an amount equivalent to the amount of any such bill or payroll. Should the Contractor neglect or refuse to pay such bills or payrolls or to direct any subcontractor to pay such bills or payrolls within five (5) days after notice from the Contracting Officer so to do, the Government shall have the right to pay such bills or payrolls directly, and in such event a deduction equal to five percent (5%) of the amount so paid directly shall be made from the Contractor's fee.

Change 8.3

PART 9-10—[AMENDED]

Section 9-10.103, "Bid Guarantees," is amended by removing the phrase, "In addition to the restriction on bid guarantees in FPR 1-10.103-1(a)." As revised §§ 9-10.103 and 9-10.103-1 will read as follows:

§ 9-10.103 Bid Guarantees.

§ 9-10.103-1 Policy on use.

A bid guarantee may be required only for lump sum or unit price contracts entered into as a result of formal advertising and may not be required for negotiated contracts.

Change 8.4

PART 9-18—[AMENDED]

Part 9-18, "Procurement of Construction," is amended by adding a

new Subpart 9-18.52 entitled "Value Engineering in Construction Contracts. The new Subpart 9-18.52 will read as follows:

Subpart 9-18.52—Value Engineering in Construction Contracts

Sec.
9-18.5200 Scope of subpart.
9-18.5201 General.
9-18.5202 Value Engineering clause for fixed-price construction contracts.

Authority: Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254)

Subpart 9-18.52—Value Engineering in Construction Contracts

§ 9-18.5200 Scope of subpart.

This subpart prescribes a Value Engineering Incentive clause for use in fixed-price construction contracts having a value of $1,000,000 or more.

§ 9-18.5201 General.

(a) Value Engineering (VE) is an organized, creative effort, not required by any other provision of the contract, to isolate and eliminate unnecessary costs without sacrificing needed performance, quality, maintainability, or reliability.

(b) It is DOE policy to:

(1) Provide construction contractors with a substantive financial incentive to undertake VE on the premise that both DOE and the contractor will benefit. Accordingly, the contractor should be assured (i) a fair proportion of the savings, and (ii) objective and expeditious processing of proposals submitted: and

(2) To encourage subcontractor participation through extension by prime contractors of VE incentives to appropriate subcontractors.

§ 9-18.5202 Value Engineering clause for fixed-price construction contracts.

The Value Engineering Incentive clause prescribed below shall be included in all fixed-price construction contracts having a value of $10,000,000 or more. The clause may be included in fixed-price construction contracts under $1,000,000 if the Contracting Officer sees a potential for significant savings.

Value Engineering Incentive Clause

(a) *Application.* This clause applies to a Contractor developed, prepared and submitted Value Engineering Change Proposal (VECP) which:

(1) Requires a change to this contract to implement the VECP; and

(2) Reduces the contract price without impairing essential function or characteristics, provided that it is not based solely on a change in deliverable end item quantities.

(b) *Data Requirements.* As a minimum, the following information shall be submitted by the Contractor with each VECP:

(1) A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each; including justification where function or characteristic of work item is being reduced.

(2) Separate detailed cost estimates for both the existing contract requirement and the proposed change, and an estimate of the change in contract price including consideration of the costs of developement and implementation of the VECP and the sharing arrangement set forth in this clause.

(3) An estimate of the effects of the VECP would have on collateral costs to the Government, including an estimate of the sharing that the Contractor requests by paid by the Government upon approval of the VECP.

(4) Architectural, engineering or other analysis in sufficient detail to identify and describe each requirement of the contract which must be changed if the VECP is accepted, with recommendation as to how to accomplish each such change and its effect of unchanged work.

(5) A statement of the time by which approval of the VECP must be adopted by the Government to obtain maximum cost reduction during the remainder of this contract, noting any effect on the contract completion time or delivery schedule.

(6) Identification of any previous submission of the VECP including the dates submitted, the agencies involved, identity of the Government contracts involved, and the previous actions by the Government, if known.

(c) *Processing Procedures.* Six copies (or such other number of copies as may be specified by the Contracting Officer) of each VECP shall be submitted to the Contracting Officer, or his duly authorized representative. VECP's will be processed expeditiously; however, the Government will not be liable for any delay in acting upon a VECP submitted pursuant to this clause. The Contractor may withdraw, in whole or in part, any VECP at any time prior to acceptance by the Government. The Government shall not be liable for VECP development cost in the case where a VECP is rejected or withdrawn.

(d) *Acceptance.* (1) Any VECP may be accepted in whole or in part by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The Contracting Officer's decision to accept all or part of any VECP shall be final and not subject to the Disputes clause.

(2) If the VECP is not accepted, the Contracting Officer shall provide the Contractor written notification fully explaining the reasons for rejection.

(e) *Computations for Change in Contract Cost of Performance.* Separate estimates shall be prepared for both the existing contract requirement and the proposed change. Each estimate shall consist of an itemized breakdown of all costs of labor, material, and equipment.

(1) Contract development and implementation costs for the VECP shall be included in the estimate for the proposed change. However, these costs will not be allowable if they are otherwise reimburseable as a proper charge under this contract.

(2) Government costs of porcessing or implementation of a VECP shall not be included in the estimate; however, such costs will be considered in the determination as to whether a true savings accrues to the Government.

(3) If the difference in the estimates indicates a net reduction in contract price, no allowance will be made for profit, and bond. The resultant net reduction in contract cost of preformance shall be shared in accordance with provisions of paragraphs (h)(1) and (h)(2) of this section, and the contract price shall be reduced by the Government's share of the savings.

(f) *Computations for Collateral Costs.* Separate estimates shall be prepared for collateral costs for both the existing contract requirement and the proposed change. Each estimate shall consist of an itemized breakdown for of costs and the basis for the dates used in the estimate. Cost benefits to the Government include, but are not limited to: Reduced costs of operation, maintenance, or repair, extended useful service life, increases in useable floor space, and reduction in the requirements for Government furnished property. Increased collateral costs include the converse of such factors. Computation shall be as follows:

(1) Costs shall be calculated over a 20-year period on a uniform basis for each estimate and shall include Government

costs of processing or implementing the VECP.

(2) If the difference in the estimates approved by the Government indicate a savings, the Contractor shall divide the resultant amount by 20 to arrive at the average annual net colleteral savings. The resultant savings shall be shared in accordance with the provision of paragraph (h)(2) of this section; and the contract price shall be increased by the Contractor's share of the savings.

(3) In the event that agreement cannot be reached on the amount of estimated collateral costs, the Contracting Office shall determine the amount. His decision is final and is not subject to the provisions of the "Disputes" clause of this contract.

(g) *Subcontracts.* The Contract shall include appropriate VE clauses in any subcontract of $500,000 or more and may include them in subcontracts of lesser value. To compute any adjustment in the contract price under paragraph (h) of this section, the Contractor's VECP development and implementation costs shall include any subcontractor's development and implementation costs that clearly result from the VECP, but shall exclude any VE incentive payments to subcontractors. The Contractor may choose any arrangement for subcontractor VE incentive payments, provided that these payments are not made from the Government's share of the savings resulting from the VECP.

(h) *Sharing Arrangements.* If a VECP is accepted by the Government the Contractor is entitled to share in instant contract savings and collateral savings not as alternatives, but rather to the full extent provided for in this clause. For the purposes of sharing under this clause, the term "instant contract" shall not include any changes to or modifications of this contract, executed subsequent to acceptance of the particular VECP, by which the Government increases the quantity of any item of work or adds any item of work. It shall, however, include any extension of the instant contract through exercise of any option (if any) provided under this contract after acceptance of the VECP.

(1) When only the prime contractor is involved, he shall receive 50% and the Government 50% of the net reduction in the cost of performance of this contract.

(2) When a first-tier subcontractor is involved, he shall receive a mainimum of 30%, the prime Contractor a maximum of 30%, and the Government a fixed 40% of the net reduction in the cost of performance of this contract. Other subcontractors shall receive a portion of the first-tier subcontractor savings in accordance with the terms of their contract with the first-tier subcontractor.

(3) When colleteral savings occur the Contractor shall receive 20% of the average one year's net collateral savings. Subcontractor participation (to any tier) in such savings with the Contractor shall be as provided in the terms of the agreements of the contracting parties.

(4) The Contractor shall not receive instant savings or collateral savings shares on optional work listed in this contract, until the Government exercises its option to obtain that work.

(i) *Data Restriction Rights.* The Contractor may restrict the Government's right to use any sheet of a VECP, or of the supporting data by marking the following legend on the affected parts:

The data furnished pursuant to the Value Engineering Incentive Clause of this contract shall not be disclosed outside the Government, or duplicated, used, or disclosed in whole or in part, for any purpose other than to evaluate a VECP submitted under said clause. This restriction does not limit the Government's right to use information contrained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from another source without limitations. If such a proposal is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate use, and disclose any data reasonably necessary to the full utilization of such proposal as accepted, in any manner and for any purpose whatsoever, and have others to do so.

In the event of acceptance of a VECP, the Contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, data reasonably necessary to fully utilize such proposal on this and any other Government contract.

[FR Doc. 82-32402 Filed 11-26-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 82-759; FCC 82-499]

Domestic Public Land Mobile Radio Service Mobile Units To Operate on UHF Channel 14 Frequencies at Pittsburgh, Pennsylvania

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposal is to reassign UHF channel 14 frequencies for both mobile and base station use for Domestic Public Land Mobile Radio Service operations in the Pittsburgh, Pennsylvania, area. Presently channel 14 is assigned for base station use and channel 18 is assigned for mobile unit use. Use of channel 18 would result in interference to existing UHF television station operting on channels 17 and 19. This proposal to split channel 14 in half for both base and mobile operators appeals to be the most efficient and reasonable way to facilitate this form of mobile radio service in the Pittsburgh area.

DATES: Comments are due by December 13, 1982 and replies by December 28, 1982.

ADDRESS: Send comments to: Secretary, Federal Communications Commission, 1919 M St., N.W., Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gene P. Belardi, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Communications common carriers, Mobile radio service.

In the matter of amendment of § 22.501(k) and Table A of § 22.501 of the Commission's Rules to allow Domestic Public Land Mobile Radio Service mobile units to operate on UHF channel 14 frequencies at Pittsburgh, Pennsylvania, CC Docket No. 82-759.

Memorandum Opinion and Order and Notice of Proposed Rulemaking

Adopted: November 5, 1982.

Released: November 12, 1982.

1. The Commission is considering amending § 22.501(k) and Table A of § 22.501 of the Commission's Rules to allow UHF channel 14 frequencies at Pittsburgh, Pennsylvania, to be used by both mobile units and base stations. Presently, § 22.501(k) of the Rules, which governs Domestic Public Land Mobile Radio Service (DPLMRS), restricts use of channel 14 frequencies exclusively to base station operations and channel 18 frequencies only to mobile unit operations. It has been brought to our attention by Associated Communications of America, Inc. (ACA), in a request for waiver of § 22.501(k) [1] that channel 18 frequencies

[1] The Common Carrier Bureau, pursuant to delegated authority, denied the waiver request to use channel 14 for mobile unit operations, on the grounds that a waiver was not the proper vehicle for a rule change. ACA filed an application for review

cannot be used by mobile units in the Pittsburgh area because use of those frequencies would cause harmful interference to nearby UHF television stations transmitting on adjacent channels.

2. Our engineering staff has determined that channel 18 frequencies are virtually unusable for DPLMRS operations in the Pittsburgh area. The base station of the mobile units operating on Channel 18 in the Pittsburgh area would be short spaced to UHF TV Station WJAN at Canton, Ohio, operating on channel 17, and UHF TV Station WJNL at Johnstown, Pennsylvania, operating on channel 19. In order to make available UHF frequencies for two-way DPLMRS service in the Pittsburgh area, we propose to assign half of the channel 14 frequencies for mobile use, and the other half for base station use. Therefore, we propose to amend § 22.501(k) and Table A of § 22.501, as follows: (a) delete the channel 18 allocation for Pittsburgh; (b) assign 12 channels in the 470 MHz band for base station use; and (c) assign 12 channels in the 473 MHz band for mobile unit use.[2]

3. Since the proposed change results in a reassignment of allocated spectrum which would apply to all potential users, we believe that we should proceed by rulemaking rather than individual waiver requests. We have already determined there is a public need for DPLMRS in the Pittsburgh area,[3] and, we anticipate little, if any, opposition to this proposal. Thus, we expect to complete this proceeding in an expeditious manner.

of that decision. In our Memorandum Opinion and Order in Docket 21039, 69 FCC 2d 1555 (1978), we found that the UHF frequencies would be available to carriers on a joint-use basis rather than an individually-licensed basis. Because all potential joint users would be affected by the proposed change, we agree with the Common Carrier Bureau that this rulemaking proceeding is preferable to an individual waiver proceeding. We therefore deny ACA's application for review.

[2] To insure protection for UHF stations, § 22.501, Table G, requires a 90 mile separation between a base station and a protected UHF television station where the mobile unit associated with that base station operates on an adjacent UHF channel. Section 22.501(l)(1) permits base station operations only within 50 miles of the geographic center of Pittsburgh. Commission records indicate that WJAN and WJNL are 72.9 and 48.2 miles from Pittsburgh, respectively. Section 22.501(5)(ii) of the Rules allow for separation distances less than 90 miles upon a proper engineering showing and coordination with the Broadcast Bureau. The grant of a construction permit to WJNL to move to within 48.2 miles of Pittsburgh makes an engineering showing difficult, and, in fact, the criteria for a proper showing are such that the downtown area of Pittsburgh cannot be served.

[3] See First Report and Order in Docket No. 18261, 23 FCC 2d 325, 337 (1970), and Second Report and Order in Docket No. 18261, 30 FCC 2d 221, 232–234 (1971).

Proposal

4. In view of the foregoing, we tentatively conclude that there is a need to modify the allocation for two-way use in Pittsburgh, Pennsylvania, from that which was originally made in Docket 21039. Accordingly, under Sections 4(i), 303(g) and (4) and 307(b) of the Communications Act of 1934, as amended, the Commission proposes to amend § 22.501(k) and Table A of § 22.501 of the Commission's Rules, as set forth in the Appendix to this Notice.

5. The Commission invites comments on this proposal. The procedures to be followed in submitting comments in this proceeding are similar to those followed in proceedings to amend the FM or Television Table of Assignments in § 1.420 of the Commission's Rules. The procedures are discussed below.

6. *Cut-off procedures.* The following procedures govern the consideration of filings in this proceeding—

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

(b) Petitions for rulemaking which conflict with the proposal in this Notice will be considered as comments. Public notice to this effect will be given so long as the comments are filed before the date for filing initial comments. If they are filed after that date, they will not be considered in connection with the decision in this proceeding.

7. *Dates and service.* Under the procedures set out in §§ 1.415 and 1.420 of the Commission's Rules, interested parties may file comments on or before December 13, 1982 and reply comments on or before December 28, 1982. All submissions made by parties to this proceeding or on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings. Reply comments must be served on the person(s) who filed comments to which the reply is directed. These comments and reply comments must be accompanied by a certificate of service. (See § 1.420(a)–(c) of the Commission's Rules).

8. *Number of copies.* Under § 1.420 of the Commission's Rules, an original and four copies of all comments, reply comments, pleadings, briefs or other documents must be submitted to the Commission.

9. *Public inspection of filings.* All filings made in this proceeding are available for inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

10. *Ex parte contacts.* For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally,* § 1.1231 of the Commission's rules, 47 CFR 1.1231.

Regulatory Flexibility Act

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to this rulemaking proceeding to amend the table of assignments for base and mobile stations in the Domestic Public Land Mobile Radio Service at Pittsburgh, Pennsylvania. The proposal relates to only one city, Pittsburgh, Pennsylvania, and the proposal will not have a significant economic impact on a substantial number of small entities.

12. It is further ordered that the Application for Review filed by Associated Communications of America, Inc., is denied.

13. The Secretary shall cause a copy of this Notice of Proposed Rulemaking to be published in the **Federal Register.**

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

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

PART 22—[AMENDED]

The Commission proposes to amend 47 CFR, Part 22, as follows:

1. Section 22.501(k) is proposed to be amended by revising the Table for Pittsburgh to read as follows:

§ 22.501 Frequencies.

(k) * * *

PITTSBURGH

Channel 14	Channel 14
470.0125	473.0125
470.0375	473.0375
470.0625	473.0625
470.0875	473.0875
470.1125	473.1125
470.1375	473.1375
470.1625	473.1625
470.1875	473.1875
470.2125	473.2125
470.2375	473.2375
470.2625	473.2625
470.2875	473.2875

* * * * *

2. Section 22.501(l)(5)(i), Table A, is proposed to be amended by removing Channel 18 from the Pittsburgh entry. As amended the Table would read as follows:

§ 22.501 [Amended]

* * * * *

TABLE A.—Frequency Available for Land Mobile Use

Urbanized area	Geographic center		Frequencies(MHz)
	N. latitude	W. longitude	
Boston, Mass.	42°21'24"	71°03'24"	Channel 14 470–476, Channel 16 482–488.
Chicago, Ill	41°52'28"	87°38'22"	Channel 14 470–476, Channel 15 476–482.
Cleveland, Ohio[1].	41°29'51"	81°41'50"	Channel 14 470–476, Channel 15 476–482.
Dallas, Tex	32°47'09"	96°47'37"	Channel 16 482–488.
Detroit, Mich.[2].	42°19'48"	83°02'57"	Channel 15 476–482, Channel 16 482–488.
Houston, Tex.	29°45'26"	95°21'37"	Channel 17 488–494.
Los Angeles, Calif.	34°03'15"	118°14'28"	Channel 14 470–476, Channel 20 506–512.
Miami, Fla	25°46'37"	80°11'32"	Channel 14 470–476.
New York, Northeastern New Jersey.	40°45'06"	73°59'39"	Channel 15 470–476.
Philadelphia, Pa.	39°56'58"	75°09'21"	Channel 15 476–482, Channel 19 500–506, Channel 20 506–512.
Pittsburgh, Pa.	40°26'19"	80°00'00"	Channel 14 470–476.
San Francisco-Oakland, Calif.	37°46'39"	122°24'40"	Channel 16 482–488.
Washington, D.C., Maryland, Virginia.	38°53'51"	77°00'33"	Channel 17 488–494, Channel 17 488–494, Channel 18 494–500.

[1] Channels 14 and 15 are not available in Cleveland, Ohio, until further order from the Commission.
[2] Channels 15 and 16 are not available in Detroit, Mich., until further order from the Commission.

* * * * *

[FR Doc. 82-32176 Filed 11-26-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-19; Notice 1]

Evaluation Report on Federal Motor Vehicle Safety Standard No. 214 Side Door Strength—Passenger Cars; Request for Public Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA) Transportation.

ACTION: Request for Comments.

SUMMARY: This notice announces the publication by NHTSA of an Evaluation Report concerning Safety Standard No. 214, *Side Door Strength*. This staff report evaluates the safety effectiveness and costs of the current performance requirements for side doors in new passenger cars. The report was developed in response to Executive Order 12291, which provides for government-wide review of existing major Federal regulations. The NHTSA seeks public review and comment on this evaluation. Comments received will be used to complete the review required by Executive Order 12291.

DATE: Comments must be received no later than: January 28, 1983.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornickle, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C., 20590 (202–426–0875). All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C., 20590. (Docket hours, 8:00 a.m.–4:00 p.m. Monday through Friday.)

- Occupant ejection was significantly reduced in collisions with fixed objects.
- Standard 214 prevents 4,900 nonfatal hospitalizations per year in *vehicle-to-vehicle* side impacts but has little or no effect on fatalities in these crashes. The standard has significantly reduced door intrusion into the passenger compartment. It has significantly reduced the torso, arm and leg injuries of occupants seated next to the struck door.
- Standard 214 adds $61 (in 1982 dollars) to the cost of purchasing and operating an automobile over its lifetime.

The Evaluation Report was developed from statistical analyses of the Agency's Fatal Accident Reporting System and National Crash Severity Study data files, cost analyses of actual side door beam assemblies, and a review of staged crash test results. The statistical analyses focused on the two model years immediately before and after beam installation, in order to isolate the effect of Standard 214 from the effects of the implementation of other safety standards and side structure design changes.

The Agency published a preliminary evaluation of Standard 214 in September 1979 (44 FR 50878, August 30, 1979) which was based on a National Crash Severity Study file that was less than half complete at that time. The current report, which is based on the complete data file, supersedes the preliminary evaluation, although it supports most of the earlier report's conclusions.

NHTSA welcomes public review of this Standard No. 214 Evaluation Report and invites the public to submit comments.

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C., 20590 (202–426–1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 214 (49 CFR 571.214) sets static strength requirements for the doors of passenger cars. The requirements have led to the installation of longitudinal reinforcement beams inside the doors. The purpose of a door beam is to reduce the velocity and depth of door intrusion into the passenger compartment in a side impact collision, thereby reducing the severity of occupant injuries involving contact with

the door. The standard became effective in January 1973.

Pursuant to Executive Order 12291, NHTSA recently conducted an evaluation of Standard No. 214 to determine the effectiveness of the technology selected by the manufacturers to comply with the standard (in preventing deaths and injuries), and to determine the costs of the technology to consumers. Under the Executive Order, agencies are to review existing regulations to determine whether the regulations are achieving the order's policy goals, i.e., achieving legislative goals effectively and efficiently and without imposing any unnecessary burdens on those affected.

The principal findings and conclusions of the report are as follows:

- Standard 214 prevents approximately 480 fatalities and 4,500 nonfatal hospitalizations per year in side impact collisions with *fixed objects*. Cars complying with the standard tend to glance by a fixed object: crush was deep and concentrated in pre-standard cars, but was significantly shallower and more dispersed in post-standard cars.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50 and 501.6)

Issued on: November 23, 1982.

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 82–32549 Filed 11–26–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 229
Monday, November 29, 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

Forest Service

Grand Mesa, Uncompahgre and Gunnison National Forests, Ouray and Gunnison Counties, Colorado; Coal Unsuitability Criteria to Preference Right Lease Application C-0120075

Pursuant to the Surface Mining Control and Reclamation Act of 1977 and in accordance with the Memorandum of Understanding Between the Department of Agriculture and the Department of the Interior Providing for Coordination of Activities Pursuant to the Federal Coal Management Program, the Forest Service, Department of Agriculture has applied the unsuitability criteria set out in 43 CFR 3461.1 to coal preference right lease application C-0120075. This application involves approximately 1200 acres of National Forest System lands of the Uncompahgre National Forest seven miles east-southeast of Ridgway, Colorado, in Sections 3, 4 and 10 of T. 46 N., R. 7 W., NMPM.

The purpose of applying the unsuitability criteria is to determine if all or part of the lease area is available for leasing. Due to the geology of the area, mining operations would be by underground methods. In applying the criteria, the Forest Service has considered the surface impacts from anticipated underground operations.

Maps and rationale for application of the unsuitability criteria are available for public review at the Ouray District Ranger Office, 101 N. Uncompahgre Ave., P.O. Box 1047, Montrose, Colorado 81401.

Comments on the application of the unsuitability criteria must be sent to Donald A. Heiser, District Ranger, Ouray Ranger District, P.O. Box 1047, Montrose, Colorado 81401 by December 31, 1982, to be considered. For further information contact Donald A. Heiser at the above address or call (303) 249-9631.

Dated: November 29, 1982.

Nils A. Arneson,

Acting Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison National Forests.

[FR Doc. 82-31681 Filed 11-26-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Application of Taino International Airways, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Taino International Airways, Inc., 82-11-102, November 22, 1982.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Taino International Airways, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the Taino International Fitness Investigation shall file their requests and petitions in Docket 40987 by December 6, 1982 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40987.

In addition, copies of such filings should be served on: Taino International Airways, the mayors and airport authorities of Ft. Lauderdale, Atlantic City, NJ., New York and Aguadillo, Ponce, and San Juan, Puerto Rico; the Florida Public Service Commission, the New York State, New Jersey and Florida Departments of Transportation, the Puerto Rico Ports Authority Aviation Department, the Department of Justice and the Department of Transportation.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Peter M. Bloch, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-11-102 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-11-102 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation: November 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-32557 Filed 11-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-11-100]

Consolidated Aircraft Corp., Ltd., Notice of Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Board, on its own motion, proposes to approve the following order amending the permits of A/S CONAIR; SCANAIR; and Sterling Airways A/S.

Applicants: A/S CONAIR (Consolidated Aircraft Corporation, Ltd); SCANAIR; and Sterling Airways A/S.

Docket: 39817; 39726; and 39767.

Proposed Amendment: Extend the term of the foreign air carrier permits issued to the carriers from two years to five years (until November 12, 1987).

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than December 15, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassadors of Denmark, Norway and Sweden in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the amended permit.

ADDRESSES FOR OBJECTIONS:

Docket 39817, Docket Section, Civil Aeronautics Board, Washington, D.C.

20428; Applicant: A/S CONAIR, c/o Morris R. Garfinkle, Esq., 1054 Thirty-first Street, N.W., Washington, D.C. 20007

Docket 39726, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428; Applicant: SCANAIR, c/o Robert Reed Gray, Esq., 1025 Connecticut Ave., NW., Washington, D.C. 20036

Docket 39767, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428; Applicant: Sterling Airways A/S, c/o Frederick S. Hird, Jr., 710 Ring Building, Washington, D.C. 20036.

To get a copy of the complete order, request it 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.

FOR FURTHER INFORMATION:
Contact Gordon H. Bingham, Regulatory Affairs Division Bureau of International Aviation, Civil Aeronautics Board, (202) 673-5134.

By the Civil Aeronautics Board: November 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-32558 Filed 11-26-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits (See, 14 CFR 302.1701 et seq.); Week Ended November 19, 1982

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Nov. 15, 1982	41095	Air Washington, Inc., c/o Robert B Duncan, Schwabe, Williamson, Wyatt, Moore & Roberts, The Flour Mill, Suite 302, 1000 Potomac Street, N.W., Washington, D.C. 20007. Application of Air Washington, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in interstate air transportation and, to the extent required, approval of Section 409 relationships. Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 13, 1982.
Nov. 16, 1982	41098	Merchant Air Limited, c/o Robert E. Cohn, Butler, Binion, Rice, Cook & Knapp, 1747 Pennsylvania Avenue, N.W., Suite 900, Washington, D.C. 20006. Application of Merchant Air Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for a foreign air carrier permit to engage in foreign air transportation of property and mail between Chirstchurch and Auckland, New Zealand, on the one hand, and Pago Pago, American Samoa, on the other hand. Answers may be filed by December 14, 1982.
Nov. 17, 1982	41099	United Air Lines, Inc., Box 66100, Chicago, Illinois 60660. Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 57 so as to authorize it to perform scheduled foreign air transportation (of mail, passengers and property) between San Francisco, California, in the United States, and the co-terminal points of Calgary and Edmonton, Alberta in Canada. Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 15, 1982.
Nov. 18, 1982	41101	American Airlines, Inc., P.O. Box 61616, DFW Airport, Texas 75261. Application of American Airlines, Inc. pursuant to Section 410 of the Act and Subpart Q of the Board's Procedural Regulations, request the Board to issue it a certificate of public convenience and necessity through show-cause procedures to engage in foreign air transportation of persons, property and mail between terminal points in the United States, the intermediate points Mexico City and Acapulco, Mexico; points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, and Colombia; Rio de Janeiro and Soe Paulo, Brazil; and points in Chile; and terminal points in Argentina. Conforming Applications, Motions to Modify Scope and Answers may be filed by December 16, 1982.
Nov. 18, 1982	41102	American Airlines, Inc., P.O. Box 61616, DFW Airport, Texas 75261. Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests the Board to amend its certificate of public convenience and necessity to engage in foreign air transportation of persons, property, and mail between terminal points in the United States, the intermediate points Mexico City and Acapulco, Mexico; points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and Panama, and terminal points in Colombia. Conforming Applications, Motions to Modify Scope and Answers may be filed by December 16, 1982.
Nov. 18, 1982	41103	American Airlines, Inc., P.O. Box 61616, DFW Airport, Texas 75261. Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests the Board to amend its certificate of public convenience and necessity for Route 134 through show-cause procedures as follows:
	xl	*Amended Segment:* "Between the coterminal points Chicago, Illinois, and Dallas/Ft. Worth, San Antonio, and El Paso, Texas; the intermediate points Monterrey, Zihuatenejo, Manzanillo, Acapulco, and Mexico City, Mexico; points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, Panama, and Colombia; Rio de Janeiro and Sao Paulo, Brazil; and points in Chile; and terminal points in Agrentina."
	xl	*New Condition (6):* "Service to points in countries south of Mexico over this segment must serve either Dallas/Ft. Worth or San Antonio and may serve no points in Mexico other than Mexico City or Acapulco."
	xl	Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 16, 1982.
Nov. 19, 1982	41104	Pan American World Airways, Inc., c/o Richard D. Mathias, Suite 901, 1660 L Street, N.W., Washington, D.C. 20036. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that their certificate of public convenience for Route 267 which enables Pan Am to engage in foreign air transportation with respect to persons, property and mail between the coterminal points Miami and Tampa, Florida and the terminal point Mexico City, Mexico be made permanent, or in the alternative be renewed for at least a five year period—consistent with recent Board precedent. Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 17, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-32559 Filed 11-26-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Service Mail Rates

Order 82-11-108, November 22, 1982, Dockets 38019 and 38961, makes final the new intra-Alaska mail rate structure and new final service mail rates proposed by us in Order 82-11-23 to be effective on and after January 1, 1981. It also establishes temporary rates effective July 1, 1982, at the same level as the final rates effective from January 1 through June 30, 1982.

FOR FURTHER INFORMATION CONTACT:
James E. Gardner, Bureau of International Aviation, (202) 673-5391.

Copies of the order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-32560 Filed 11-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40827]

Dallas/Ft. Worth-London Case; Notice of Oral Argument and Brief Date

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, and Order 82–7–30, that briefs in this proceeding must be filed by December 6, 1982, and that oral argument is assigned to be held before the Board on Friday, December 10, 1982, at 9:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party that wishes to participate in the oral argument shall so advise the Secretary in writing, on or before Wednesday, December 1, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., November 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–32561 Filed 11–26–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 41075]

International Air Associates, Inc.; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on December 21, 1982, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned chief adminstrative law judge.

Dated at Washington, D.C., November 23, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–32562 Filed 11–26–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 5–81]

Foreign-Trade Zone No. 22, Chicago; Application for a Special-Purpose Subzone—Record Reopened

This notice concerns the application of the Chicago Regional Port District, grantee of Foreign-Trade Zone 22, filed with the Foreign-Trade Zones Board on May 11, 1981, requesting authority to establish a foreign-trade subzone at the UNR-Leavitt steel tube plant in Chicago (46 FR 27364, May 19, 1981). After a public hearing and extension of the open record period to February 26, 1982 (47 FR 3153, January 22, 1982), a report recommending limited approval was prepared for the Board. Advised of the report's negative aspects under § 400.1310 of the Board's regulations (15 CFR Part 400), the applicant requested permission to present further evidence, and at a meeting of the Board's Committee of Alternates (CA) on September 14, 1982, presentations were made on the matter by UNR-Leavitt, as well as the Welded Steel and Tube Institute (WSTI) and the American Iron and Steel Institute.

Following the CA meeting new information on benefits relating to Customs duty reduction and avoidance on scrap was brought to the attention of the Board. WSTI then requested a reopening of the record, contending that scrap benefits would be significant, and thus adversely affect other domestic steel tube plants, if UNR-Leavitt pays duties on the basis of "privileged foreign" status. In light of the Board's recent decision in the Sanyo case (Doc. 14–81, 47 FR 44593, October 8, 1982), the scrap aspect of this proposal was considered to take on new significance.

It has been determined that this new information warrants a reopening of the record to allow interested parties to submit comments on the scrap issue. Accordingly, the record in this case is reopened to parties of record until December 22, 1982, for comments on the duty benefits UNR-Leavitt would derive, using privileged foreign status, as a result of scrap from its production of tubing and the consequent impact this would have on competing domestic plants. The comments will be reviewed by the Foreign-Trade Zone Staff, which will prepare a report to the Board.

Submissions (10 copies) shall be made in writing and addressed to: Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania, NW., Room 1872, Washington, D.C. 20230.

Dated: November 19, 1982.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zone Board.

[FR Doc. 82–32540 Filed 11–26–82; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Correction

In FR Doc. 82–31188 appearing on page 51436 in the issue for Monday, November 15, 1982, make the following corrections:

1. On page 51436, third column, under Docket No.: 82–00172R, in the fifth line "and Quartz" should have read "and 503RX Quartz".

2. In the same column, under Docket No.: 82–00376, in the sixth line "Model 1 UR–1" should have read "Model UR–1".

BILLING CODE 1505–01–M

SRI International; Decision of Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00215. Applicant: SRI International, Physical Sciences Division, 333 Ravenswood Avenue, Menlo Park, CA 94025. Instrument: Pulsed Gas Laser Kits. Manufacturer: Lumonics Research Ltd. Canada. Intended Use of Instrument: See Notice on page 27390 in the Federal Register of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (May 8, 1981). Reasons: This application is a resubmission of Docket Number 81–00320 which was denied without prejudice to resubmision on March 11, 1982 for informational deficiencies. The foreign instrument provides high pulse energy and long pulse rate needed for use in studies of reactive mixtures of fuel and oxidants. The National Bureau of Standards advises in its memorandum dated October 27, 1982 that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument available at the time of order suitable for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which

was being manufactured in the United States at the time of order.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-32535 Filed 11-26-82; 8:45 am]

BILLING CODE 3510-25-M

University of Alabama et. al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States. Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00002R. Applicant: University of Alabama in Birmingham, Comprehensive Cancer Center, NMR Core Facility, CHSB B-31, University Station, Birmingham, Al 35294. Instrument: 1 NMR Spectrometer, Model CXP 200/300. Application is a resubmission, notice of which was published in the **Federal Register** of November 18, 1981. Another application will be submitted for 2nd NMR included in initial notice of 82-00002. The Model CXP-270 listed in initial notice was discontinued and the instrument delivered was the CXP 200/300.

Docket No. 82-00154R. Applicant: University of Wisconsin, Hospital and Clinics, 600 Highland Avenue, Madison, WI 53792. Instrument: Automated Ultrasonic Body Imager. Manufacturer: Ausonics Pty. Limited, Australia. Application is a resubmission, notice of which was published in the **Federal Register** of May 20, 1982.

Docket No. 82-226R. Applicant: Cuyahoga County Hospitals, Cleveland Metropolitan General Hospital, 3395 Scranton Rd., Cleveland, Ohio 44109. Instrument: Electron Microscope, Model EM 10-CR. Application is a resubmission, notice of which was published in the **Federal Register** of July 7, 1982.

Docket No. 82-00335. Applicant: Texas A & M University, College Station, TX 77843. Instrument: Marine Proton Magnetometer System V-75 with Accessories. Manufacturer: Scintrex, Limited, Canada. Intended use of instrument: The instrument is intended to be used for teaching purposes in Geological Oceanography and Marine Geophysics. Application received by Commissioner of Customs: October 29, 1982.

Docket No. 83-6. Applicant: U.S. Department of Agriculture, Systematic Entomology Laboratory, Room 4, Bldg. 003, Beltsville Agricultural Research Center-West, Beltsville, MD 20705. Instrument: Scanning Electron Microscope, S100T and Accessories. Manufacturer: Cambridge Instruments Ltd., United Kingdom. Intended use of instrument: The instrument is intended to be used for studies of preserved specimens of insects and mites ranging in size from several centimeters to less than a millimeter; parts of whole specimens dissected for study may be as small as a micron. Specimens are viewed in their entirety at low magnifications, or portions or structures of specimens viewed at high magnifications to observe surface sculpturing, microscopic morphology, and relative dimensions. The ultimate goals of the investigations are the identification, description, taxonomic placement, and phylogenetic position of the specimens studied. Application received by Commissioner of Customs: October 18, 1982.

Docket No. 83-7. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Instrument: Excimer Multi-Gas Laser, Model EMG 102E with Accessories. Manufacturer: Lambda Physik, West Germany. Intended use of instrument: The instrument is intended to be used for studies conducted on molecular beams of small clusters of transition metals (chromium, aluminum, nickel, silver, and copper). Experiments include laser photoionization techniques to determine optical spectra and ionization potentials, and collisional ionization and reaction studies to determine electron affinities and surface chemistry. The objective of this research is a better understanding of the nature of small metal clusters as they relate to catalysis. Application received by Commissoner of Customs: October 18, 1982.

Docket No. 83-9. Applicant: SRI International, Molecular Physics Laboratory, 333 Ravenswood Avenue, Menlo Park, CA 94025. Instrument: Excimer Laser, Model EMG 50 with FL 2001 Dye Laser and Scan Controller. Manufacturer: Lambda Physik, West Germany. Intended use of instrument: The instrument is intended to be used in the study of stable atoms and molecules, and free radicals. Low and high pressure experiments utilizing single and two photon excitation techniques will be conducted with the objective of understanding basic pathways of energy transfer in atoms and molecules caused by collisions. Application received by Commissioner of Customs: October 18, 1982.

Docket No. 83-10. Applicant: University of California at Los Angeles, Tokamak Lab, 2567 Boelter Hall, 405 Hilgard Avenue, Los Angeles, California 90024. Instrument: Klystron Tube #VRT2121A16. Manufacturer: Varian, Canada. Intended use of instrument: The instrument is intended to be used in a microwave interferometer for measurement of plasma density within the UCLA tokamak. It will be used with other microwave components such as wave guides, phase shifters, detectors and power supplies. Application received by Commissioner of Customs: October 18, 1982.

Docket No. 83-11. Applicant: Texas College of Osteopathic Medicine, Camp Bowie at Montgomery, Fort Worth, Texas 76107-2690. Instrument: Electron Microscope Model H-600-3 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: The instrument is intended to be used for high resolution ultrastructural studies on various cells and organs. These include erythrocytes, pancreas, ovary, oviduct and uterus. Medical and graduate students as well as post-doctoral fellows will use the instrument as part of their training in cell biology. Application received by Commissioner of Customs: October 18, 1982.

Docket No. 83-12. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, L-650, Livermore, CA 94550. Instrument: Streak Camera, Model C1370. Manufacturer: Hamamatsu Corporation, Japan. Intended use of instrument: The instrument is intended to be used to study time varying

radiation emissions from underground nuclear experiments. Very rapid time variations (high bandwidth) of emitted radiation will be characterized. The objective of these studies is to obtain a more complete understanding of the physics of nuclear weapons in order to improve their designs. Application received by Commissioner of Customs: October 18, 1982.

Docket No. 83–16. Applicant: The University of North Dakota, Grand Forks, North Dakota 58202. Instrument: Scanning Electron Microscope, Model S–800. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: The instrument is intended to be used to perform high resolution ultrastructural studies of extracellular materials in the renal glomerulus and retinal blood vessels of the eye in rats, rabbits, monkeys and humans. The purpose of these studies is to determine the changes in the extracellular environment in the diabetic state and in animal models designed to mimic this condition. Graduate students and post-doctoral fellows will participate in the research and accordingly will receive training in the use and care of the electron microscope in cell biological investigations of tissues derived from human and laboratory animals. Application received by Commissioner of Customs: October 18, 1982.

Docket No. 83–21. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: Mass Spectrometer Model MS50S and Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used to analyze samples submitted by biomedical researchers. Research projects may involve the structure determination of RNA adducts, identification of new chemotherapeutic natural products as well as development of new applications of mass spectrometry to biomedical problems. Research project applications may also involve pilot studies to determine special sample handling procedures or amounts of samples required for analysis. Model compound studies may be pursued to confirm structural assignments. In several cases, special instrument configurations may be required to complete an experiment. Specific research projects include but is not limited to studies of the following:

1. Metabolic Activation of Anticancer Drugs,
2. Mechanism of Action of Chloroethylnitrosoureas,
3. Toxic Methylating Agents,
4. Structure of Antineoplastic Agents from Plants,
5. Malformin Structures and Biosynthesis,
6. Polycyclic Hydrocarbon Carcinogenesis.

Application received by Commissioner of Customs: October 20, 1982.

Docket No. 83–31. Applicant: California State University, Northridge, 18111 Nordhoff Street, Northridge, CA 91330. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for studies of biological material in the following research programs:

1. Fine Structural Organization of Blastocoelar Fibers In The Sea Urchin Embryo.
2. High Resolution Electron Microscopy of Cell Differentiation, Adhesion to Oral Epithelium, and Gliding Locomotion of the Bacterial Genera *Simonsiella* and *Alysiella*.
3. Electron Microscopic Studies On The Localization of Sea Urchin Blastula Adhesion Protein.
4. The Ultrastructure of Immunoglobulin Binding to *Treponema pallidum*.
5. Cell Membrane Lipids and Cell Behavior in Development.
6. A Physiological and Fine Structural Analysis of Conjugation in *Polytomella agilis*.

In addition, the instrument will be used to train graduate students, and later undergraduates as well as in the courses: Biology 540, Fine Structural Analysis and Biology 443, Electron Microscope Analysis. Application received by Commissioner of Customs: October 20, 1982.

Docket No. 83–35. Applicant: Mount Sinai Medical Center, Department of Biochemistry, One Gustave L. Levy Place, New York, N.Y. 10029. Instrument: Pulse Nanosecond Fluorometer with Accessories. Manufacturer: Photochemical Research Associates, Canada. Intended use of instrument: The instrument is intended to be used for studies of the fluorescent decay kinetics of biological molecules. The physical properties to be investigated include fluorescence lifetime, quantum yields, and fluorescence depolarization. These are useful for measuring the rotational motions of fluorescent probes (dyes, or, for example, amino acids such as tryptophan), and molecules to which they might be bound. Application received by Commissioner of Customs: October 29, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-32534 Filed 11-26-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination: Railcars From Canada

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Canada of railcars described in the "Scope of Investigation" section of this notice. The estimated net subsidy is $167,225 in U.S. dollars per railcar. Therefore, we are directing the U.S. Customs Service to suspend liquidation in accordance with this notice. If this investigation proceeds normally, we will make our final determination by February 4, 1983.

EFFECTIVE DATE: November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Canada of railcars as described in the "Scope on Investigation" section of this notice.

For purposes of this investigation, the following programs are preliminarily determined to confer subsidies:

- Export credit financing
- Federal and provincial regional grants

We estimate the net subsidy to be $167,225 in U.S. dollars per railcar.

Case History

On June 10, 1982, the MTA signed a contract, subject to certain conditions, to purchase 825 subway cars from Bombardier, Inc. (Bombardier), a Canadian railcar manufacturer. The MTA had received other offers from the Budd Company (Budd), a U.S. producer, and Francorail, a consortium of French companies. MTA has represented that as part of its contract with Bombardier, it is obligated to pay any antidumping or countervailing duties assessed as a result of this transaction.

On June 24, 1982, we received a petition from counsel for Budd filed on behalf of the U.S. industry producing railcars. The petitioner alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Canada of railcars.

In addition, on July 14, 1982, the Industrial Union Department, AFL–CIO, the United Automobile and Aerospace Workers, and the United Steelworkers of America (the unions), which claimed to represent members in the United States Subway car manufacturing industry and supplying industries, requested status as co-petitioners in this proceeding. Budd and the unions were found to be "interested parties" within the meaning of section 771(9) of the Act.

Upon finding the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, we initiated a countervailing duty investigation on July 14, 1982 (47 FR 31415). We stated that we expected to issue a preliminary determination by September 17, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until November 22, 1982 (47 FR 39225).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determinatioin is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On August 8, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 36042).

We presented the questionnaire concerning the allegations to the government of Canada in Washington, D.C. We received the response to the questionnaire on September 27, 1982. In addition, on October 8, 1982, we received a response from Bombardier to those questions in the Canadian government questionnaire which were related specifically to the company itself. Bombardier was the only company identified by the Canadian government as a producer or exporter of the merchandise under investigation. Supplemental questionnaires were presented and responses received from Bombardier and the Canadian government on October 25 and 26, 1982.

A questionnaire was also sent to the MTA, the only known purchaser of the railcars under investigation. Although the MTA is not an interested party under section 771(9) of the Act, it agreed to answer the questionnaire. The MTA response was received on October 26, 1982.

Scope of Investigation

The merchandise covered by this investigation consists of passenger railcars, assembled or unassembled, finished or unfinished, components, and parts and accessories thereof and/or to be used therewith. This merchandise is currently classifiable under the following *Tariff Schedules of the United States* numbers, *inter alia* 640.71–640.72, 646.92, 646.95, 647.01–647.10, 653.41, 680.14–680.28, 680.30–680.36, 682.95–683.16, 685.90, 688.06–688.07, 690.30, 690.40, 772.35–772.36. The passenger railcars are primarily used as subway cars.

Bombardier is the only known producer and exporter in Canada of the merchandise exported to the United States. The period for which we are measuring subsidization is the first six months of 1982.

Analysis of Programs

Based upon our analysis of the petition and responses to our questionnaires, we preliminarily determine that subsidies are being provided under the programs listed below to manufacturers, producers, or exporters in Canada of railcars included in this investigation.

A. *Export Credit Financing.* The government of Canada, through the Export Development Corporation (EDC), a Canadian Crown corporation wholly owned by the government, develops Canada's export trade within the framework of the Canadian Export Development Act by providing insurance, guarantee, and loan facilities.

In the instant case, the MTA and Bombardier executed an equipment contract on June 10, 1982, for the purchase of 825 railcars. The contract was subject to (1) the MTA obtaining the approval of its Board and the New York State Public Authorities Control Board which occurred on June 11 and 20, 1982 respectively, and (2) the signing of a financing agreement with the EDC, the essential details of which were specified in the June 10 contract. On October 5, 1982 the MTA accepted a loan offer made by the EDC which resulted in the signing of the final financing agreement on November 15, 1982. The June 10 contract specified that the EDC would finance up to the lesser of 85 percent of the contract price of $658,985,250, or $750.0 million at 9.7 percent interest per annum. The MTA has asserted that the EDC offered the 9.7 percent rate in order to match financing offered by the government of France in connection with a bid submitted by Francorail, the French bidder for the same contract. Drawdowns on the loan will be coincident with progress payments made under the contract. The loan will be repaid in 20 equal semi-annual installments, beginning 6 months after shipment of all railcars in 1987, with final maturity of the loan in 1997.

Section 771(5)(A) of the Act directs the Commerce Department (the Department) to define the term "subsidy" to include any export subsidy described in the Illustrative List of Export Subsidies (the List) annexed to the *Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs asnd Trade* (the Subsidies Code). Included in the List, under item (k), are government-funded export credits used to secure a material advantage with respect to export credit terms.

The Department views export credit financing at preferential rates provided by governments to foreign importers as directly or indirectly conferring a countervailable benefit on the producer or exporter itself. This view is shared by other governments. For example, in a discussion paper on Proposals on Import Policy published by the Department of Finance of Canada, Annex IV, a subsidy is defined as including:

> * * * any financial or other commercial benefit that has accrued or will accrue, directly or indirectly, to persons engaged in the production, manufacture, growth, processing, purchase, distribution, sale, export or import of goods in or from a country other than Canada * * *

In addition, the draft regulations pertaining to the draft Special Import Measures Act of the government of Canada details the manner for determining the amount of a subsidy and refers to a loan of a preferential rate as follows:

> Where a subsidy in the form of a loan made at a preferential rate of interest is provided to a person engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods, the amount of the subsidy shall be determined by dividing
>
> (a) the amount that represents the difference between the amount of interest payable on the loan at the rate of interest actually payable, and the amount of interest that would be payable on the loan if it were an ordinary commercial loan made under comparable circumstances and conditions in the country of export to
>
> (i) the same person, or

(ii) to any other person in respect of an enterprise of comparable size in the same industry,

by

(b) the estimated total quantity of goods produced, manufactured, grown, processed, purchased, distributed, transported, sold, exported or imported, as the case may be, during the term of the loan.

Moreover, similar language and concepts are included in the regulations of the European Economic Community regarding the calculation of subsidies. *See* Council Regulation (EEC) 3017/79, art. 3 (4)(d), 22 J.O. Comm. Eur. (No. L 339) 1, 5 (1979).

However, the MTA has urged that since it is the direct recipient of the EDC export credit, the Department must use as its commercial benchmark the interest rates the MTA would have had to pay to lenders for comparable financing. We reject this methodology and consider the basis for the benchmark to be the commercial financing terms available to Bombardier on a comparable loan. This perspective reflects the commercial realities of the facts in this case, since the export credit was an inportant aspect of the entire transaction and largely facilitated the award of the contract to Bombardier. It is also consistent with our past practice of comparing financing terms in the foreign market.

Alternatively, the MTA has suggested that the Department must use as its commercial benchmark the rate specified in the Organization for Economic Cooperation and Development Arrangement on Guidelines for Officially Supported Export Credits (the OECD Arrangement or Arrangement), which is above the 9.7 percent interest rate secured by the MTA from the EDC. The OECD Arrangement is an "international undertaking" of the type referenced in the second paragraph of item (k). Item (k) reads as follows:

The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a signatory is a party to an international undertaking on official export credits to which at least twelve original signatories to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original signatories), or if in practice a signatory applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

Accordingly, the MTA contends that only the difference between the EDC rate and the rate specified in the Arrangement constitutes a countervailable benefit because item (k) provides that government-funded export credit practices which conform to such international undertakings as the OECD Arrangement are not "considered an export subsidy prohibited by this Agreement" (i.e., the Subsidies Code). Thus, the MTA reasons that only benefits conferred at interest rates below the OECD Arrangement rate are countervailable. We reject this contention because it fails to distinguish between those unfair trade practices which are "prohibited by the Agreement" and those practices which are countervailable under the U.S. countervailing duty law. If a country engages in "prohibited" conduct, the affected country may pursue its dispute settlement rights under Part II of the Subsidies Code in addition to acting under its countervailing duty laws. By contrast, if a country implements a non-prohibited subsidy practice, the Department may nevertheless be required to take the latter course. Therefore, we have concluded that our benchmark for export credits is not limited by the rate set in the Arrangement.

Thus, our benchmark is the commercial interest rate for financing a loan with similar terms to the EDC financing. In selecting a comparable commercial loan rate in the appropriate market (benchmark), we use a national average commercial interest rate if the loan is part of a national export credit program. If the loan is not generally available, as in this case (because the normal EDC subsidized export credits are within OECD guidelines), we use the company's actual commercial credit experience (e.g., a contemporaneous loan to the company from a private lender). If there were no similar loans, the national commercial loan rate is used as a substitute. Since in this case we do not yet have data on Bombardier's actual commercial credit experience, we will substitute the national commercial loan rate for the purpose of making our preliminary determination. As best evidence in this case, our benchmark will be the medium-term commercial interest rate for U.S. dollars in Canada, which is equivalent to the prime interest rate in the United States plus one half of one percent.

Since this export credit financing is considered to be at rates below the commercial benchmark for a comparable loan, we are required by the Act, and permitted by Article 4(3) of the Subsidies Code, to countervail the full amount of "any bounty or grant." Consequently, we preliminarily determine that this loan confers an export subsidy within the meaning of the countervailing duty law to the extent that it is provided at a preferential, below-market rate.

The MTA contends that the equipment contract would not have been awarded to Budd, regardless of the EDC financing. Although this allegation is irrelevant to the Department's limited preliminary determination under section 703(b) of the Act—i.e. a preliminary determination as to whether the railcars concerned are subsidized—it may be significant to the International Trade Commission's final determination whether a U.S. industry is being materially injured or threatened with material injury.

Calculation of Export Credit Financing Benefits

The subsidy rate for any loan from the EDC which was made at a rate below the commercial benchmark for a comparable loan in 1982 is computed by comparing what a company would pay a commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benefits in the year the loan was made, using a risk-free interest rate as the discount rate. In other words, we determined the subsidy value of a preferential loan as if the benefits had been bestowed in the year the loan was given. This amount was then allocated evenly over the number of units covered by the contract.

Since we did not have data on Bombardier's actual commercial credit experience, we used the above-described national commercial loan rate as best evidence. This national commercial benchmark rate is normally associated with loans with terms of six to fifteen years which permit drawdowns and repayments during the period of the loan. In addition, a commitment fee of 0.25 percent per annum on the unused portion of the line of credit, which is normal commercial practice, was included in our calculations. The rate used was the

average rate for the first two weeks of June, 1982, which reflects the commercial realities prevailing on June 10, 1982. This was the date on which the contract was signed and the loan terms regarding the interest rate were essentially agreed to in writing (although the financing agreement itself was only finalized on November 15, 1982).

For the discount rate, we used the national rate for government securities issued by the government of Canada for the first half of 1982. We calculated the present value of interest rate preferences between 1982 and 1997 in accordance with the loan drawdown and repayment schedules described in the Bombardier/MTA contract. We then divided the present value of this benefit derived from preferential interest rates by 825, the number of units covered by the contract, to yield a net, per unit benefit in 1982 U.S. dollars.

Using the method outlined above, we computed the subsidy to Bombardier to be $166,070 (U.S. dollars) per railcar. Since Bombardier and the MTA have agreed to adjust the price to reflect future inflation, the amount loaned by the EDC at preferential rates may increase. If so, the amount of the subsidy calculated will be adjusted accordingly in the course of review under section 751 of the Act should this investigation culminate in a final order.

The MTA has contended that it did not have a firm commitment from the EDC to finance the purchase on the terms specified in the contract until October 5, 1982, the date on which the MTA accepted the second EDC offer letter. Further, the MTA has indicated that the October 5, 1982 agreement was still subject to final approval of the financing agreement and that only when that agreement was executed (November 15, 1982) was the contract between the MTA and Bombardier effective. For purposes of this preliminary determination, we believe that the date on which the allegedly subsidized export credit gave Bombardier an advantage over Budd of the type which the U.S. countervailing duty law seeks to prevent was June 10—the date when Budd's unsubsidized bid was effectively ruled out. We will seek further information regarding whether the benefit was conferred on some date other than June 10, 1982.

B. *Federal and Provincial Regional Grants.* The Department of Regional Economic Expansion (DREE), which was created in 1969 by the government of Canada, is responsible for administering several statutes which include the Department of Regional Economic Expansion Act and the Regional Development Incentives Act. Under the DREE, grants are provided to industries to encourage growth in various Canadian regions.

In its response, Bombardier has indicated that it has received several grants from the DREE. Since the Department has consistently held that regional development benefits are countervailable, we preliminarily determine that these regional grants are subsidies within the meaning of the countervailing duty law.

Bombardier has also indicated that its Mass Transit Division has received provincial grants from the Societe de Developpment Industriel du Quebec (SDI) in connection with contracts to manufacture other types of passenger railcars and contracts to manufacture subway cars for export to third countries. However, Bombardier has indicated that certain equipment bought with these grants is used for the production of railcars within the scope of this investigation. Since it appears that these provincial development benefits are not generally available, we preliminarily determine that a portion of these provincial grants are subsidies within the meaning of the countervailing duty law.

Calculation of Federal and Provincial Regional Grant Benefits

The subsidy rate for these programs is calculated according to the Department's usual methodology for grants.

As indicated in several recent determinations, our allocation technique is a present value analysis which is based on the concept that a sum of money to be received in the future does not have the same value as that sum received today. *See* Appendix 2 to *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium*, 47 FR 39316–39317 (1982). The present value of any series of payments under these programs is calculated using a risk-free discount rate. For this rate, we used the average bond yields of Canadian government securities with maturities of over 10 years during the first half of 1982.

Under the method outlined above, we computed the subsidy to Bombardier to be $1,155 in U.S. dollars per railcar.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Suspension of Liquidation

Although we have determined that Canada is subsidizing the manufacture, production, and exportation of passenger railcars to be used in subway cars in the United States, it appears that a significant portion of the assembly involved in the manufacture of most, if not all of this merchandise, will occur in the United States, and that a substantial percentage of the components to be incorporated in the finished product will be sourced in the United States. However, the respondent has not provided information as to exactly what and how much sourcing and assembly will occur in the United States and Canada respectively. Further, the government of Canada has simply replied that it "does not consider that it is practicable or appropriate for it to identify Canadian firms other than Bombardier that may be producing or exporting merchandise which might be included within the scope of this investigation." Therefore, in the absence of specific information to the contrary, and in accordance with section 776(b) of the Act, we must assume that all components will be sourced in Canada. Accordingly, we preliminarily determine that each of these components benefits in equal proportions from the subsidies discussed above.

As a practical matter, however, it would be difficult to suspend liquidation for all merchandise that may be dedicated for assembly into finished railcar. Therefore, although we preliminarily determine that all components to be used in producing railcars from Canada are benefiting from subsidies, the Department has decided, in accordance with section 703 of the Act, that given the problems inherent in suspending liquidation on all items which might be used in a subway car, we are directing the U.S. Customs Service to suspend liquidation of all entries of only finished passenger railcars to be used as subways and unfinished passenger railcar shells to be assembled as passenger railcars for use as subways, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. We are directing Customs to require the posting of a specific estimated duty of $167,225 per finished railcar or unfinished railcar shell in the form of a cash deposit or bond for each entry of the merchandise. This specific rate of duty represents the sum of the per unit present values of the entire

export credit and grant subsidies, to be collected as each finished railcar or unfinished Railcar shell enters U.S. Customs territory. Liquidation of entries of other merchandise which might be incorporated into a finished railcar or an unfinished railcar shell will not be suspended.

This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(e) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC 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.

Public Comment

In accordance with § 355.35 of the U.S. Department of Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 3, 1982 at the U.S. Department of Commerce, Room 3080, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by December 27, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: November 22, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-32584 Filed 11-26-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultation With the Government of the People's Republic of China To Include a Review of Trade in Catagories 351, 363, 634, and 647 and Controlling Imports in Those Categories

Correction

In FR Doc. 82-31337 beginning on page 51467 in the issue of Monday, November 15, 1982, make the following change:

On page 51468, second column, the second table, the second line of the table should read as follows:

Category	Twelve-Month Level of Restraint (January 18, 1983-January 17, 1984
. . . . .	
363	14,718,906 numbers.

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

Applicants for Registration as Associated Persons: No-Action Position

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Commission's Determination to take a No-action Position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined not to take any enforcement action with respect to certain applicants for registration with the Commission as associated persons ("APs"), based solely on the failure to be registered, if such persons' applications for registration have been received by the Commission on or before November 18, 1982 and if certain other specified conditions are met. Those persons qualified to avail themselves of this "no-action" position are AP applicants who are associated with a broker or dealer which is a member of the National Association of Securities Dealers, Inc. ("NASD") and who are themselves registered with the NASD as "registered representatives" or "registered principals." The no-action position extends as well to the futures commission merchant ("FCM") with whom each such AP applicant is associated. Such no-action positions would be obtained by the "sponsoring" FCM by means of a certification made by the FCM to the Commission. All such no-action positions will terminate on April 30, 1983 unless terminated earlier based upon the occurrence of certain specified events. The Commission has determined to permit AP applicants who qualify, and whose FCM sponsors apply for such no-action position, to engage in business pursuant to the no-action position described herein because of delays in the processing of applications for registration arising both from the Commission's recent conversion of its registration program to an automated data processing system and the implementation of the Commission's new requirement that, as a condition of registration, associated persons must be "sponsored" by an FCM.

(*See* § 3.12 of the Commission's regulations, 17 CFR 3.12 (1982))

EFFECTIVE DATE: November 29, 1982.

FOR FURTHER INFORMATION CONTACT: Theodore W. Urban, Deputy Director, or Suzanne W. Ryder, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission is aware that, due to delays in the processing of applications for registration during the past several months, various persons have been unable to commence employment in the commodity futures or options business. The Commission is concerned about the hardship and disruption to the industry and the individual applicants which this situation may produce. Section 8a(2) of the Commodity Exchange Act, as amended ("Act"),[1] however, requires the screening of applicants for registration and the denial of registration to persons who are found not to be fit to engage in the commodity business. The Commission has determined, therefore, not to take any enforcement action, based solely on the failure to be registered, with respect to those persons who have applied for registration with the Commission as APs [2] who have

[1] 7 U.S.C. 12a(2) (1976). *See also* "Interpretative Statement Regarding Good Cause Standards for Denial of Registration" issued thereunder, 17 CFR Appendix A to Part 3 of the Commission regulations (1982).

[2] In this connection, Section 4k(1) of the Act, 7 U.S.C. 6k(1) (1976), provides in pertinent part: "It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person shall have registered, under this

previously been determined by the NASD, under screening procedures similar to those of the Commission, to be fit to engage in the securities business,[3] and who remain in good standing as registrants of the NASD, as described below. The Commission believes this approach will provide some relief to those persons whose business may have been adversely affected by the registration delay, while assuring that a fitness check exists for persons who are to engage in the commodity business.[4]

More precisely, those persons eligible for receipt of a "no-action" determination are applicants for registration with the Commission as associated persons who are also associated with a broker or dealer which is a member of the NASD,[5] and who, themselves, are registered with the NASD as "registered principals" or "registered representatives"[6] and remain in good standing therewith. In addition, the no-action determination would also extend to the FCMs which sponsor such AP applicants. In order to obtain the no-action position, a senior officer of the FCM with whom an eligible applicant will be associated upon being granted registration must provide the Commission with a written certification stating the following:[7]

1. the applicant will be associated with the FCM (or an agent of the FCM) upon the applicant being granted registration and, until such registration is effective (unless withdrawn or refused), the applicant will be "sponsored" by the FCM consistent with the provisions of Commission regulation 3.12 [8] as if registration had been granted;

2. the applicant's registration application was submitted to the Commission on or before November 18, 1982;

3. the FCM is currently registered with the SEC as a broker or dealer [9] and is also a member of the NASD, and the applicant AP is currently a registered representative or registered principal or an associated person of such NASD member;

4. there are no actions pending against the applicant AP which could result in a suspension of or bar from membership in the NASD or from further association with the NASD member, including any actions initiated by this Commission, the SEC or other law enforcement or regulatory agencies; and

5. the registration application submitted to the Commission by the AP applicant did not contain any self-declared derogatory information which would indicate a possible lack of fitness for registration as an AP.[10]

Such certifications should be submitted to the Commission at its headquarters office, 2033 K Street, NW., Washington, D.C. 20581, to the attention of Andrea M. Corcoran, Acting Director, Division of Trading and Markets. The Division of Trading and Markets ("Division") will review each such certification for completeness and, where appropriate, may verify information certified as accurate by sponsoring FCMs through coordination with the NASD, SEC or other Federal or state agencies.

A no-action position will become effective with respect to an AP applicant upon receipt by the Division of a complete certification with respect to that person and, for FCMs sponsoring multiple APs, upon receipt of a list furnished by the FCM of all the AP applicants to which the FCM's completed certification applies. To provide notification to the affected parties of the Division's receipt of a no-action request, each FCM is requested to furnish a duplicate copy of its certification and the list of sponsored APs on whose behalf the FCM is seeking such relief. The Division will "time-stamp" the duplicate copy upon receipt and will return it to the FCM.[11]

All such no-action positions granted by the Commission will terminate either on April 30, 1982 or the earlier occurrence of any one of the following events: (1) Receipt by an FCM which had sought a no-action position on behalf of an AP applicant of a notice from the Commission that the registration of such AP has been granted; (2) receipt by the Commission of a termination notice (Form 8T or U5) from a sponsoring FCM indicating that an AP applicant has terminated his employment with the FCM, or any other notice from the FCM otherwise indicating that the FCM is withdrawing its certification as to the eligibility of an AP applicant for a no-action position; or (3) receipt by a sponsoring FCM which sought and obtained a no-action position on behalf of an AP applicant of a notice from the Division of Trading and Markets that such no-action position has been revoked.[12]

The Commission wishes to caution all FCMs seeking a no-action position on behalf of any AP applicants that, based on the principles of the law of agency in conjunction with the certification made by the FCM, the Commission is of the opinion that the FCM is legally responsible for the acts of any such AP applicants who obtain a no-action position with respect to violations of the Act or regulations thereunder.

Issued in Washington, D.C. this 22nd day of November 1982 by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 82-32496 Filed 11-26-82; 8:45 am]

BILLING CODE 6451-01-M

Act, with the Commission and such registration shall not have expired nor been suspended (and the period of suspension has not expired) nor revoked, and it shall be unlawful for any futures commission merchant or any agent of a futures commission merchant to permit such a person to become or remain associated with him in any such capacity if such futures commission merchant or agent knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or revoked * * *."

[3] Fitness investigations conducted by the NASD are similar to those conducted by the Commission. Like the Commission, the NASD checks with the Federal Bureau of Investigation for criminal information and makes other checks to obtain information as to violations of the securities laws.

[4] The standards concerning what constitutes conduct disqualifying a person from entry into, or continuation in, the securities business are very similar to those prescribed for the commodities business. *Compare* Section 15(a)(4) of the Securities and Exchange Act of 1934, as amended ("SEA"), 15 U.S.C. 78o(a)(4)(1976) *with* Section 8a(2) of the Act, 7 U.S.C. 12a(2)(1976), and the "Good Cause Standards" issued thereunder, *supra* note 1.

[5] The NASD is authorized to grant or deny membership to brokers or dealers, and persons associated with them, pursuant to Sections 15A (b)(3) and (g) of the SEA, 15 U.S.C. 78o-3 (b)(3) and (g) (1976).

[6] These membership categories are defined in Schedule C, Parts I and II of the NASD By-Laws. [1967] NASD Manual (CCH) ¶1102A, pp. 1047-1054. Schedule C was issued pursuant to Section 2(d) of Article I of the By-Laws.

[7] In this connection, it should be noted that 18 U.S.C. 1001 (1976) makes it a felony for any person to submit a false statement to the government.

[8] 17 CFR 3.12 (1982).

[9] Section 15(a)(1) of the SEA, 15 U.S.C. 78o(a)(1) (1976).

[10] If an FCM seeks a no-action position for several individuals simultaneously, the certification may be consolidated so long as the certification applies fully to each individual included and the required information is provided in full for each applicant.

[11] To facilitate such return, each applicant FCM is requested to furnish the Division with a preposted, preaddressed envelope for return of the duplicate list.

[12] Because the acquisition of a no-action position pursuant to the procedure described herein is voluntary, and since the Commission's action constitutes a relief measure, the provisions of the Paperwork Reduction Act of 1980 do not apply. Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Discharge Review Board; Hearing Locations

In November 1975 the Naval Discharge Review Board commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C., area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following Naval Discharge Review Board itinerary for February

through May 1983 has been approved, but remains subject to modification if required:

February 28 through March 11, 1983—San Diego, CA
April 11 through April 22, 1983—Chicago, IL
May 16 through May 27, 1983—Dallas, TX

Any former member of the Navy or Marine Corps who desires a discharge review either in Washington, D.C., or in a city nearer to his/her residence, should file an application with the Naval Discharge Review Board using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application the hearing location which is preferred. Applicant forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address: Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that since the foregoing itinerary is subject to modification, and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the Naval Discharge Review Board is not tantamount to scheduling a hearing. When personal appearance has been requested, applicants and their representatives will be notified by mail of the date and place of their hearing.

For further information concerning the Naval Discharge Review Board, contact: Captain Raymond A. Ways, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203. Telephone: (202) 696–4881.

Dated: November 19, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-32551 Filed 11-26-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 20 and 21, 1982.

TIME: Beginning at 9:00 a.m. Each Day.

ADDRESS: Room 823, 1200 19th St., NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Theodore H. Drews, Executive Director, 400 Maryland Avenue SW., (Presidential Bldg. 205), Washington, D.C. 20202. Telephone—(301) 436–7876.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

- A presentation and discussion of the role and function of advisory councils and committees in the Department of Education.
- A progress report on the Center's program to develop cooperative surveys and joint ventures.
- A tour of the National Center.
- The process for the review of publications and other outputs.
- A report by the Administrator, National Center for Education Statistics, on recent activities of the National Center.
- Such new business as the chairman or the membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the Executive Director, Advisory Council on Education Statistics, 6525 Belcrest Rd., (Presidential Bldg., Room 205), Hyattsville, Maryland.

Dated: November 19, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-32538 Filed 11-26-82; 8:45 am]

BILLING CODE 4000-01-M

Postsecondary Education; Undergraduate International Studies and Foreign Language Program

Application Notice for New and/or Non-competing Continuation Projects for Fiscal Year 1983.

Applications are invited for new and/or non-competing continuation projects under the Undergraduate International Studies and Foreign Language Program.

Authority for this program is contained in Section 604 of the Higher Education Act of 1965, as amended. (20 U.S.C. 1124)

The Undergraduate International Studies and Foreign Language Program issues awards to institutions of higher education and public and non-profit private agencies and organizations, including professional and scholarly associations. The purpose of the awards is to:

(a) Assist institutions of higher education to plan, develop, and carry out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages; and

(b) Assist associations and organizations to develop projects that will make an especially significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages.

The Administration's budget for Fiscal Year 1983 does not include funds for the Undergraduate International Studies and Foreign Language Program. However, applications are being invited to allow for sufficient time to evaluate applications and complete the grant process prior to the end of the fiscal year, should Congress decide to appropriate funds for this program.

Closing date for transmittal of applications: (1) An application for a new grant must be mailed or hand delivered by January 31, 1983.

(2) An application for a non-competing continuation grant, to be assured of consideration for funding, should be mailed or hand delivered by January 10, 1983. If the application for a non-competing continuation grant is late, the Department of Education may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

Applications delivered by mail: An Application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.016 (Undergraduate International Studies Program), 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; or

(4) Any other proof of mailing acceptable to the 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 for a new grant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered should be taken to the U.S. Department of Education, Application Control Center, (Room 5673, Regional Office Building 3), 7th and D Streets, SW., Washington, D.C. 20202.

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 for a new grant that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Information regarding this program is set forth in the Undergraduate International Studies and Foreign Language Program Regulations, 34 CFR Parts 655 and 658. Information regarding the continuation of non-competing continuation awards is set forth in the Education Department General Administrative Regulations, EDGAR, 34 CFR 75.253.

Application topics: Applications will be accepted in Fiscal Year 1983 for projects in all categories included in the program regulations. The Secretary encourages projects in the following categories:

(1) Projects initiated by front line service delivery institutions, such as institutions of higher education. Organizations and associations are funded primarily for projects which will make an especially significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages;

(2) Projects that are locally developed, have strong institutional and community support, and use Federal dollars in partnership with institutional and private sector funding;

(3) Projects that strengthen the acquisition of basic and higher level skills in modern foreign languages, and in disciplines such as the history, anthropology, economics, and the geography of the areas where such foreign languages are spoken;

(4) Projects that strengthen the acquisition of knowledge and skills in professional fields with an international component, such as agriculture, business, education, law, and journalism, or that develop skills for the analysis of critical issues such as economic development, technology utilization, national security, or international trade;

(5) Projects that utilize computers to implement more effective means of teaching modern foreign languages, and for the collection and analysis of information about critical international issues;

(6) "Seed" projects that include specific plans and supporting evidence that show that the projects will continue without Federal assistance when the grant terminates.

Because of the planning time required to develop and implement new curricula in modern foreign languages, and to develop curricula that strengthen skills in international fields of study, the Secretary of Education is accepting applications for projects of up to two years for a single institution, and up to three years for consortia.

Available funds: As noted above, no funds have been requested for this program. However, in the first continuing resoultion for Fiscal Year 1983, Congress authorized the program to continue to operate at its Fiscal Year 1982 level through December 17, 1982. If this authority is extended through Fiscal Year 1983, approximately $1,938,000 will be available. At this level, it is anticipated that 19 non-competing continuations would be funded at an average cost of $43,000, and that the remainder of the funds would be allocated to new projects. New awards to a single institution will average $40,000, and consortia awards will average around $60,000.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by December 3, 1982. They may be obtained by writing to Susanne C. Easton, International Studies Branch, International Education Programs, U.S. Department of Education, (Room 3916, Regional Office Building 3), 7th and D Streets, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applicants not submit information that is requested.

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.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Undergraduate International Studies and Foreign Language Program (34 CFR Parts 655 and 658) that were published in the **Federal Register** on April 1, 1982 (FR 47, pages 14114–14117 and 14122–14124); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: For further information, contact Mrs. Susanne C. Easton, International Studies Branch, International Education Programs, U.S. Department of Education, (Room 3916, Regional Office Building 3), 7th and D Streets, S.W., Washington, D.C. 20202. Telephone: (202) 245–2794.

(20 U.S.C. 1124)

(Catalog of Federal Domestic Assistance Number 84.016—Undergraduate International Studies and Foreign Language Program)

Dated: November 22, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-32566 Filed 11-26-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), the following meeting notices are provided:

I. A meeting of Subcommitte A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on December 6, 1982, at the

offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. Options for pricing in an emergency.
3. Publication of the Secretariat's monthy assessment.
4. Stocks and stock policy.
5. November Oil assessment.
6. Fourth Allocation Systems Test (AST-4) matters.
7. Product imbalances.
8. Industry Supply Advisory Group (ISAG) staffing.
9. Future work program and meeting schedule.

II. A meeting of the IAB to the IEA will be held on December 7, 1982, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France beginning at 9:30 a.m.

The agenda for meeting is as follows:

1. Opening remarks.
2. Adoption of the agenda.
3. Approval of record note of October 8, 1982, IAB meeting.
4. Correspondence and communications with IEA and Reporting Companies.
5. Publication of the Secretariat's monthly assessment.
6. Report of Subcommittee A on its December 6, 1982, meeting including discussion on:
   (a) November oil assessment;
   (b) Stocks and stock policy; and
   (c) Options for pricing in an emergency.
7. Report of AST-4 Design Group and discussion of Governing Board decision of October 26, 1982.
8. ISAG staffing.
9. Next IAB meeting.

III. A meeting of the IAB to the IEA will be held on December 8, 1982, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of members of the IAB at a meeting of the IEA Standing Group on Emergency Questions (SEQ) which is being held in Paris on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the draft agenda.
2. Record of the 41st meeting and matters arising therefrom.
3. Oil supply and demand:
   (a) November assessment;
   (b) Publication of monthly assessment; and
   (c) Base period final consumption.
4. Stocks and stock policies:
   (a) Emergency reserves; and
   (b) Draft interim report.
5. Report of AST-4 Design Group.
6. Options for pricing in an emergency.
7. General matters:
   (a) Demand restraint review survey;
   (b) Major changes in demand restraint programs; and
   (c) 1983 work program.
8. Any other business.
9. Date of next meeting.

IV. A meeting of the Industry Working Party (IWP) to the IEA will be held on December 9 and 10, 1982, at the offices of the IES, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. on December 9. The purpose of this meeting is to permit attendance by representatives of the IWP at a meeting of the IEA Standing Group on the Oil Market (SOM) which is being held in Paris on these dates.

The agenda for the meeting is under the control of the SOM. It is expected that the following provisional agenda will be followed:

1. Adoption of the provisional agenda.
2. Approval of the summary record of the 41st session.
3. Today's oil market:
   (a) Current oil market and stocks situation;
   (b) Round-table reports on notable developments in the oil sector in Participating Countries;
   (c) Publication of monthly assessments;
   (d) Consultation with a Japanese oil company on oil market prospects; and
   (e) Secretariat analyses of the crude oil import register and the crude oil cost information system data.
4. medium-term oil prospects:
   (a) Emerging medium-term issues; and
   (b) World energy outlook.
5. Objectives, activities and information requirements of the SOM:
   —follow-up report by the IWP on IEA/SOM(82)15.
6. Oil industry finance:
   (a) Presentation on the 1977–80 data; and
   (b) Recent published data.
7. Impact of product price controls in tight market situations.
8. Other business.
9. Date of next meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., November 24, 1982.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 82-32711 Filed 11-26-82; 10:14 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-82-026]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE

ACTION: Notice of approval of Conservation Plan for the City of Burbank, California.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received an electric utility Conservation Plan developed and submitted by the City of Burbank, California (Burbank) for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of the Conservation Plan submitted by Burbank.

The public file for Burbank containing this Notice of Approval of Conservation Plan and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, telephone (202) 252-6020. Approval of the conservation plan was based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for the plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on November 29, 1982.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073 F, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-1251

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D-033, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6947

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA) amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant that used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas

during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notice of Receipt of Burbank's proposed conservation plan, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of the plan, was published in the **Federal Register** on August 12, 1982 (47 FR 35033). No comments on the proposed plan were received.

Based upon the entire record of this proceeding, ERA has determined that Burbank's conservation plan meets the requirements for approval contained in 10 CFR 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of the plan. However, based on the information contained in the utility's submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR Part 1500 *et seq.*) Thus this action clearly does not represent a major Federal action with significant impact on the human environment. Pursuant to 10 CFR 508.5 and section 808(d)(1) of FUA, DOE approves Burbank's electric utility Conservation Plan.

Burbank shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983.

The report should be sent to: Robert I. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., on November 18, 1982.

Robert I. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–32525 Filed 11–26–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–124–000]

Arizona Public Service Co.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that on November 12, 1982, Arizona Public Service Company (Arizona) tendered for filing a Notice of Termination of FPC Rate Schedule No. 77, effective March 21, 1980 between Arizona and Los Angeles Department of Water and Power.

Arizona proposes an effective date of April 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385,214). All such motions or protests should be filed on or before December 8, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82–32500 Filed 11–26–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP80–547–007 and CP83–85–000]

Canyon Creek Compression Co. et al.; Notice of Application and Petition

November 23, 1982.

Take notice that on November 8, 1982, Canyon Creek Compression Company (Canyon) and NGPL–Canyon Compression Co. (NGPL–Canyon), both of 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80–547–007, a petition to amend the Commission's order issued March 30, 1982, in Docket No. CP80–547–000 (18 FERC ¶61,280) pursuant to Section 7(c) of the Natural Gas Act so as to authorize the substitution of Canyon for NGPL–Canyon as holder of the certificate issued by said order. Take further notice that on November 15, 1982, NGPL–Canyon filed in Docket No. CP83–85–000 a related application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon compression services and to abandon by transfer to Canyon a 22,000 horsepower compressor station in Uinta County, Wyoming. The subject proposals are more fully set forth in the petition and application which are on file with the Commission and open to public inspection.

Specifically, NGPL–Canyon proposes in Docket No. CP83–85–000 to abandon the 22,000 horsepower compressor station and appurtenant facilities located in Uinta County, Wyoming, and related services by transfer to Canyon. Canyon would cause the construction to be completed and would render the services for which NGPL–Canyon now holds a certificate authorization in Docket No. CP80–547–000.

Canyon and NGPL–Canyon in Docket No. CP80–547–007 request amendment of the order issued March 30, 1982, in Docket No. CP80–547–000, to substitute Canyon for NGPL–Canyon as holder of the certificate issued by said order.

Petitioners state that Canyon is a general partnership existing under the laws of Illinois consisting of NGPL–Canyon, a subsidiary of Natural Gas Pipeline Company of America, CIG–Caynon Compression Co., a subsidiary of Colorado Interstate Corporation (CIG–Canyon), and Mountain Fuel Resources, Inc., a subsidiary of Mountain Fuel Supply Company (Resources).

It is stated that NGPL–Canyon, CIG–Canyon and Resources have entered into a Sales Agreement dated November 5, 1982, to permit CIG–Canyon and Resources each to acquire a 15 percent interest in NGPL–Canyon's facilities. Further, it is asserted that the total estimated cost of the facilities is $20,600,000 and that NGPL–Canyon, under the partnership agreement dated November 5, 1982, would be the managing partner and would continue to direct the construction and operation of the facilities for which NGPL–Canyon now holds certificate authorization.

Petitioners request that the order in Docket No. CP80–547–000 be amended so as to allow Canyon to be substituted for NGPL–Canyon, thus resulting in 100 percent ownership and operation of the compressor station by Canyon.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before December 14, 1982, file with the Federal Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed in Docket No. CP80-547-000 need not file again.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on the application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGPL-Canyon to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32501 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-3-000]

Caterpillar Tractor Co.; Notice of Request for Adjustment Under Section 502(c) of the NGPA

November 23, 1982.

Take notice that on November 4, 1982, Caterpillar Tractor Co. (Caterpillar), Box 348, Aurora, Illinois, 60507, filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment pursuant to section 502(c) the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3342 (Supp. IV 1980), and Rules 1101-1117, Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-385.1117.

In support of its petition, Caterpillar stated that the workers of its Aurora, Illinois plant went on strike beginning October 1, 1982. Caterpillar noted that this plant is normally heated by coal, but due to the strike, which includes employees on the heating plant workforce, it is unable to operate the coal boilers. As a result, Caterpillar stated that it was forced to use more than 300 Mcf of natural gas per day in its gas-fired boiler for continued maintenance and heating of both the office and the factory. Caterpillar requests adjustment in the form of an exemption from the Commission's incremental pricing regulations (18 CFR Part 282) for the month of October 1982, and for the duration of the strike.

The procedure applicable to the conduct of this adjustment proceeding are found in subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-385.1117. (47 FR 19014, May 3, 1982).

Any person desiring to participate in this adjustment proceeding shall file a motion to intervene in accordance with Rule 1105 of the Commission's Revised Rules of Practice and Procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary

[FR Doc. 32502 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1956-001]

William T. Coleman, Jr., Order Granting Application To Hold Interlock

Issued: November 22, 1982.

On July 19, 1982, William T. Coleman, Jr. filed an application, under section 305(b) of the Federal Power Act and Part 45 of this Commission's regulations, requesting authorization to hold an interlocking directorate between Philadelphia Electric Company (PECO) and CIGNA Corporation (CIGNA). PECO is a public utility for purposes of section 305(b). CIGNA, through four wholly-owned subsidiaries, controls approximately 23.5% of the outstanding capital stock of Paine Webber Incorporated, a holding company whose operating subsidiaries underwrite and participate in the marketing of securities, including public utility securities.[1]

Notice of Mr. Coleman's application was issued on July 20, 1982, with responses due on or before August 20, 1982. No responses have been filed.

[1] On June 22, 1982, the Commission issued an order finding this interlock to be jurisdictional (Docket No. ID-1956-000). The structure of the CIGNA corporate family is explained at length in that order.

Discussion

Mr. Coleman has held this interlock since July 1977, when he was, while a director of PECO, elected to the board of the old INA Corporation (INA), the predecessor of "New" INA Corporation and a cofounder of CIGNA. He is not a director of any company now within the CIGNA family other than CIGNA itself. Mr. Coleman is an outside director of both corporations. In addition, he sits on the boards of seven other corporations.[2]

Mr. Coleman previously filed a petition with the Commission on May 11, 1981, seeking a declaratory order that the interlock at issue did not fall within the purview of section 305(b). The delay in filing was explained to be the result of not considering this interlock to be jurisdictional, until the *Hatch* proceeding raised the question.[3]

It appears from all of the foregoing that Mr. Coleman meets the criteria recently addressed by the Commission in allowing an interlock in *Margery Somers Foster*, Docket No. ID-1967-000, issued May 7, 1982, at 4. As a true outside director of both companies, Mr. Coleman neither has been nor is expected to be intimately involved in day-to-day corporate affairs. He also will hold the only interlock between the two companies and maintains no substantial block of voting stock. Individually, these factors would not be dispositive. However, when taken together, they lead us to conclude that

[2] Those companies are: AMAX, Inc.; American Can Co.; IBM Corp.; Pan American World Airways; PepsiCo.; Chase Manhattan Bank; and Chase Manhattan Bank Corp. The interlocks with the bank and bank holding company are held pursuant to *Edison Electric Institute* Docket No. EL81-5-000, 14 FERC ¶ 61,286 (March 27, 1981), *order on reh., Edison Electric Institute*, 15 FERC ¶ 61,173 (May 26, 1981).

[3] Although the Commission's original opinion (*Edwin I. Hatch*, Docket No. ID-1424, Opinion No. 67), was issued on November 6, 1979, the Court of Appeals for the District of Columbia Circuit did not issue its ruling thereon until June 26, 1981, *Hatch* v. *FERC*, 654 F.2d 825 (D.C. Cir. 1981).

The jurisdiction of the Commission over interlocks such as this appears to have been sufficiently in question to excuse Mr. Coleman's delayed filing. At this point, however, it should be clear that the Commission will exercise jurisdiction over interlocks between public utilities and corporations which control even one subsidiary which is licensed to deal in securities. The statute is equally clear: persons desiring to hold such interlocks must obtain *prior* authorization from the Commission (*see* section 305(b)). Such applications should be filed as soon as the affected individual knows that he or she is subject to consideration for the position in question (or at least as soon as the corporation makes the nomination public). In the event that uncertainty exists as to the need for filing, prudence dictates that the individual seek Commission guidance at this early date. We take this opportunity to advise potential applicants that, in the future, we will not look favorably on untimely applications to hold interlocking positions.

there will be little opportunity for failures in arm's-length bargaining, and that the other dangers presented by such interlocks are not likely to occur. PECO and CIGNA apparently are not part of any related corporate or financial network, nor do they have any direct or indirect relationship or intermingled interests.[4] Thus, it appears unlikely that a single outside director might substantially influence company policies in such a manner as to jeopardize the interests of the company, its investors, its consumers, or the general public.

While Mr. Coleman has not attended each and every board meeting, there is no indication that he has demonstrated such inattentiveness as would justify denial of this interlock.[5] Furthermore, no evidence indicates that any subsidiary of INA/CIGNA has ever dealt in PECO securities, although they could have done so (*see Brewer, supra*, mimeo at 1–2, 5–6).

As we found in *Foster, supra*, the dangers associated with interlocking directorates appear to be remote enough here to justify granting Mr. Coleman's application and authorizing him to hold the interlock at issue. Accordingly, we find that neither public nor private interests will be adversely affected by the interlock described herein.

The Commission orders

(A) Until further order of the Commission, the application of William T. Coleman, Jr. to hold the interlock described herein is hereby granted.

(B) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlock authorized by this order.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32503 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 620-001]

DMC Properties, Inc. and Alaska Packers Association, Inc.; Application for Transfer of License

November 23, 1982.

Take notice that the DMC Properties, Inc. (formerly Alaska Packers Association, Inc.) and the Alaska Packers Association, Inc. (formerly ConAgra Subsidiary, Inc.) (Applicants) filed on October 13, 1982, an application for transfer of the Chignik Hydroelectric Project No. 620 from the DMC Properties, Inc. to the Alaska Packers Association, Inc. The project is located on the Upper Lake, Indian Creek, in Chignik, Alaska. Applicants executed a Bill of Sale and Memorandum of Lease and Option to Purchase on April 7, 1982. Correspondence with the Applicants should be directed to: Mr. James N. Crittenden, Del Monte Corporation, 1 Market Plaza, P.O. Box 3575, San Francisco, California 94119; and, Mr. Roger W. Wells, McGrath, North, O'Malley & Kratz, P.C., Suite 1100—ConAgra Tower, One Central Park Plaza, Omaha, Nebraska 68102.

Agency Comments—Federal, State, and local, agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 7, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32504 Filed 11-26-82 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-117-000]

Duke Power Co.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on November 10, 1982, a supplement to the Company's Electric Power Contract with Broad River Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 143.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes: the termination of Delivery Point No. 6 and the addition of Delivery Point No. 13 with a designated demand of 10,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately succeeding the effective date.

Duke Power proposes an effective date of November 17, 1982 for Delivery Point No. 6 and August 8, 1982 for Delivery Point No. 13.

Copies of the filing were mailed to Broad River Electric Cooperative, Inc., and the South Carolina 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 December 8, 1982. Protests will be considered by the

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[4] *See George Fabian Brewer*, Docket No. ID-1818, issued April 6, 1981, mimeo at 5.

[5] *See John Edward Aldred, et al.*, 2 FPC 247, 262–264 (1940).

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.

Lois D. Cashell

Acting Secretary.

[FR Doc. 82-32515 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-123-000]

Duke Power Co.; Notice of Filing

November 19, 1982.

The filing Company submits the following:

Take notice that on November 9, 1982, Duke Power Company (Duke Power) tendered for filing a reduction in the proposed rate applicable to Electric Cooperatives, Municipalities, and Public Utility Companies filed by Duke Power on August 18, 1982 and accepted for filing by the Commission in a letter order dated October 29, 1982 to become effective, subject to refund, on November 2, 1982. Based on the test period 12 months ending December 31, 1983 conditions, Duke Power estimates that such reduced or "interim" rates will reduce charges under the rate accepted for filing by the Commission in its October 29, 1982 letter order by about 4.0%. Duke Power proposes to make such "interim rates" effective, subject to refund, as of November 2, 1982 in lieu of the previously "filed" rates.

Duke Power states that the reason for the reduced Interim rate is to treat rates comparably at the wholesale and retail levels. On November 1, 1982, the North Carolina Utilities Commission issued its order with respect to rates proposed by Duke Power for its North Carolina retail and industrial customers. The amount of that increase was substantially less than that proposed by the Company in its retail filing.

Copies of the filing were served upon all of Duke Power's jurisdictional Wholesale Customers, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Southeastern Power Administration.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 1, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32516 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-29-000]

Dunigan Operating Company, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

November 23, 1982.

Take notice that Dunigan Operating Company, Inc. on September 7, 1982, filed a Petition for Review under 42 U.S.C. § 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before December 8, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32505 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-19-000]

David Godman and George Oliger; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

November 22, 1982.

On October 22, 1982, David Goodman and George Oliger, of c/o 80 eighth Avenue, Room 711, New York, N.Y. 10011, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying Small Power Production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 940 kW hydroelectric installation located on Fishkill Creek, in Beacon, New York. A Preliminary Permit was issued to applicants on June 15, 1981 for study of the proposed installation, designated as the Braendly Project, FERC Project No. 3512. Applicants state that their Groveville Mills Hydroelectric Project, licensed as FERC Project No. 3511, is located one mile upstream from the proposed Braendly Project site (QF83-19-000). The Groveville project has a maximum capacity of 799 kW. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32508 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-20-000]

The Town of Highlands, North Carolina, Haywood Electric Membership Corp., and North Carolina Electric Membership Corp. v. Nantahala Power & Light Co.; Order Denying Motion To Dismiss, Denying Motion for Summary Disposition, Setting Complaint for Investigation, and Establishing Procedures

Issued: November 22, 1982.

On June 30, 1982, the Town of Highlands, North Carolina (Highlands), Haywood Electric Membership Corp. (Haywood), and the North Carolina Electric Membership Corp. (NCEMC) filed a joint complaint, pursuant to the terms of an earlier settlement agreement in *Nantahala Power & Light Company, Docket No. ER80-574-000.*[1] The complaint requests that the Commission direct Natahala Power & Light Co. (Nantahala) to revise its PL-(COSAC) wholesale rate tariff to conform to the Commission's Opinion No. 139, *Nantahala Power & Light Company*, Docket Nos. ER76-828 and EL78-18, 19 FERC ¶ 61,152 (May 14, 1982)[2] and to refund amounts collected since March 1, 1981, attributable to wartime depreciation expenses. In particular, the complainants allege that the issue was resolved in Opinion No. 139 and, in accordance with the Commission's policy against relitigation of matters previously resolved,[3] that the question of wartime depreciation should be disposed of on a summary basis.

Notice of the instant filing was published in the Federal Register on July 21, 1982 (47 FR 31610), with responses due on or before August 18, 1982. On July 15, 1982, Nantahala filed an answer, requesting that the complaint be dismissed to the extent it purports to assert any rights on the part of NCEMC, and that action be deferred on the complaint as to the other complainants. In support of its position, Nantahala alleged that because NCEMC was not a party to the settlement agreement in Docket No. ER80-574-000 and is not a customer of the company, it has no standing to assert any rights against the company. Further, Nanthala alleged that the complaint was premature because Docket Nos. ER76-828 and EL78-18 were still pending before the Commission. Nantahala also argued that summary disposition on the issue would be inappropriate and inconsistent with the terms of the settlement agreement in Docket No. ER80-574-000 inasmuch as the agreement did not purport to preclude the opportunity for a hearing.[4]

On July 22, 1982, the complainants filed a reply to Nantahala's answer, reiterating that NCEMC, as a party to Docket No. ER80-574-000, has standing to join in the complaint, that consideration of the complaint following Commission action on the petitions for rehearing of Opinion No. 139 is appropriate, and that summary disposition of the complaint is not inconsistent with the terms of the settlement agreement in Docket No. ER80-574-000.

Discussion

During World War II Nantahala constructed emergency generation and transmission facilities which it elected to amortize for tax purposes, pursuant to section 124 of the Internal Revenue Code of 1939, during the period 1941-1945. At the same time, Nantahala amortized the amount over a five year period on its books of account. In 1975, Nantahala requested and was granted permission by the Commission's Chief Accountant to restate its depreciation reserve with respect to these wartime emergency facilities, based on the allegation that the company had not recovered the accelerated depreciation expense from its wholesale customers. Despite this accounting decision, in Opinion No. 139, we held that there was insufficient evidence in the record underlying that proceeding to justify the company's proposed restatement for ratemaking purposes.

In light of our order of September 30, 1982, denying rehearing of Opinion No. 139, we believe that Nantahala's request to defer action on the instant complaint is moot. Further, we shall deny the company's request that the complaint be dismissed to the extent it purports to assert any rights on the part of NCEMC. NCEMC, although not a signatory to the settlement agreement in Docket No. ER80-574-000, did intervene and participate in that proceeding, and is affected by the Commission's order approving the settlement agreement. Further, NCEMC is a bulk power supply agent for member cooperatives, including Haywood. In any event, however, regardless of the provisions of the prior settlement, section 306 of the Federal Power Act is worded very broadly in permitting any person (including corporations) to file a complaint when appropriate.

As to the substance of the complaint in this docket, we decline to grant summary disposition on the basis of Opinion Nos. 139 and 139-A. Our decision in those opinions was based on a lack of record evidence to support Nantahala's position. While we noted that we might ordinarily permit a utility to restate its books to conform with actual ratemaking practice, we could not conclude on the basis of the record before us what ratemaking and cost recovery practices Nantahala had followed during the twenty-three year period before it became subject to our jurisdiction or that of our predecessor agency. Because the wartime depreciation issue has not been resolved on the basis of a fully-developed evidentiary record, we believe that summary disposition on this issue is inappropriate and that the matter should be set for investigation. Pursuant to the terms of the settlement agreement approved by the Commission in Docket No. ER80-574-000, the rates accepted in that docket will remain subject to refund pending such investigation.

Our action is, of course, without prejudice to a motion for summary disposition should Nantahala produce no more evidence in this docket, than it did in the dockets underlying Opinion Nos. 139 and 139-A.

The Commission Orders

(A) Nantahala's motion to dismiss the complaint as to NCEMC is denied.

(B) The complainants' motion for summary disposition is denied.

(C) Pending the hearing ordered herein, the rates accepted for filing in Docket No. ER80-574-000 shall remain subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing

[1] By letter order dated November 16, 1981, the Commission approved the settlement agreement in Docket No. ER80-574-000. The agreement provided, in part, that any party to the settlement could file a complaint by June 30, 1982, challenging Nantahala's treatment of wartime depreciation in which case the associated charges would be subject to refund.

[2] *Rehearing denied*, Opinion No. 139-A (September 30, 1982).

[3] *E.g., Minnesota Power & Light Company*, Docket No. ER77-427, Opinion No. 87, 11 FERC ¶ 61,313 (June 24, 1980).

[4] The complainants also contend that the burden of proof on the issue of wartime depreciation expense lies with Nantahala. The company, in its answer, disputes this assertion. The Commission recently determined in Opinion No. 139-A that the burden of proof on this issue does rest on Nantahala. In addition, we note that the settlement in Docket No. ER80-574-000 provided that in any investigation of the wartime depreciation issue resulting from a complaint, the burden of proof would be the same as if Nantahala had included this expense in a rate filing under section 205 of the Federal Power Act.

shall be held concerning the issue of Nantahala's restatement of wartime depreciation.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately thirty (30) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32513 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-115-000]

Jersey Central Power & Light Co.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that on November 3, 1982, Jersey Central Power & Light Company (Jersey Central) tendered for filing revised Phase B rate sheets and revenue comparisons which correct for the rate design error in Jersey Central's filing in Docket No. ER82-764-000, pursuant to the Commission's order dated October 29, 1982 in Docket No. ER82-764-000.These revised rate sheets are requested to supercede the rate sheets filed in Docket No ER82-426-003 which were filed in compliance with the summary judgment aspect of the Commission's order of July 23, 1982, in that proceeding.

To the extent necessary, Jersey Central requests waiver of the Commission's regulations.

In view of the authorization contained in the Commission's October 29th order, Jersey Central will assume these rates are effective after a one-day suspension on November 1, 1982, subject to refund.

Copies of this filing have been served on all parties and on all affected 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 December 6, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc 82-32515 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-65-000]

Kansas-Nebraska Natural Gas Company, Inc.; Notice of Application

November 23, 1982.

Take notice that on November 5, 1983, Kansas-Nebraska Natural Gas Company, Inc. (K-N) P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-65-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon service under a gas exchange agreement with Colorado Interstate Gas Company (CIG), as more fully set forth in the application which is on file with the Commission and open to public inspection.

K-N states that under its present gas exchange agreement with CIG dated March 19, 1968, CIG has only a limited obligation to redeliver gas to K-N during the months of December, January and February. K-N proposes the abandonment of the subject exchange with CIG because of its need for winter deliveries of exchange gas. K-N proposes to have Panhandle Eastern Pipe Line Company (Panhandle) transport the gas for K-N because Panhandle would redeliver gas during the winter months as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirement of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for K-N to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32506 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2629-004]

The Village of Morrisville, Vermont; Application for Amendment of License

November 23, 1982.

Take notice that The Village of Morrisville, Vermont (Licensee) filed on June 15, 1982, and revised on September 27, 1982, and October 18, 1982, an application pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r), for amendment of its license for its Morrisville Project, FERC No. 2629, located on the Lamoille and Green Rivers in Lamoille County, Vermont. Applicant has filed revised Exhibits F and G showing project modifications. Correspondence with the Applicant should be directed to: R. B. Page, Superintendent, Morrisville Water and Light Department, 18 Portland St., Morrisville, Vermont 05661.

Project Description—Licensee proposes to add a new development at its licensed project: The Garfield Development would comprise: (1) A new low concrete dam, approximately 3 feet high and 85 feet long with a 50-foot-long spillway section provided with flashboards (if environmentally

approved), all constructed at an old damsite; (2) a new upstream approach channel, approximately 225 feet long, 20 feet wide and 6 feet deep, excavated in rock near the left river bank; (3) a gated intake structure with trashracks, located at the left dam abutment, and a penstock, 6 feet in diameter and approximately 1,000 feet long, leading to (4) a powerhouse containing two turbine-generator units rated at 1,250 kW each for a total rated capacity of 2,500 kW; (5) a tailrace returning flow to the Green River approximately 1,000 feet downstream of the dam; (6) a new 34.5-kV transmission line, 850 feet long, connecting to an existing line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,880,000 kWh. Project energy will be utilized by the Morrisville Water and Light Department.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies only directly from the Applicant). If any agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before January 10, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32514 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-122-000]

Niagara Mohawk Power Corp.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 12, 1982, tendered for filing as a rate schedule an agreement between Niagara and the Vermont Public Power Supply Authority (VPPSA) dated November 1, 1982.

The Agreement provides for the transmission of short term power and associated energy from Ontario Hydro to Vermont Public Power Supply Authority (VPPSA).

Niagara requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Public Power Supply Authority and the Public Service Commission of the State of New York.

Any person desiring to be heared or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 8, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc 82-32507 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-127-000]

Portland General Electric Co.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that on November 16, 1982, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System Cost determination and PGE's Appendix 1, Schedule 5.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 9, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32509 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1969-001]

Keith R. Potter; Order Granting Application To Hold Interlocks and Noting Interventions

Issued: November 22, 1982.

On May 14, 1982, Keith R. Potter filed an application for Commission authorization to continue holding the positions of director of Illinois Power Company (IP) and the positions of director of Continental Illinois Corporation (CICorp) and director of Continental Illinois National Bank and Trust Company of Chicago (CINB).[1] Mr. Potter's application results from a recent Federal Reserve Board ruling which, by authorizing commercial banks to underwrite and market commercial paper, appears to bring public utility-commercial bank interlocks within the purview of section 305(b) of the Federal Power Act for the first time.[2]

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[1] Mr. Potter has served on IP's board of directors since 1973, and on the boards of directors of both CICorp and CINB since 1971.

[2] Letter from Theodore E. Allison, Secretary, Board of Governors of The Federal Reserve System to Messrs. John Liftin and Harvey L. Pitt, Esqs. (containing attached Statement Regarding Petitions to Initiate Enforcement Action) (September 26, 1980). *See Edison Electric Institute*, 14 FERC ¶ 61,286 (March 27, 1981), *order on reh., Edison Electric Institute*, 15 FERC ¶ 61,173 (May 26, 1981).

CINB is not authorized to underwrite or market public utility securities. CICorp is so authorized, although there is no evidence that it has ever done so itself.[3] CICorp's second-tier, wholly-owned, London-based merchant banking subsidiary, Continental Illinois Limited (CILtd), is authorized to underwrite and market public utility securities, and has engaged in both of these activities.[4]

Notice of the instant application was issued on May 26, 1982, with responses due on or before June 18, 1982. On May 24, 1982, CICorp and CINB jointly petitioned to intervene in support of the application. They note the value of Mr. Potter's experience, judgment, and counsel, and suggest that denial of his application would limit their ability to attract qualified outside directors.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure, 18 CFR 384.214, the timely motions to intervene serve to make CICorp and CINB parties to this proceeding.

Section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (1976), prohibits persons from holding concurrent positions as officer or director of both a public utility and a bank, trust company, banking association or firm authorized to underwrite or market public utility securities, unless the Commission authorizes the interlock upon a showing by the applicant that neither public nor private interests will be adversely affected.[5]

Because CINB is not authorized to underwrite or market public utility securities, Commission authorization is not required for Potter to hold the IP–CINB interlock. However, the IP–CICorp interlock requires Commission approval, for two reasons: first, CICorp is authorized to underwrite and market public utility securities, [6] and second, CICorp's wholly-owned subsidiary, CILtd, has in fact underwritten and marketed public utility securities.[7]

We previously approved a public utility-securities dealer interlock upon finding that the interlock would adversely affect neither public nor private interests.[8] In that case, the applicant held the sole interlock between the two affected companies, and served as a true "outside director" of each company. Under these circumstances, we concluded that little, if any, possibility of improper influence on corporate decisions existed. Similar facts exist with respect to Mr. Potter's application. Mr. Potter is an outside director of both IP and CICorp, and he holds the only interlock between the two companies. In addition, he holds no controlling block of voting stock in either company. We are persuaded in this case that authorization of the interlock will not adversely affect public or private interests and therefore we shall approve the instant application.[9]

The Commission orders

(A) Until further order of this Commission, Keith R. Potter's application to continue holding the interlocks described herein is hereby granted.

(B) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlocks authorized by this order.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32510 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-10-M

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[3] Potter Application at 9. Mr. Potter affirmatively states that CICorp is authorized by law to underwrite or participate in the marketing of public utility securities. However, CICorp does not currently underwrite or market any public utility securities, and has not underwritten or marketed the securities of any public utility with which Mr. Potter has been connected since his election to CICorp's board of directors in 1971. *Id.* at 10, 13.

[4] Potter Application at 3, n. 1.

[5] *See George F. Brewer,* 15 FERC ¶ 61,020 (April 6, 1981). *Accord, Lelan F. Sillin, Jr.,* 33 F.P.C. 1006, 1007 (1965); *John Edward Aldred,* 2 F.P.C. 247, 260–65 (1940).

[6] *See* note 3, *supra.*

[7] In three recent proceedings, we imputed the securities underwriting activities of wholly-owned subsidiaries to their corporate parents, in order to ensure that persons required to seek Commission authorization to hold proscribed interlocks cannot evade this obligation through the fiction of separate corporate identities. *William T. Coleman, Jr.,* 19 FERC ¶ 61,270 (June 22, 1982); *Margery Somers Foster,* 19 FERC ¶ 61,146 (May 7, 1982); *Edwin I. Hatch,* Opinion No. 67, Docket No. ID–1424 (November 6, 1979), *reh. denied, Edwin I. Hatch,* 17 FERC ¶ 61,132 (May 7, 1980), *aff'd in part and rev'd and remanded in part,* 654 F. 2d 825 (D.C. Cir. 1981), *order on remand, Edwin I. Hatch,* Docket No. ID–1424 (February 18, 1982). *See Edwin I. Hatch,* 18 FERC ¶ 61,141 (February 18, 1982).

[8] *Margery Somers Foster,* ¶ 61,146 (May 7, 1982), *order on reh. Margery Somers Foster,* 19 FERC ¶ 61,312, (June 22, 1982).

[9] One further point merits attention. We note that Mr. Potter believes his May 14, 1982 application complies with our March 27, 1981 Order in *Edison Electric Institutes (EEI), supra* note 2. We recognize that until we recently defined our views as to subsidiary/parent attribution in *Hatch, Foster,* and *Coleman, supra* note 7, applicants such as Mr. Potter may have been unaware that they fell within the *EEI* filing requirements. Given this potential uncertainty, we are not inclined to deny Mr. Potter's application or take other action based on the tardiness of the filing. However, we note that the provisions of section 305(b) are abundantly clear in requiring Commission approval *before* an individual begins to hold a jurisdictional interlock. The obligation thus rests on a potential officer or director to seek Commission authorization as soon as he or she becomes subject to consideration for such a position (or at least as soon as a nomination is made public by the affected corporations(s)). If uncertainty exists as to a jurisdictional question or the need for a Commission order, this is also the time at which Commission guidance should be sought. We take this opportunity to note that in future cases, we will not look favorably upon applications submitted after an individual begins serving in the subject positions.

[Docket No. ER83-120-000]

Public Service Company of Oklahoma; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take Notice that Public Service Company of Oklahoma ("PSO"), on November 12, 1982, tendered for filing a Transmission Agreement between Western Farmers Electric Cooperative and PSO and a Facilities Agreement between Western Farmers Electric Cooperative and PSO. PSO proposes that the Agreement be made effective as of November 1, 1982.

Copies of the filing have been sent to the Oklahoma Corporation Commission and to Western Farmers Electric Cooperative.

Any person desiring to be heard or protest the 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 214 and 211 of the Commission's Revised Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32518 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-125-000]

Southwestern Electric Power Co.; Notice of Filing

November 22, 1982.

The filing company submits the following:

Take notice that Southwestern Electric Power Company ("SWEPCO") on November 15, 1982, tendered for filing an Amendment to the Contract for Electric Service dated July 31, 1973 (the "Amendment") between SWEPCO and the City of Bentonville, Arkansas ("Bentonville"). The Amendment provides for a formulaic method of determining periodic changes in rates and charges applicable to service rendered Bentonville by SWEPCO. Rates determined under the first application of the Amendment will result in aggregate increased revenues from Bentonville for the 12 months ending June 30, 1983 of about $502,617 or 15.2%, over rates presently in effect. SWEPCO requests that the Amendment and rates determined thereunder be made effective as of December 1, 1982 and, accordingly, requests waiver of the notice requirements under the Federal Power Act. Bentonville has concurred in the filing and the proposed effective date.

Copies of the filing have been served on Bentonville and upon the Arkansas 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, NE., 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 December 9, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32511 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-774-000 and ER82-829-000]

Tapoco, Inc. and Nantahala Power & Light Co.; Order Accepting for Filing and Suspending Proposed Notices of Cancellation, Consolidating Dockets, Granting Interventions, Denying Motions, and Establishing Expedited Hearing Procedures

Issued: November 22, 1982.

On September 3, 1982, and September 23, 1982, Tapoco, Inc. (Tapoco) and Nantahala Power & Light Company (Nantahala) filed Notices of Termination of their filed rate schedules known as the New Fontana Agreement and the related 1971 Apportionment Agreement.[1] The New Fontana Agreement is a power coordination and exchange arrangement between the Tennessee Valley Authority (TVA), Tapoco, Nantahala, and Aluminum Company of America (Alcoa), the parent company of Tapoco and Nantahala. Under the terms of the Agreement, dispatching control as well as the output of the Tapoco and Nanthahala hydroelectric plants are transferred to TVA in return for which TVA gives back fixed power and energy entitlements. These entitlements are rendered by TVA jointly to Tapoco and Nantahala. The contract will expire on December 31, 1982, by its own terms.

The 1971 Apportionment Agreement between Tapoco and Nantahala allocates between the two companies the entitlement which they receive from TVA pursuant to the New Fontana Agreement. The Apportionment Agreement also expires on December 31, 1982, by its own terms.

Tapoco and Nantahala dispense their respective apportionments of power received from TVA differently. Tapoco is the industrial power supply source for Alcoa's Tennessee smelting operations, while Nantahala serves a public utility load in western North Carolina. Nantahala is regulated by the North Carolina Utilities Commission.[2]

Both Tapoco and Nantahala state that individual negotiations with TVA have commenced and are presently active. However, no agreements have been reached on a new power coordination and exchange contract with TVA and they do not know at this time what the result of the negotiations will be.

Notices of both filings were published in the **Federal Register** with comments due on the Tapoco filing by September 29, 1982, and on the Nantahala filing by October 18, 1982. A timely protest and motion to intervene coupled with certain other motions was filed by the Town of Highlands, North Carolina in both dockets. The Attorney General of the State of North Carolina filed a protest and motion to intervene one day out of time in the Tapoco docket, and a timely protest and intervention in the Nantahala proceeding. The North Carolina Electric Membership Cooperation (NCEMC) and the Haywood Electric Membership Cooperation (Haywood) jointly filed a timely protest and motion to intervene in the Nantahala docket and an untimely motion to intervene in the Tapoco proceeding.

Highlands requests that the notices of cancellation be rejected for failure to: (1) Comply with section 35.1 of the regulations since certificates of concurrence have not been filed by the other two utilities which are signatories to the Agreements; (2) comply with section 35.15 of the regulations; (3) establish superseding rates and services; and (4) show that the proposed cancellation is in the public interest. In the event that the Commission does not reject the notices of cancellation, Highlands requests that the filings be suspended for five months for the following reasons: (1) To provide an opportunity for the parties to submit any new or superseding agreements, if any, with TVA; (2) to provide an opportunity for the Commission to determine the extent to which the public interest may require a further investigation as to whether the actions being taken by Nantahala and Tapoco constitute violations of their hydro licenses and as to whether such licenses should be revoked;[3] and (3) to evaluate the reasonableness and effects of utility operations in the absence of the New Fontana Agreement and the related Apportionment Agreement. Additionally, Highlands requests that the Tapoco and Nantahala proceedings be consolidated and that Alcoa be joined as a party to any proceedings in these dockets. In the event that the Commission accepts the notices of cancellation for filing, Highlands requests that the Commission not authorize termination of service under existing rates, terms, and conditions.

The pleadings filed by NCEMC and Haywood raise issues similar to those presented by Highlands. The State of North Carolina requests that the proposed filings be rejected (1) for failure to comply with section 35.15, and (2) for failure to provide a statement of reasons for termination. In the event that the filings are not rejected, North Carolina requests a five month suspension and an expedited hearing to determine if the proposed cancellations are in the public interest.

Tapoco filed an answer in opposition to the motions filed by Highlands,

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[1] *See* Appendix A for rate schedule designations.

[2] See Opinion No. 139, issued May 14, 1982, 19 FERC § 61,152. (Slip Opinion, p. 3)

[3] Highlands contends that hydro licenses should not be granted for the exclusive benefit of a private party (principally Alcoa the parent of Tapoco and Nantahala) since resources are regional in nature and the public interest requires a wider dispersion of benefits from the public resources invovled. The contentions raised involve the Commission's authority pursuant to sections 19, 20, and 26 of the Federal Power Act.

Haywood, NCEMC, and North Carolina, and also requested that the collective motions to intervene be denied on the grounds that those parties lack standing. Tapoco objects to each of the requests advanced in the pleadings arguing that the parties have no independent interest in this proceeding, that they are essentially seeking to relitigate matters previously resolved in Opinion Nos. 139 and 139–A, that Tapoco's filing complies with the Commission's regulations, and that rejection or suspension of the cancellation notice would result in a severe disruption to Tapoco since Tapoco would be required to continue turning its generation over to TVA, with no corresponding commitment from TVA (a non-jurisdictional entity) to continue providing entitlements in return.

By letter dated October 22, 1982, TVA indicated its belief that upon expiration of the New Fontana Agreement on December 31, 1982, TVA will no longer have any right or obligation to continue operating under that Agreement.

Nantahala filed an answer similar to that of Tapoco on November 1, 1982. Nantahala objects to NCEMC's intervention, asserts that the intervenors are collaterally estopped from relitigating previous resolved issues, and argues that its submittal simply recognizes the fact that the subject Agreements are about to expire by their own terms. In addition, Nantahala disputes contentions that termination of the Agreements represents the product of a concealed divestiture plan by ALCOA and argues that the requested relief under Part I of the Federal Power Act is inappropriate.

Discussion

As noted, Tapoco challenges the standing of Highlands, NCEMC, and the State of North Carolina to intervene in the Tapoco docket asserting that as none of these movants is a customer of Tapoco and none has an interest in the Tapoco notice of cancellation. Nantahala challenges NCEMC's intervention. Despite these contentions, we find that these movants may have a direct interest in the cancellation of the existing apportionment arrangement and that their participation in these proceedings will enhance the evidentiary record before the Commission. Furthermore, given the relationship between the Nantahala and Tapoco dockets, the early stages of this proceeding, and the fact that untimely intervention will not prejudice any party or unduly delay the proceedings, we find that good cause exists to grant the untimely motions to intervene. Accordingly, each of the motions to intervene filed in these dockets will be granted pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214). Because Docket Nos. ER82–774–000 and ER82–829–000 involve common questions of law and fact, we shall consolidate the dockets for purposes of hearing and decision.

We shall deny the motion to join ALCOA as a party to the consolidated proceeding. The Commission determined in Opinion No. 139, 19 FERC ¶ 61,152, that Tapoco and Nantahala are not operated as an intergrated system; they are appropriately treated as separate operating entities. We also found that Nantahala has not used the separate corporate identities of Nantahala and Tapoco to frustrate the purposes of the Federal Power Act. We do not believe that ALCOA is a necessary party to a proceeding designed to determine the justness and reasonableness of the proposed cancellations.

Contrary to the intervenors' claims, we find that the notices of cancellation substantially comply with our regulations.[4] Inasmuch as Nantahala and Tapoco have filed similar notices of cancellation and ALCOA is a non-jurisdictional entity, we do not believe that formal concurrences in each docket are necessary. Furthermore, in view of the fact that no new contracts have yet been negotiated as superseding rate schedules, the submittals appropriately have been filed under § 35.15 of our regulations. Without addressing the substantive merits of the proposed cancellations, we also note that the reasons for submitting the filings are adequately stated, *viz.*, the existing contracts will expire by their own terms as of the end of this year and the parties have thus far been unsuccessful in efforts to agree on alternative arrangements. For these reasons, we shall deny the motions to reject.

Our review of Nantahala's and Tapoco's filings and the related pleadings indicates that the notices of cancellation have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the notices for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy primarily in the context of rate schedule filings involving increases in rate level. The instant submittals do not purport to modify rates and charges, but rather to terminate existing service relationships. In the event that service is thereby curtailed or becomes unavailable, substantial detriment to affected wholesale customers could ensue. Moreover, the intervenors in these dockets have raised significant questions which should be evaluated before the proposed cancellations become effective, lest any appropriate relief become meaningless. As a result, we shall suspend the proposed cancellations for five months until May 31, 1983.

In addition, we shall direct the presiding judge to establish an expedited schedule that will allow the Commission to issue an opinion in this docket prior to the conclusion of the suspension period. In order to preserve the status quo while this matter is pending, it may be necessary for Nantahala and Tapoco to request postponements of the effective dates for their proposed terminations, and we encourage such filings.[5]

Highlands has requested that the Commission consider the question of discrimination under sections 19 and 20 of the Federal Power Act, require Tapoco to provide service to Nantahala, and initiate an investigation as to whether we should institute proceedings to revoke the hydroelectric licenses of both Tapoco and Nantahala pursuant to section 26 of the Act. We note that section 26 provides for license revocation only upon the showing that a licensee has clearly violated the terms and conditions of the license. The intervenors suggest that the comprehensiveness test of section 10(a) of the Federal Power Act has been violated because the Commission is not empowered to grant licenses for the exclusive benefit of a private party where the resources are regional and the public interest requires a wider dispersion of the benefits to the public.

The underlying contention that the Commission does not have the authority to issue hydroelectric licenses for the private use of public resources is erroneous. The Commission does have

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[5] As discussed above, Tapoco suggests that the status quo cannot be maintained since TVA's obligation to provide entitlements will end despite our suspension of the jurisdictional rate schedules. TVA apparently concurs with this view. Nonetheless, we do not believe that TVA intends or has the legal authority to continue utilizing Tapoco's or Nantahala's generating resources without providing appropriate compensation. Pending a hearing before this Commission we would construe the existing entitlements arrangements as constituting just and reasonable compensation.

such authority, but under the statutory requirements, *inter alia*, of section 10(a) that the licensed project is best adapted to a comprehensive plan for improving or developing waterways and for the improvement and utilization of power development. A section 10(a) finding is required and was made as to the respective licenses of Tapoco and Nantahala. The intervenors have failed to demonstrate how the respective licensees may have violated or contravened a statute, rule, order, or other law administered by this Commission, or any other alleged wrong over which the Commission has jurisdiction and could justify an investigation and revocation proceeding pursuant to section 26. Consequently, the motions to initiate such a proceeding will be denied.

Concerning the references to sections 19 and 20 of the Federal Power Act in relation to the hydroelectric license operations of Tapoco and Nantahala, insufficient information is available at this time to determine whether Commission action is warranted or appropriate. We shall leave open these questions and permit the presiding judge to make a preliminary recommendation as to whether further proceedings are warranted under sections 19 and 20.

Finally, we note that Tapoco objects to the relitigation of matters squarely addressed in prior Commission proceedings and we share this concern. We believe, however, that cancellation of the subject agreements and the associated consequences present novel issues not previously before the Commission. During the course of this proceeding, we encourage the presiding judge to limit the scope of the hearing by precluding unnecessary relitigation.

The Commission orders:

(A) The motions to reject Tapoco's and Nantahala's notices of cancellation and to join Alcoa as a party are hereby denied.

(B) The motions to initiate license revocation proceedings under section 26 of the Federal Power Act are hereby denied.

(C) The Tapoco and Nantahala notices of cancellation are hereby accepted for filing and suspended for five months to become effective on May 31, 1983.

(D) The interventions of the Town of Highlands, the Attorney General of the State of North Carolina, the Haywood Electric Membership Corporation, and the North Carolina Electric Membership Corporation are hereby granted subject to the Commission's Rules of Practice and Procedure.

(E) Docket Nos. ER82-774-000 and ER82-829-000 are hereby consolidated for purposes of hearing and decision.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 19, 20, 205, and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the notices of cancellation filed by Tapoco and Nantahala in these dockets and the appropriateness of further proceedings under sections 19 and 20 of the Federal Power Act.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this consolidated proceeding to be held within approximately ten (10) days after the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge shall establish procedural dates necessary to expedite this consolidated proceeding so that the Commission may issue a decision within the five month suspension period. The presiding judge is authorized to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Appendix A

Tapoco, Inc., Rate Schedule Designations, Docket No. ER82-774-000

Supplement No. 5 to Rate Schedule FPC No. 3 (Cancels Rate Schedule FPC No. 3 as Supplemented).

(2) Supplement No. 1 to Rate Schedule FPC No. 4 (Cancels Exhibit A, Supplement No. 1 to Exhibit A and Revision to Exhibit A filed October 26, 1981).

Nantahala Power and Light Company, Rate Schedule Designations, Docket No. ER82-829-000

(1) Supplement No. 4 to Rate Schedule FPC No. 1 (Cancels Rate Schedule FPC No. 1).

(2) Rate Schedule FERC No. 2 (Redesignation of Supplement No. 1 to Rate Schedule FPC No. 1).

(3) Supplement No. 1 to Rate Schedule FERC No. 2 (Redesignation of Supplement No. 3 to Rate Schedule FPC No. 1).

[FR Doc. 82-32512 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-56-001]

Union Carbide Corp.—Taft; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

November 22, 1982.

On October 18, Union Carbide Corp., P.O. Box 50, Hahnville, Louisiana 70057, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located at Applicant's petrochemical complex in Hahnville, Louisiana. The facility consists of a natural gas fired gas turbine engine which produces electricity and compresses air, and a connecting unit which recovers exhaust heat as steam for process use. The electric power production capacity of the facility is 9.6 megawatts. The facility began operating in 1977. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32519 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-4-000]

Wabash Valley Power Association, Inc. v. Northern Indiana Public Service Co.; Notice of Filing

November 19, 1982.

The filing party submits the following:

Take notice that on November 3, 1982, Wabash Valley Power Association, Inc. ("Wabash") filed a complaint against Northern Indiana Public Service Company ("NIPSCO"). Wabash requests that the Commission order a continuing physical connection of transmission facilities of NIPSCO with that of Wabash and require NIPSCO to wheel power over those facilities to Wabash.

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 Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32520 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-118-000]

Western Massachusetts Electric Co.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that on November 10, 1982, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Doreen and Woodland Road Gas Turbine Units (Purchase Agreement) dated April 1, 1982 between WMECO, and the Village of Johnson Water and Light Department (Johnson).

WMECO states that the Purchase Agreement provides for a sale to Johnson of specified percentages of capacity and associated energy from two gas turbine generating units during the period from April 1, 1982 to October 31, 1982.

WMECO states that the Capacity Charge for the proposed service was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto of the Purchase Agreement. The Variable Maintenance Charge is derived from historical costs. The Additional Maintenance Charge is twice the Variable Maintenance Charge, based on manufacturer's recommendations.

WMECO requests an effective date of April 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been mailed to Johnson.

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 December 8, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32521 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-121-000]

Western Massachusetts Electric Co.; Notice of Filing

November 22, 1982.

The filing Company submits the following:

Take notice that on November 12, 1982, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units (Purchase Agreement) dated November 1, 1982 between WMECO, and the Connecticut Light and Power Company (CL&P, collectively the NU Companies) and the City of Chicopee Municipal Lighting Plant (Chicopee).

WMECO states that the Purchase Agreement provides for a sale to Chicopee of specified percentages of capacity and associated energy from five gas turbine generating units during the period from December 1, 1982 to November 30, 1983, together with related transmission service.

WMECO states that the Capacity Charge for the proposed service was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto of the Purchase Agreement. The Transmission Charge rate is the annual average cost of transmission service on the Northeast Utilities (NU) system at the time that the sale was made, and as determined in accordance with Appendix E and Exhibits thereto of the Purchase Agreement. The monthly Transmission Charge is determined by the product of (i) the transmission charge rate divided by twelve ($/KW-month), and (ii) the number of kilowatts of winter capability which Chicopee is entitled to receive during each month. The Variable Maintenance Charge is derived from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge, based on manufacturer's recommendations.

WMECO requests an effective date of December 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 9, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-32522 Filed 11-26-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order; Week of August 30 Through September 10, 1982

During the period of August 30 through September 10, 1982, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the

proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: November 18, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Amcole Energy Corp. Dallas Texas, HRO–0088 CRUDE OIL.

On September 8, 1982, Amcole Energy Corp., 4825 LBJ Freeway, Suite 110, Dallas, TX 75234, filed a Notice of Objection to a Proposed Remedial Order which the DOE's Dallas Office of Enforcement issued to the firm on August 13, 1982. In the PRO the Dallas Office found that from February 20, 1975 to October 31, 1977, Amcole charged prices in excess of the allowable ceiling prices for crude oil produced from the T.C. Vinson property.

According to the PRO the Amcole violation resulted in $207,221.10 of overcharges.

[FR Doc. 82-32526 Filed 11-26-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2253-2]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 USC 3501 et seq.) requires the Agency to publish in the Federal Register a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers, Office of Standards and Regulations, Information Management Section (PM–223), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Grants Programs

• Title: Labor Standards Provisions for Federally Assisted Construction Contracts (EPA ID 1008).

Abstract: Recipients of EPA construction grants must submit a report of each construction subagreement and a copy of the bid (or offer) tabulations in excess of $10,000. This information is submitted to EPA within 10 days of the award of a construction subagreement and is used to identify possible cases of bid collusion and bid rigging.

Respondents: Construction firms, state and local governments.

• Title: Application for Federal Assistance—Continuing Environmental Programs (EPA ID 0875)

Abstract: State and local government agencies applying for Federal funds to support continuing environmental programs supply information describing their performance under existing awards and proposals for future awards. EPA evaluates this information to ensure effective use of Federal environmental grants.

Respondents: State and local governments.

Solid Waste Programs

• Title: Reporting, Recordkeeping and Planning Requirements for Groundwater Monitoring (EPA ID 0959).

Abstract: Under the Resource Conservation and Recovery Act, owners and operators of land disposal facilities must monitor ground water for possible contamination. They must maintain these records throughout the life of the facilities and submit periodic reports to EPA.

Respondents: Owners and operators of hazardous waste land disposal facilities.

• Title: Information Requirements for Hazardous Waste Storage and Treatment Facilities (EPA ID 0814).

Abstract: Hazardous waste storage and treatment facilities are required under RCRA to provide EPA with an analysis of wastes, descriptions of containment systems, and operating records/inspection logs. The information is submitted voluntarily or when EPA calls in Part B of the RCRA permit application. EPA uses the information to determine eligibility for a RCRA permit and for development of specific permit requirements.

Respondents: Hazardous waste treatment storage and disposal facilities.

Pesticides Program

• Title: Notice of Supplemental Registration of a Distributor (EPA ID 0278).

Abstract: EPA has discontinued its requirement for review and prior approval of the distribution of previously registered pesticide products. Distribution may begin as soon as needed rather than after EPA approval. The form involved now functions as a notification rather than an application.

Respondents: Distributors of pesticide chemicals.

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, S.W., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503

Dated: November 19, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82-32580 Filed 11-26-82; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRL 2254-1]

Science Advisory Board; Clean Air Scientific Advisory Committee; Open Meeting

Under Public Law 92–463, Notice is hereby given that a two-day meeting of the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board will be held on December 13–14, 1982. The Committee will meet in Conference Room 3906 of the Mall on December 13 and in Conference Room 1101 West Tower on December 14, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. The meeting will begin at 9:30 a.m. on December 13.

The purpose of the meeting is to brief and discuss with the Committee the development of risk assessment methodologies by the Office of Air Quality Planning and Standards; provide a status report on the development of the Critical Assessment Document for Acidic Deposition; discussion of research needs for ozone and other issues of members interest.

The meeting is open to the public. Any member of the public wishing to attend, participate or obtain information should

contact Dr. Terry F. Yosie, Acting Director, Science Advisory Board, by close of business December 6. The telephone number is (202) 382–4126.

Dated: November 23, 1982.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 82-32581 Filed 11-26-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51441; TSH-FRL 2253-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 83–124 and 83–125—February 9, 1983. PMN 83–126, 83–127, and 83–128—February 11, 1983. PMN 83–236 and 83–237—February 13, 1983. PMN 83–238, 83–239, 83–240, 83–241, 83–242, 83–243, 83–244, 83–245, 83–246, 83–247, 83–248, 83–249, and 83–250—February 15, 1983.

Written comments by: PMN 83–124 and 83–125—January 10, 1983. PMN 83–126, 83–127, and 83–128—January 12, 1983. PMN 83–236 and 83–237—January 14, 1983. PMN 83–238, 83–239, 83–240, 83–241, 83–242, 83–243, 83–244, 83–245, 83–246, 83–247, 83–248, 83–249, and 83–250—January 16, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51441]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–124

Importer. American Hoechst Corporation.

Chemical. (S) 3-bromo-4-(4-(bis-2-hydroxyethylamino)-2-methyl-=phenylazo)-5-nitrobenzoic acid ethyl ester.

Use/Import. (S) Dye for polyester. Import range: Confidential.

Toxicity Data. Acute oral: >5 ml/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames Test: Non-mutagenic.

Exposure. Processing: a total of 15 workers, up to 40 man hrs/yr.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW).

PMN 83–125

Importer. American Hoechst Corportion.

Chemical. (S) 3-Bromo-4-(4-(bis-2-hydroxyethylamino)-phenyl=azo)-5-nitrobenzoic acid ethyl ester.

Use/Import. (S) Dye for polyester. Import range: Confidential.

Toxicity Data. Acute oral: >5 ml/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames Test: Non-mutagenic.

Exposure. Processing: a total of 15 workers, up to 40 man hrs/yr.

Environmental Release/Disposal. Disposal by POTW.

PMN 83–126

Manufacturer. Minnesota Mining & Manufacturing Company.

Chemical. (G) Modified fluoroaliphatic adduct.

Use/Production. (S) Carpet fiber treatment. Prod. range: Confidential.

Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin-Minimal, Eye—Moderate; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizing.

Exposure. Manufacture: dermal, a total of 26 workers, up to 8 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. Confidential. Disposal by incineration and approved landfill.

PMN 83–127

Manufacturer. Confidential.

Chemical. (S) Polymer of acrylic acid, butyl acrylate, 2-hydroxy ethyl acrylate, methyl acrylate, and 2-ethylhexyl acrylate.

Use/Production. (S) Industrial laminating adhesive. Prod. range: 15,000–250,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture, processing and disposal: dermal, a total of 10 workers, up to 1 hr/da, up to 90 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr to air and water, with 10–10,000 kg/yr to land. Disposal by approved landfill.

PMN 83–128

Importer. Confidential.

Chemical. (G) Organo zinc salt.

Use/Import. (G) Pint additive. Import range: Confidential.

Toxicity Date. Acute oral: >5 g/kg.

Exposure. Processing: dermal and inhalation, an unknown number of workers.

Environmental Release/Disposal. Disposal by incineration and approved landfill.

PMN 83–236

Importer. Confidential.

Chemical. (G) Alkyl-substituted imidazole derivative of methyl-pyrimidinone-azomethylphenyl benzothiazole.

Use/Import. (S) Industrial colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate; Inhalation: LC_{50}—>5,400 mg/m^3; LC_{50}(Goldorf), 56 hr.—100-500 mg/l.

Exposure. Processing, use and disposal: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 500 kg/yr max. released to water. Disposal by POTW and incineration.

PMN 83–237

Manufacturer. Confidential.

Chemical. (G) Substituted pyridine.

Use/Production. (S) Chemical Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 500–1,000 mg/kg; Acute dermal: 1,000–2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Very slight; Water solubility—380 mg/l; Air/water partition coefficient—0.0471; BOD—Negative; Bioconcentration factor—170; LC_{50} fathead minnow, 96 hrs.—13.4 mg/l; LC_{50} water flea, 48 hrs—31.9 mg/l; Inhalation: Lethal @ 1–5 hrs.—1,038 parts per million (ppm).

Exposure. Manufacture and use: dermal and inhalation, a total of 20 workers, up to 2 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–238

Manufacturer. Confidential.

Chemical. (G) Polyamide.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-239

Manufacturer. Confidential.
Chemical. (G) Polyester polyurethane from a diisocyanate and an alkanediol with alkanoic acid and anhydride.
Use/Production. (G) Open use. Prod. range: 0-150,000 kg/yr.
Toxicity Data. Acute oral: >5.0 ml/kg; Acute dermal: >2.0 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: Severe; Skin sensitization: Non-sensitizer.
Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 157 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr to air and water with over 10,000 kg/yr to land. Disposal by landfill and incineration.

PMN 83-240

Manufacturer. Confidential.
Chemical. (G) Reaction product of inorganic acid with the reaction product of carboxylic acid and alkanolamine..
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 gm./kg; Irritation: Skin—3.7 Eye—0.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-241

Manufacturer. Confidential.
Chemical. (G) Polyester polycarboxylate salt.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. BOD_5 @ 30%-80,300 ppm; COD @ 30%-533,00 ppm.
Exposure. Manufacture, use and disposal: dermal, a total of 15 workers, up to 24 hrs/da, up to 40 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air 24 hrs/da, 40 da/yr. Disposal by incineration.

PMN 83-242

Manufacturer. Confidential.
Chemical. (G) Polymer of aliphatic polyols, aliphatic and aromatic dicarboxylic acids.
Use/Production. (S) Resin used in automotive paint. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal and inhalation, a total of 38 workers, up to 7 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. More than 10,000 kg/yr. to land. Disposal by incineration and landfill.

PMN 83-243

Importer. Confidential.
Chemical. (G) Methyl-oxyethyl-methyleneimidazolium deriv. of copper phthalocyanine methoxyacetate.
Use/Import. (S) Industrial colorant for paper. Import range: Confidential
Toxicity Data. Acute oral: <5 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; Ames Test: Negative.
Exposure. Processing, use and disposal: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 150 kg/yr max. released to water, 10-100 kg/yr land. Disposal by incineration or processor's treatment works.

PMN 83-244

Importer. Confidential.
Chemical. (S) Polymer of tetrahydronaphthalic anhydride, tall oil fatty acid, bisphenol A-oxirane polymer, phenol-epichlorohydrin-formaldehyde polymer, paraformaldehyde, diethylamine, diethylaminopropylamine, diisopropylamine.
Use-Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2,000-4,000 man hrs/yr.
Environmental Release/Disposal. No release.

PMN 83-245

Importer. Confidential.
Chemical. (S) Polymer of tetrahydronaphthalic anhydride, phthalic anhydride, acrylic acid, 2-ethyhexyl ester, bisphenol A-oxirane polymer, phenol-epichlorohydrin-formaldehyde polymer, paraformaldehyde, aminoethylpropanediol, butanol, diethanolamine, diethylamine, diethylaminopropylamine.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2,000-4,000 man hrs/yr.
Environmental Release/Disposal. No release

PMN 83-246

Importer. Confidential.
Chemical. (S) Polymer of tetrahydronaphthalic anhydride, acrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2-hydroxy ethyl ester, bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxypropyl ester, toluenediisocyanate, N,N-diethanolamine, diethanolamine.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2000-4000 man hrs/yr.
Environmental Release/Disposal. No release.

PMN 83-247

Importer. Confidential.
Chemical. (S) Polymer of tetrahydronaphthalic anhydride, maleic anhydride, phthalic anhydride, tall oil fatty acid, acrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2, 3-epoxypropyl ester, bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxypropyl ester, toluenediisocyanate, N,N-diethanolamine, diethanolamine, 1,6-hexanediol, butanol.
Use-Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2,000-4,000 man hrs/yr.
Environmental Release/Disposal. No release.

PMN 83-248

Importer. Confidential.
Chemical. (S) Polymer of bisphenol A-oxirane polymer, toluenediisocyanate, diethanolamine, diethylaminopropylamine.
Use-Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2,000-4,000 man yrs/yr.
Environmental Release/Disposal. No release.

PMN 83-249

Importer. Confidential.
Chemical. (S) Polymer of malonic acid, diethyl ester, trimethylolpropane.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2,000-4,000 man hrs/yr.
Environmental Release/Disposal. No release.

PMN 83-250

Importer. Confidential.
Chemical. (S) Polymer of malonic acid, diethyl ester, trimethylolpropane, 1, 6-hexanediol.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, 20-40 workers, up to 2,000-4 man hrs/yr.
Environmental Release/Disposal. No release

Dated: November 22, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-32579 Filed 11-26-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/13A; PH-FRL 2233-8]

Toxaphene; Intent To Cancel or Restrict Registrations of Pesticide Products Containing Toxaphene; Denial of Applications for Registration of Pesticide Products Containing Toxaphene; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Cancel or Restrict Registrations and Notice of Denial of Applications for Registration.

SUMMARY: Toxaphene-containing products are registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 USC 136 et. seq. In May, 1977, EPA initiated a process to consider whether the registrations for toxaphene products should be cancelled or modified. This Notice concludes that process and announces the Administrator's intent to cancel the registrations of toxaphene for most uses and to deny applications for registration of toxaphene not in accordance with the terms of this Notice. Registrations of products for scabies treatment of beef cattle and sheep in vat dips and spray-dip machies are continued, although amendment of the terms and conditions of registration for this use will be required. EPA has also decided to continue registrations of products for certain minor uses to control sporadic infestations of armyworms, cutworms and grasshoppers on cotton, corn and small grains, if the terms and conditions of registration are amended to provide, among other things, that toxaphene products may be sold, distributed and applied to these use patterns only if a prior finding of specific emergency need for toxaphene has been made by EPA. Finally, continued registration of toxaphene will also be permitted for use only in the Virgin Islands and Puerto Rico to control mealbugs and pineapple gummosis moths on pineapples and weevils in bananas. Stocks of toxaphene existing within the territorial United States as of the date of publication of this Notice in the **Federal Register** may be used under certain restricted terms and conditions until the time periods specified in Unite III F. below.

DATE: Requests for a hearing must be received on or before December 29, 1982, or (for registrants) within thirty (30) days from receipt of this Notice, whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Copies of the Decision Document are available upon request from: Juanita Wills, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Environmental Protection Agency, Room 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR ADDITIONAL INFORMATION CONTACT: Juanita Wills (703-557-7420).

SUPPLEMENTARY INFORMATION: On October 18, 1982, EPA publicly announced its decision to terminate the RPAR for toxaphene. The Notice published here and a companion mailing to registrants constitute the Agency's formal determination with respect to toxaphene and actions resulting from implementation of that determination. This Notice differs slightly from an advance copy informally distributed at the press conference held on October 18, 1982. The distributed Notice has been modified to reflect certain changes to the provisions governing existing stocks of toxaphene, set forth at Unit III F. of this Notice. Following the informal dissemination of the Notice signed on October 15, 1982, it became clear that the provisions for existing stocks would result in an unintended requirement that a significant portion of the stocks be disposed as hazardous waste because they could not qualify for the authorization for use provided in the Notice.

In this official Notice, limited provisions have been included to address stocks which have moved into commerce beyond the physical control of registrants, certain stocks which are formulated in a manner which does not permit them to be utilized on the crop sites designated for the longer term existing stocks provisions, and disposal of hazardous waste. Accordingly, all persons should take notice that the legally effective terms of this decision are those set forth in this published Notice.

I. Introduction

A. Regulatory Framework

Before a pesticide product may be sold, held for sale, or distributed in either intrastate or interstate commerce, the product must be registered [FIFRA sections 3(a) and 12(a)(1)]. A pesticide product will be registered only if it performs its intended pesticidal function without causing "unreasonable adverse effects on the environment" [FIFRA section 3(c)(5)], that is, without causing "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of [the] pesticide" [FIFRA section 2(bb)]. (A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions.) For a pesticide product to be registrable, the benefits of each of its uses must exceed the risks of that use when the product is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide product satisfies the criteria for registration is on the proponents of initial or continued registration.

Under FIFRA section 6, the Administrator may cancel the registration of a pesticide product or modify the terms and conditions of its registration whenever it is determined that the pesticide product causes unreasonable adverse effects on the environment. The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide products (or uses thereof) which may not satisfy the statutory standard for registration, and to provide an informal procedure through which to gather and evaluate information about the risks and benefits of these products and uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11.

A rebuttable presumption arises if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces an RPAR by publishing a notice in the **Federal Register** and by issuing a Position Document (PD 1), detailing the Agency's position and concerns. Registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence concerning the economic, social and environmental benefits of the use of the pesticide.

The RPAR process is concluded with a notice in which the Agency states and explains its decision as to whether the presumption of risk has been rebutted. If all presumptions of risk are successfully rebutted, the RPAR is concluded and no regulatory action is commenced. If the Agency determines that any presumption of risk is not rebutted, the notice of determination contains an evaluation of the information available to the Agency concerning the social, economic, and environmental costs and benefits of continued use of the pesticide for each individual use pattern. In determining whether each use of such a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risk, and the impacts of such modifications on the benefits of the use. The final notice of determination is typically supported by a Decision Document (or final Position Document).

The final notice of determination may include a notice of intent to cancel the registrations of currently registered pesticide products or to deny applications for the registration of new products. It may also set out conditions which, if fulfilled by the registrant, would be adequate to bring the registrations into compliance with the statutory requirements and thus avoid cancellation or denial of registration, such as the removal of some uses from the label of changes in methods of application. The final notice may also require that the registration of the pesticide be reclassified from general to restricted use pursuant to FIFRA section 3(d)(2). For pesticides whose registrations are cancelled, the final notice may permit the continued sale and use of existing stocks under such conditions and for such uses as may be specified, if such sale and use would not be inconsistent with FIFRA and would not have unreasonable adverse effects on the environment. Prior to the issuance of a final notice of intent to cancel, FIFRA sections 6(b) and 25(d) require the Agency to submit notices proposed pursuant to section 6 to the Secretary of Agriculture and a Scientific Advisory Panel for comment. Any person adversely affected by a Notice of Intent to Cancel or a Notice of Denial may request an administrative hearing to challenge the proposed action, pursuant to FIFRA section 6 (b) and (d).

B. Background

In the **Federal Register** of May 25, 1977 (42 FR 26860), EPA issued a Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Toxaphene. The Agency based the presumption against registration primarily upon studies showing that toxaphene causes tumors in laboratory animals; evidence demonstrating the acute toxicity of toxaphene to aquatic organisms; and the high likelihood that toxaphene causes reductions in the populations of nontarget animal species. The Agency also identified evidence of other toxic effects of toxaphene and hazard to endangered species. The Agency invited rebuttal or other comment on these risks and the other issues raised by the presumption against toxaphene registration.

Since publishing the RPAR, the Agency has evaluated the comments received from registrants and others regarding the risks and benefits of toxaphene. The Agency has reassessed toxaphene's chemistry, environmental activity and movement, toxicity, effects upon wildlife populations, and the exposure of humans and animals to toxaphene, and has evaluated the benefits of toxaphene use and the effects of cancellation upon the agricultural economy.

These evaluations and analyses confirm that toxaphene induces cancer in laboratory animals and is acutely and chronically toxic to aquatic life and birds (including endangered species). Examination of the patterns of use and the potential for exposure indicates that toxaphene is extremely persistent, moves readily through the environment, and contaminates habitats of vulnerable aquatic and avian species at levels sufficient to reduce their populations, and that humans are exposed to toxaphene through occupational contact and contamination of a range of food products, particularly fish. The potential risks to wildlife and human health resulting from toxaphene exposure were found to be extremely high. By contrast, the economic and agricultural benefits associated with most major uses of toxaphene are found to be slight, given the availability of efficacious alternatives for most uses.

C. Content of This Notice

This Notice announces the Agency's intent to cancel the registrations of toxaphene-containing products for most pesticide uses and provides notice of the availability of the Decision Document concluding the RPAR for toxaphene. The Agency has determined that for most uses of toxaphene remedial measures short of cancellation would not suffice to avoid unreasonable adverse effects on the environment because the primary risks from toxaphene usage result from dispersion into the environment which will occur regardless of any restrictions on application practices. Therefore, the Agency has determined that the registrations for most uses should be cancelled. Certain minor uses of toxaphene may be retained, but only if measures are taken to assure that the risks of continuing these uses do not exceed the benefits. Finally, the Agency has determined that the existing stocks of cancelled products may be use for a specified period, subject to strict requirements, in part because such use is judged to be the most desirable means of achieving disposal of those stocks.

The Toxaphene Decision Document summarizes earlier actions taken by the Agency concerning toxaphene, and sets forth the Agency's rationale for the cancellation of toxaphene registrations and other elements of the regulatory decision. A summary of the Agency's final regulatory decision on toxaphene is presented in Table 1 of this Notice; details of the decision are set forth in Unit III of this Notice.

TABLE 1.—SUMMARY OF FINAL REGULATORY DECISION ON TOXAPHENE

Use site	Final decision
All uses, except as decribed below Scabies control on beef cattle and sheep-vat dip and spray-dip machine methods only.	Cancellation, effective thirty days after receipt of this Notice. Continued registration Restrict use to certified applicators; require respirators and protective clothing for applicators; improved use and disposal requirements to reduce human and environmental exposure.
Minor Uses: Armyworm cutworm, and grasshopper control on cotton, corn and small grains.	Continued registration for use in demonstrated emergency situation. Rastrict use to certified applicators; require respirators and protective clothing for applicators; improved directions to reduce exposure.
Mealybug and pineapple gummosis moth control on pineapples and weevil control in bananas in the Virgin Islands and Puerto Rico only.	Continued registration for use in Virgin Islands and Puerto Rico only. Restrict use to certified applicators; require respirators and protective clothing for applicators; improved directions to reduce exposure.

TABLE 1.—SUMMARY OF FINAL REGULATORY DECISION ON TOXAPHENE—Continued

Use site	Final decision
Existing stocks of cancelled toxaphene product	Sale and distribution of existing stocks allowed for specified time periods, subject to strict requirements. For suitable formulations, sale and distribution for use to control sicklepod in soybeans and peanuts, use on no-till corn, dry peas, southern peas, and emergency use situations are allowed until December 31, 1986. For other formulations (unsuitable for conversion to the above uses) sale and distribution for use on presently registered sites are allowed until December 31, 1983.

Unit V of this Notice sets out the procedures by which a registrant or other person adversely affected by this Notice may request a hearing to challenge the actions proposed in this Notice. Unit V also sets out the procedures which registrants should follow in seeking amendments of their registrations to conform with the requirements of this Notice in order to continue their registrations for those uses of toxaphene products which may be retained under this Notice.

II. Summary of Risks and Benefits of the Pesticidal Use of Toxaphene

In reaching the decisions set out in the Toxaphene Decision Document, the Agency has considered information on potential health risks, environmental effects and the economic and social benefits associated with the pesticidal uses of toxaphene. The detailed assessments of risks and benefits and the conclusions regarding its use are set forth in the Toxaphene Decision Document. This section of the Notice summarizes those discussions.

A. Determination of Risks

Based on studies in laboratory animals, monitoring data, and ecological reports, the Agency has concluded that the use of toxaphene as a pesticide poses risks of: (1) Chronic effects to wildlife with potential applicability to humans (e.g., effects on growth and on collagen content in backbones of exposed fish and birds); (2) acute toxicity to aquatic organisms; (3) population reduction in non-target organisms; and (4) increased potential for oncogenicity to humans. Much of the information supporting this conclusion was set forth in the Toxaphene Position Document 1. As developed fully in Appendix A to the Decision, the Agency has determined that the information submitted to refute the risk concerns cited above was insufficient to overcome the presumption against toxaphene for these effects. Moreover, additional information has become available to the Agency since the issuance of the RPAR which substantially reinforces the Agency's conclusion.

Exposure to toxaphene poses a substantial risk to certain wildlife populations, and appears to result in a significant increase in risk to some human populations. Because of its extensive use and environmental transport mechanisms, toxaphene use results in a significant risk of adverse ecological effects. It poses risks of chronic effects (e.g., backbone effects) to aquatic, avian and mammalian species, and in particular to fish. Exposure to the species of concern can result through direct application, aerial transport, or toxaphene runoff from treated fields or from cattle holding areas, and from leaching or overflow from toxaphene disposal sites. In addition, the risks of acute toxicity to aquatic organisms and population reductions in non-target organisms are posed to sensitive species which may be exposed to toxaphene by numerous exposure mechanisms, including those cited above. Because of contamination of their habitats and food sources, endangered fish and avian species are also subject to these chronic and acute effects.

Animal tests suggest that toxaphene could pose an oncogenic risk to humans. Of particular concern are local populations of fish consumers in areas where significant fish contamination has been demonstrated (e.g., Mississippi Delta and Great Lakes), and certain field applicators. This actions will mitigate such potential risk to humans.

Based on the information summarized above, the Agency has determined that toxaphene use poses a risk of significant adverse impacts on man and the environment. The total impact is expected to be greatest in toxaphene-use areas, but toxaphene-related risks may be felt far beyond those areas because of potential environmental transport.

B. Determination of Benefits

Toxaphene is registered for use as an insecticide and herbicide with a wide variety of use patterns on about 300 sites. Approximately 33 million pounds of toxaphene were applied to cropland and livestock in 1976; of that usage, 22 million pounds were applied to cotton. Since 1976, toxaphene annual usage on cotton has declined to an estimated 2.5 million pounds or less; total annual usage has declined to approximately 16 million pounds.

The Agency has determined that cancellation of registrations for most uses of toxaphene will not have a significant impact on production and prices of agricultural commodities or on the agricultural economy. The Agency has estimated that the benefits of toxaphene use are minimal due to the widespread introduction of the pyrethriods, sulprofos, and other competitively priced, more efficacious alternative pesticides, and the lowered efficacy of toxaphene due to the increased tolerance of insect pests to the chemical, except for sicklepod control on soybeans an peanuts, scabies treatment of beef cattle and sheep, and certain minor uses. Approximately $8.8–$19.7 million aggregate yield and quality losses are predicted to result if toxaphene becomes unavailable for sicklepod control (1981 dollars). Increased control costs and possible increased mortality of beef cattle also would result if toxaphene or a viable alternative were not available for scabies control. The minor uses include the use of toxaphene to control armyworms, cutworms and grasshoppers on cotton, corn and small grains in epidemic situations when alternative pesticides are either exhausted or ineffectual. Because of the crisis nature of the need for toxaphene in these instances, it is impossible to estimate the annual economic impact if toxaphene were not avaiable. However, when the need does arise, it is clear that there would be a significant impact on the agricultural economy if toxaphene were not available.

Other minor uses where continued use of toxaphene is considered critical and consequently of high benefit are mealybugs and pineapple gummosis moth control on pineapples and weevil control in bananas in the Virgin Islands and Puerto Rico.

III. Initiation of Regulatory Action

Based upon the determination summarized above and discussed in detail in Position Document 1 and the Toxaphene Decision Document, the Agency has determined that the risks arising from most uses of toxaphene are greater than the social, economic, and environmental benefits of those uses.

Accordingly, the Agency has determined that immediate cancellation of toxaphene registrations for those uses is the only appropriate course of avoid unreasonable adverse effects upon the environment. Because of the unavailability of suitable efficacious alternatives, registrations products for scabies treatment of beef cattle and sheep are retained. Continued registration is contingent on significant modifications in the terms and conditions regarding use and regarding disposal of used solution. Because of problems associated with this use, the Agency will monitor the development of alternatives on an ongoing basis. Toxaphene products may continue to be registered for the control of armyworms, cutworms and grasshoppers on cotton, corn, and small grain, if changes are made in the terms and conditions of their registrations which, among other things, limit use to situations where a prior finding of emergency need for toxaphene has been made in these circumstances. Toxaphene products may continue to be registered for control of mealybugs and pineapple gummosis moths in pineapples and weevils in bananas so long as the registrations are for use ony in Puerto Rico and the Virgin Islands and are modified to include certain restrictive requirements. Existing stocks of toxaphene may be used for specified periods of time under very limited terms and conditions partly because such use is judged to be the most desirable means of achieving disposal of those stocks.

The specific details of the Agency's preliminary regulatory decision are set forth below:

A. All Uses

Except as provided below, all registrations for pesticide products containing toxaphene are cancelled, effective as of the end of the statutorily prescribed 30-day period.

B. Manufacturing Use Products

Registrations of products for use solely as manufacturing use products or technicals must be amended in accordance with the following requirement:

Labels must state that the product is for use only to formulate pesticide products which are registered in accordance with the Notice of Intent to Cancel or Restrict Registration of Pesticide Products Containing Toxaphene.

C. Scabies Control on Beef Cattle and Sheep

Toxaphene products may be registered for use to control scabies on beef cattle and sheep, subject to the terms and conditions noted below.

To avoid immediate cancellation, registrants who wish to retain the beef cattle and sheep dip use for their products must request that their registration be amended by revising the products' labels to provide that:

1. The product may be used only to treat scabies on beef cattle or sheep.

2. Application may be made only by dipping exposed or infected beef cattle or sheep in toxaphene vat solutions, or by using a spray-dip machine.

3. The products are classified as Restricted Use pesticides (for use only by certified applicators).

4. Label directions relating to vat cleaning and mixing are included to assure that the handling of materials and maintenance of percentage of toxaphene in the mix protect applicators. Prohibitions against disposal or dispersal to ponds, lakes, streams and other water bodies must also be included.

5. Applicators must wear boots, extended impermeable gloves, head covering, aprons, long pants, long-sleeved shirts, and respirators.

6. Used dip solutions must be disposed of in accordance with the Resource Conservation and Recovery Act (RCRA). If the owner generates more than 1000 kg of used dip solution per month or more than 1000 kg used dip solution in combination with other hazardous waste, the material must be treated as a hazardous waste subject to subpart C of RCRA. Any user who wishes to manage hazardous waste must obtain a permit to serve as a hazardous waste facility pursuant to RCRA. The label may exempt from these disposal requirements any farmer/rancher who uses the product solely to treat beef cattle or sheep which he and/or his immediate family owns as individuals.

7. Manufacturing and/or formulation of products for this registered use must be in accordance with III G. below.

D. Minor Uses: Armyworm/Cutworm/Grasshopper Control

Toxaphene products may be registered for use to control sporadic infestations of armyworms, cutworms or grasshoppers on cotton, corn, and small grain, subject to the terms and conditions noted below. To avoid immediate cancellation, registrants who wish to retain this use for their products must amend their registrations to provide for the following label requirements:

1. The amended labeling must be restricted solely to treatment of armyworms, cutworms, or grasshoppers on cotton, corn, or small grains.

2. All sale, offers for sale, holding for sale, distribution, shipment, delivery for shipment, receipt for shipment, offers for delivery, and use are restricted to emergency situations. Accordingly, all labels must provide that sale, distribution or use is permitted only after a showing of emergency conditions to EPA by a Federal or State agency and issuance by EPA of a finding that an emergency condition exists. The showing must be particularized regarding the extent of the infestation and proposed treatment (e.g., acreage involved, poundage of toxaphene needed, period during which treatment is permitted, application methods), and any finding that emergency conditions exist may impose restrictions relating to, among other things, geography, crop site, poundage, or duration. Agencies and States may of course anticipate conditions which would constitute an emergency and obtain approval in advance to use the product if the State or Federal agency shows that conditions prevail which are precursor to emergency conditions.

3. Toxaphene products registered for use to control armyworms, cutworms or grasshoppers on cotton, corn, and small grains must bear a Restricted Use classification (for use only by certified applicators.)

4. For Aerial applications, flagging must by fully automated mechanical means or by humans working in totally enclosed vehicles.

5. Protective clothing and respirators must be required for all applicators and other personnel involved in mixing, loading, transferring or otherwise handling this pesticide. Protective clothing must consist of hats, impermeable golves, rubber or synthetic rubber boots or boot covers, long-sleeved shirts and long pants. Full-face respirators are recommended; half-face respirators are required.

In lieu of compliance with the protective measures required for applicators, users may use closed system methods of mixing, loading and handling. However, it is recommended that mixers and loaders wear water proof gloves. Aerial applicators in positive pressure cockpits and other applicators in comparable ground equipment with appropriate filters at all air intakes need not comply with these protective clothing requirements.

6. Labers (Environmental Hazard section) must contain the following statement:

This product is toxic to fish, birds and other wildlife. Use of this product may be

fatal to birds and other wildlife in treated areas. Do not spray over lakes, streams, ponds, tidal marshes and estuaries. Do not apply where runoff is likely to occur. Do not apply when weather conditions favor drift from areas treated. Do not contaminate water by cleansing of equipment, or disposal of wastes. Overspray of this product into water at application rates recommended on this label may be fatal to shrimp and crab; do not apply where these are important resources. Apply this product only as specified on this label.

7. Manufacturing and/or formulation of products for this registered use must be in accordance with III G. below.

E. Minor Uses: Mealybug and Pineapple Gummosis Moth Control on Pineapples and Weevils in Bananas

Toxaphene products may be registered for use to control mealybugs and pineapple gummosis moth on pineapples and weevils in bananas, subject to terms and conditions noted below. To avoid immediate cancellation, registrants who wish to retain this use for their product must amend their registrations to provide for the following label requirements.

1. The use must be restricted solely to treatment of mealybugs and pineapple gummosis moths on pineapples and weevils in bananas.

2. The labeling must state "For Use Ony in Puerto Rico and the Virgin Islands."

3. The labeling must state that the product bears a Restricted Use classification (for use ony by certified applicators).

4. For aerial applications (if any), flagging must be by fully automated mechanical means or by humans workng in totally enclosed vehicles.

5. Protective clothing and respirators must be required for all applicators and other personnel involved in mixing, loading, transferring or otherwise handling this pesticide. Protective clothing must consist of hats, impermeable gloves, rubber or synthetic rubber boots or boot covers, long-sleeved shirts and long pants. Full-face respirators are recommended; half-face respirators are required.

6. Manufacturing and/or formulation of products for this registered use must be in accordance with III G. below.

F. Existing Stocks Provision

Pursuant to section 6 of FIFRA, the following provisions relate to existing stocks of cancelled toxaphene products existing within the territorial United States on or before the date of publication of this Notice in the **Federal Register.**

1. Existing stocks are defined as any toxaphene formulated for end use, any technical toxaphene, and any materials obtained and possessed by a registrant for use in manufacturing toxaphene which cannot be diverted for any other use by the registrant or for sale on the open market for any purposes other than manufacture of toxaphene.

2. Within thirty days from the date of receipt of this Notice, any registrant holding existing stocks of toxaphene, as defined in III F. 1 above, may provide the Agency with a request to qualify for the provisions for existing stocks provided by this Notice, and shall provide the Agency with an itemized inventory of its stocks. Failure to submit such a request will result in a requirement that any cancelled stocks possessed by a non-requesting registrant be disposed of within 90 days of publication of this Notice. Such disposal must be in the manner required by the Resource Conservation and Recovery Act. Each registrant who qualifies for the existing stock provision shall submit on each annual anniversary of this Notice, an update of the inventory, including depletion of the inventory, sufficiently detailed to allow the Agency to follow dispersal of the original inventory.

3. Existing stocks may be applied only on the sites described in III F. 4 a. below (in addition to the retained registered uses).

4. Except as provided in III F. 7 below, these stocks may be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, or received and (having been so received) delivered or offered for delivery to any person until the time periods specified in subparagraph 4.a. below, only when aocompanied by supplemental labeling which contains the following limitations and conditions:

a. Stocks which consist of or can be made into formulations suitable to the uses designated in this paragraph must be labeled for use only to control sicklepod in soybeans and peanuts in those states which presently have 24(c) registrations or in an any other State which, during this period, makes a special local need finding; for use to control insects in corn cultivated without tillage and in dry and southern peas; for emergency use pursuant to III F. 5 below only until December 31, 1986. Stocks which consist of formulations which cannot be made suitable for the uses listed above, may be applied in accordance with the use patterns contained on present labeling for such stocks and may be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, or received to be held for delivery by any person only until December 31, 1983.

b. For aerial applications, flagging must be by fully automated mechanical means or by humans working in totally enclosed vehicles.

c. Protective clothing and respirators must be required for all applicators and other personnel involved in mixing, loading, transferring or otherwise handling this pesticide. Protective clothing must consist of hats, impermeable gloves, rubber or synthetic rubber boots or boot covers, long-sleeved shirts and long pants. Full-face respirators are recommended; half-face respirators are required.

In lieu of compliance with the protective measures required for applicators, users may use closed system methods of mixing, loading and handling. However, it is recommended that mixers and loaders wear water proof gloves. Aerial applicators in positive pressure cockpits and other applicators in comparable ground equipment with appropriate filters at all air intakes need not comply with these protective clothing requirements.

d. Labels must contain the following statement: This product is toxic to fish, birds and other wildlife. Use of this product may be fatal to birds and other wildlife in treated areas. Do not spray over lakes, streams, ponds, tidal marshes and estuaries. Do not apply where runoff is likely to occur. Do not apply when weather conditions favor drift from areas treated. Do not contaminate water by cleansing of equipment, or disposal of wastes. Overspray of this product into water at application rates recommended on this label may be fatal to shrimp and crab; do not apply where these are important resources. Apply this product only as specified on this label.

5. Additional uses may be permitted of existing stocks until December 31, 1986, with appropriate supplemental labeling, upon a showing by any Federal or State agency that emergency conditions exist and a finding by EPA that the emergency conditions warrant use of these existing stocks for the requested purpose.

6. The supplemental labeling required by III F. 4 above may accompany present labeling of the product appropriately identified as a cancelled product permitted for distribution, sale, offers for sale, holding for sale, shipment, delivery for shipment, receipt to deliver, or use only until December 31, 1986. Alternatively, registrants may modify present labeling to incorporate the supplemental labeling so long as the modified labeling is accepted by the Agency to contain all necessary provisions from the labels of the cancelled products and properly identifies the product as permitted for

sale, distribution, and use only until December 31, 1986.

F. Existing stocks not within the physical possession of any registrant (e.g., possessed by dealers and retailers) may be sold, shipped, or distributed for use in accordance with the labeling presently accompanying the product until December 31, 1983. Stocks within the physical possession of a registrant include, but are not limited to, stocks stored in facilities owned or leased by the registrant. Existing stocks in the hands of users on or before December 31, 1983 may be used in accordance with the labeling accompanying the product in the hands of the users.

8. Pursuant to the authority of FIFRA section 6(a)(1), existing stocks of any toxaphene product whose registration is cancelled pursuant to this Notice may not be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, received for delivery, or offered for delivery by or to any person or used by any person in any State in any manner which would violate FIFRA section 12 if the product were still registered. Except as provided in III F. 7 above, such products shall be made available for use only by, and used only by, certified applicators or persons under the direct supervision of a certified applicator, and the supplemental labeling shall so state. For purposes of this paragraph, and FIFRA sections 12(a)(1) (B) and (C), the term "statement required in connection with [the product's] registration" shall mean the statement on file with the Administrator in connection with the product's registration on the effective date of cancellation of the product, as modified by labeling changes required by this Notice, or by other modifications approved by the Administrator.

9. After December 1, 1986, existing stocks may not be distributed, sold, offered for sale, held for sale, shipped, delivered for shipment, received to deliver, or used for pesticidal purposes, and any stocks of products which are unused after that date must be disposed of in the manner prescribed by the label or as required by the Resource Conservation and Recovery Act.

G. Limitation on Toxaphene Sources

The Agency has determined that the provision to permit use of existing stocks should be designed in a manner that provides for the minimum total loading of toxaphene into the environment which is sufficient to permit use of the stocks. Accordingly, beginning thirty days from receipt of this Notice by the registrant, all formulations of toxaphene for registered uses must be made from material designated as existing stocks under the terms and conditions of this Notice. This requirement shall be in effect until (1) December 31, 1986 or (2) such time as the Agency finds that any registrant has made a showing that existing stocks are no longer available from which to formulate products for the registered uses, whichever is earlier.

IV. Comments of Scientific Advisory Panel and Secretary of Agriculture

A. Comments of Former Members of the Scientific Advisory Panel

Pursuant to section 25(d) of FIFRA, notices of intent to cancel issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment." At the time the Agency completed its review of toxaphene, the statutory authorization for the Scientific Advisory Panel (SAP) and expired; to date, a new panel has not been authorized and referral is therefore not required by law. However, in order to obtain peer review of its scientific evaluations and conclusions, the Agency submitted draft risk estimates, copies of the NCI and Litton-Bionetics bioassays, the Agricultural Runoff Model information, and a draft exposure/risk assessment to the former members of the SAP for review and comment. The Agency specifically requested the scientists to comment on several important scientific issues in the areas of human risk assessment. The Agency received comments from the six former SAP members which are excerpted and/or summarized below. These comments do not require direct response by the Agency, as they are consistent with the regulatory actions set forth in this Notice.

1. *Human risk assessment—a. General.* There was no real problem with the risk estimate calculations although the risk estimate should have been calculated on the thyroid effect rather than on the male mouse hepatoma effect. While this would decrease the risk slightly it would link the calculation to an effect that is less controversial than the predictive value of the B6C3F1 mouse liver.

The Agency used the log probit and one hit model for quantifying the oncogenicity risk of hepatocellular cancer. These two models are the models which have been used by the Agency in the past. They have been recently questioned by some statisticians. The linear multistage model is the model currently in favor and it appears that this model actually gives risk estimates which are even higher than those obtained by the use of the more traditional estimates.

The epidemiologic data and the analysis of toxaphene in the air, runoff water, and in food supply (fish bioaccumulation) indicate that toxaphene presents a special hazard for the general population. The magnitude of this hazard is difficult to quantify but there can be little argument with the possibility that toxaphene is a carcinogen that can accumulate in our food chain, a fact regarded as more significant than the actual numbers generated by the Weibull or other types of analysis.

The strong evidence of the biomagnification of toxaphene and its entry into the human diet, especially through fish in the S.E. United States, where levels may exceed the Acceptable Daily Intake (ADI), has clearly demonstrated the presence of a high risk associated with the present use of toxaphene.

b. *Human exposure.* The exposure data for humans suggest that workers, applicators, and farmers seem not to be at risk when utilizing toxaphene, at least with the methods available for detection they do not seem to get the pesticide internalized. This all augers well until the point is made that an individual who served as a control had significant adipose tissue levels of toxaphene. The search for the source of his levels reveals that he ate fish, and that the meat of the fish itself was a source. The necessary assumption that comes from this observation is that regardless of what may happen with toxaphene in the environment suggested by the models of the Yazoo Basin, the fact is that bioaccumulation does occur. The fact that one individual attained significant body levels simply by eating fish is the telling point. This necessarily implies an environmental contamination.

(1) *Dietry exposure.* Extensive and well documented studies of toxaphene levels in the U.S. diet demonstrate that the average daily intake of this pesticide, especially in S.E. United States, substantially exceeds the ADI.

The data of toxaphene levels in drinking water, or rather the lack of it, necessitated exclusion of estimates from this source of exposure, but fish ingestion is clearly of importance, especially in the southeastern United States. In a similar situation in Triana, Alabama, the DDT exposure sustained by the local population through the eating of fish contaminated by DDT contributed to a high body burden of this pecticide, emphasized the need to measure this special dietary exposure in the southeastern U.S. where toxaphene

contamination of fish appears to be increasing. The paper entitled "Organochlorine Pesticide Residues in Fish". (National Pesticide Monitoring Reports 1970–74) supports that 50 percent contamination of fish with toxaphene is in the southeastern United States.

(2) *Occupational exposure.* Because estimates of worker exposure to toxaphene also suffered from a lack of available residue data a lot of assmptions had to be made, some of which seemed reasonable, others which were rather speculative. There is no difficulty with the inhalation estimates nor is there a question of the fact that 15 percent of applicator's skin would be unprotected. What is not known is the actual dermal absorption of toxaphene through human skin and application rates may in actual fact be increasing because of the resistance problem. No other way could be seen that the estimates of occupational exposure could have been made and the steps that the Agency has taken to attempt to quantitate worker exposure are concurred with.

c. *Carcinogenicity.* It is clear from results of the NCI bioassay and the Litton Bionetics study that toxaphene causes hepatocellur carcinomas in male and female B6C3F1 mice as do most of the chlorinated hydrocarbon pesticides. However, toxaphene also caused follicular cell carcinomas and adenomas in the Osborne Mendel rats used for thee studies. Although the studies with other species (dogs, monkeys, and hamsters) are reassuring in regard to the carcinogenic effect, the most important finding in the chronic studies on toxaphene in the thyroid effect.

d. *The need for epidemiologic studies—potential epidemiologic approaches.* The risk conclusions reached for heptaic cancer are very high. If toxaphene presents risks of these orders of magnitude, then these should not be beginning to appear. Toxaphene is very like DDT in may ways. It is highly persistent, has been around since 1947 and hepatomas are the tumors seen in animals. The main difference is in the fact that exposure to a compound cannot be readily measured, though apparently John Cassida recently described an improved method for measuring 6 of the camphenes.

In their review of the causes of cancer in the U.S.A., Doll and Peto comment "It is notable, however, that there has been no general increase in the incidence of liver tumors since the long lasting pesticides were introduced, despite the fact that hepatomas are the principal type of cancer to have been reported in laboratory animals under experimental conditions. During 1968–1978, at ages under 65, there was a non-significant decrease in male mortality and a non-significant increase in female mortality due to heptacellular carcinoma although liver cancer remains virtually incurable." Reassuring as is this finding, it should be remembered that a breakdown of the data for geographical regions was not analyzed, and neither was there a race specific evaluation of the data. The latter may be important because for DDT, residues in blacks in two national surveys have increased with age, an increase which was noted beyond the DDT age of the study sample in each of the surveys. Thus, there might be a partial genetic problem in the elimination of some of the persistent pesticides.

With regard to place differences and the special exposures of the Southeast to toxaphene, since this has been around for 20 years, if the risks postulated are valid, we should see hot spots for liver cancers in these areas. The Mason and McKay maps (which only go up to 1970) have been looked at and it has been noted that there are two counties in Louisiana which have age adjusted rates for cancer mortality due to biliary passages and liver which are significantly high and in the highest decile. The same is true for black males but its not seen for white or black females.

2. *Environmental risk assessment*—a. *General.* This section of the document was found to be complete (to the extent possible) and the data properly, but conservatively, interpreted. The risks were adequately presented except for the puzzling omission of data on reproduction. The evaluation of risk is conservative. If more data were available it is possible they would show additional and greater risk.

b. *Agricultural runoff model.* The model is a challenging mixture of facts, assumptions, and speculation which is the best one can do in our state of ignorance. The model makes sense and is a necessary approximation to reality. There are no reservations in drawing conclusions from it.

c. *Persistence, bioaccumulation, and transport.* Toxaphene is persistent, bioaccumulates, and moves easily through soil and water, thus presenting severe hazards that are difficult to mitigate. Due to toxaphene's persistence and transport, runoff is a special hazard since toxaphene accumulates in aquatic systems where it bioaccumulates and readily exceeds LD_{50} levels.

d. *Toxicity to fish.* The toxicity to fish is abundantly documented by good dose-response curves. Toxaphene damages fish (broken back syndrome) and thus has a unique and special ecological effect.

Toxaphene is extremely hazardous to fish both in wildlife and in fish culture and its use has resulted in massive fish kills as well as a crippling collagen deformity of unknown etiology that is produced at very low levels (ca 50 ppt) and can seriously affect fish development and reproduction. EPA's massive study of "Toxaphene Migration and Risk in the Yazoo River Basin, Mississippi," supports through substantial scientific methodology the conclusions already drawn through more than 30 years of intensive use, i.e. that exposure to dissolved toxaphene in a river (and lake) ecosystem can cause short and long term damage to game fish populations. In short, toxaphene, because of its extremely high toxicity to fish and its massive use as a cotton insecticide, poses a much more severe threat to game fish populations than any other insecticide, including endrin which was prohibited for use in Eastern United States by EPA in 1980 because of its hazard to fish and other aquatic life.

e. *Toxicity to birds and mammals.* The toxicity to birds and mammals is not high but the process of bioaccumulation results in excess dosages. Hence, bird kills occur frequently.

It is clear from the brief description given in the carcinogenicity assay that both acute and chronic toxicity are demonstrable in rodent species. Unfortunately these are neither extensively described nor clearly defined; but rough fur, weight loss, and bloating all suggest that toxaphene has systemic toxicity and the neurotoxicity that goes along with it is mentioned in passing. Whether or not it is a carcinogen is important, but if it has both acute and chronic toxicity to this degree of magnitude, then one must define what these toxicities are in order to anticipate what changes do occur in the environment. The fish disease that has been described is a case in point. Taken altogether, the data that is available suggest that toxaphene does pose a significant biological hazard, that our fund of information concerning the nature of this hazard is quite limited, and that we are really troubled by an absence of solid residue data.

f. *Endangered species.* The use of toxaphene in the Southeast United States where eagles feed on fish presents a hazard to this endangered species.

3. *Continued toxaphene use.* In view of the great mass of evidence available, toxpahene must be viewed as a real and

unacceptable hazard to both humans and the environment. It would appear that this hazard can only be eliminated be either removing toxaphene from the market place or by restricting its use in such a manner that the hazard is reduced to acceptable levels. Toxaphene is outmoded and at best deserves only a limited place in the contemporary pesticide arsenal.

B. Comments of the United States Department of Agriculture

Throughout the RPAR review of toxaphene, the Aency periodically consulted with the U.S. Department of Agriculture (USDA) on matters relating to toxaphene uses, including the expected impact of cancellation of toxaphene on the agricultural economy. Section 6(b) of FIFRA specifically requires that all 6(b) notices be sent, with an analysis of the impact of the proposed action on the agricultural economy, to the Secretary of Agriculture for comments, and that any comments received from the Secretary and the Administrator's response to those comments be published with the final notice of determination.

1. *USDA comments.* The comments of the Department of Agriculture regarding the Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Toxaphene are presented below in their entirety.

September 24, 1982.

Mr. Edwin L. Johnson (TS–766C),

Director, Office of Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C.

Dear Mr. Johnson: Thin is the United States Department of Agriculture's (USDA) response to the U.S. Environmental Protection Agency's (EPA) Preliminary Notice of Determination concluding the Rebuttable Presumption Against Registration (RPAR) of pesticide products containing toxaphene. Specific discussion of various uses is contained in the attachment to this letter.

State research and extension personnel responsible for pest control technology and recommendations were contacted by UDSA concerning the agricultural needs for toxaphene. These experts expressed the view that many of the currently registered uses of toxaphene remain important to certain segments of U.S. agricultural production and the registration of these uses should be continued. USDA concurs with these needs and believes that no action should be taken on these uses until new, effective and economical control measures are developed and registered for use. At this time, the marketplace will appropriately reduce and replace the need for toxaphene. However, if deemed appropriate or necessary, cancellation actions could be considered when new effective and economical alternatives to toxaphene are available. This approach would not only resolve the health and environmental concerns about toxaphene, but also would not place an excessive burden on American agriculture by cancelling currently needed toxaphene registrations before acceptable replacement control measures are available.

As outlined in the attachment to this letter, toxaphene provides effective and economical insect control for a number of minor use problems that would not otherwise be attainable. Further, allowing continued registration of these uses will not result in any more toxaphene actually being applied than would be applied under the EPA proposed regulatory scheme and this procedure would be far less costly and demanding to administer.

We do not concur that phaseout approaches represent an effective means of resolving potential health and environmental problems. We encourage EPA to consider other regulatory procedures, such as restricted use and appropriate label restrictions, to accomplish the desired level of regulatory control of toxaphene, if such is necessary to prevent adverse health and/or environmental effects. As is pointed out, and for the reasons stated in the attachment, we do not support the use of Section 18 emergency exemptions as a regulatory mechanism in this situation.

We recommend that EPA give favorable consideration to the needs expressed by States as outlined in the attachment to this letter and those stated in our letter of July 26, 1982. Those specialty crop and site situations have special economic significance due to specific pest problems, local situations, and for individual producers.

Sincerely,

T. B. Kinney, Jr.,

Acting Assistant Secretary, Science and Education.

Enclosure

Attachment to the Department of Agriculture's Response to the Environmental Protection Agency's Position Document on Toxaphene

The Department, as expressed in our letter of July 26, remains concerned that there are still several specialty crop and site situations in addition to those recognized by EPA, for which there is still a significant need for toxaphene under certain conditions. Recent information obtained from the States strongly indicates that toxaphene is still the preferred treatment for a variety of situations, including:

1. Ectoparasite control on livestock with special emphasis on quarantine and regulatory programs;

2. control of certain insects on corn, small grains, sunflowers, soybeans, alfalfa for seed production, range, pasture, garlic seed crops, peppers, dry peas, southern peas, and onions;

3. mealybug control on pineapple roots and weevils in bananas in the Virgin Islands;

4. sicklepod control in soybeans;

5. control of sporadic early season cutworm infestations in southern cotton.

Variable pest populations, environmental and ecological conditions and economic factors will dictate the need for selective use of toxaphene, especially in these specialty crop situations where control alternatives are either nonexistent or comparatively ineffective. For example, in small grains, soil insects and grasshoppers can thrive in cold, damp weather, causing populations to build up rapidly in the early spring and late fall. Toxaphene is the only effective control for these pests under those environmental conditions. In addition soil insect populations are significantly higher in croplands under minimum tillage practices. Toxaphene is the most efficacious material for the control of insect populations located in the soil.

It is our view that regulating toxaphene as a restricted use pesticide, coupled with appropriate label restrictions, rather than allowing use only under emergency conditions, will provide more than adequate regulation. In this situation, a system which allows use only under emergency conditions, as proposed by EPA in the decision document, would be very cumbersome and costly to administer. Labeling containing specific use criteria could be developed which would accomplish the same intent.

The use of the FIFRA Section 18 mechanism is predicated on the fact that a material which is selected for use is not registered for that use. This seems to make the use of this mechanism, in this case, inappropriate. Also, it is our belief that maintaining those uses identified above and regulating those uses primarily through the restricted use mechanism and the label, will result in no more toxaphene actually being applied than envisioned by EPA under its proposed regulatory strategy. We are, as suggested in your August 27 letter, available for further discussion of these issues.

Regarding the use of toxaphene for scabies control, the decision document proposes restriction to vat use only. Spray-dip machines have been used and are desirable for the small lot or herd because of their portability. Further, where they can be used, they are environmentally more acceptable since far less solution remains when the job has been completed. (We are attaching a copy *Veterinary Services Memorandum 556.5, Guidelines for Use of Spray-Dip Machine for Treating Cattle.)*

A number of scientists in USDA have reviewed EPA's decision document and had difficulty reconciling the divergent viewpoints and concerns expressed in the document. For example, on page III–16, the document discusses sources of chlorinated terpenes. Because of uncertainties in the analytical method, any source of toxaphene other than direct application, drift or runoff from a recently treated site must be considered hypothetical, which is why analyzed toxaphene residues are often termed "toxaphene like" residues. A more thorough discussion of possible sources of "toxaphene like" residues, including a discussion or the importance of this confounding information to the regulatory decision would significantly clarify this section of the document.

On the 18th unnumbered page of the proposed notice at item 8, it appears that the agency is attempting to make nonregistrants, including those who make "use of existing stocks pursuant to" the EPA provisions, subject to the same FIFRA requirements as

registrants. We do not concur with EPA's treatment of sellers and users as registrants. They will be sufficiently regulated when toxaphene becomes a restricted use pesticide. We feel that this provision, as worded, will place unwarranted liability on farmer users and also USDA employees who apply the material.

On the same page at item 9, we feel that the Agency should clarify the basis for its proposal to bar imports of a registered pesticide. This action could favor one registrant over another and also could significantly increase costs to users.

Finally, in relation to phaseout programs, the synthesis and screening of new compounds and the development of biological controls is a continuous, ongoing activity of the research community, but the end products and timeframes for accomplishing them are not predictable.

2. *EPA response.* The Agency disagrees with USDA's general position that no cancellations of toxaphene are necessary to resolve the health and environmental concerns about toxaphene. Contrary to USDA's assertion that "allowing continued registration of [a number of] uses will not result in any more toxaphene actually being applied than would be applied under the EPA proposed regulatory scheme", the cancellation of most toxaphene uses and limitation of use of existing stocks to certain crops and to a specified time period will greatly reduce the total burden of toxaphene residues in the environment.

USDA's statement that regulatory restrictions such as improved labeling and restricted use classification should be chosen instead of cancellation "if [regulatory control] is necessary to prevent adverse health and/or environmental effects" ignores the characteristics of toxaphene which result in persistent environmental contamination, regardless of application and use practices. Moreover, EPA cannot accept USDA's apparent premise that a determination whether to cancel a pesticide's registrations should be based on whether and when "new, effective, and economical control measures are developed and registered for use." The availability of alternatives is only one element of the evaluation necessary to determine whether a pesticide's uses cause unreasonable adverse environmental effects. In any event, EPA has found that efficacious and econonmic alternatives are available for the toxaphene uses indentified by USDA except to the extent reflected in the final regulatory decision on toxaphene.

However, a number of USDA's comments are well taken and have been incorporated into the Agency's final Notice. These comments and EPA's response are as follows:

a. Recommendations for continued registration to control scabies on livestock other than cattle and for use of spray-dip machine to treat livestock.

EPA has continued registration to control scabies on beef cattle and has added sheep to the permissable sites. The spray-dip machine treatment method has been added as a permissable application method.

b. Recommendation for continued registration to control mealybugs on pineapple roots and weevils in bananas in the Virgin Islands.

EPA has confirmed the value to the agricultural economy of the Virgin Islands from continuation of this use and has determined that the rationale applies to Puerto Rico as well and to control of the pineapple gummosis moth in these areas. Accordingly, continued registration for these very low volume uses is permitted.

c. Recommendation to retain other registered uses which, in its view, are important to certain segments of the agricultural economy.

EPA has carefully assessed these uses and finds that cost-effective, efficacious alternatives are available, except in some instances, for dry and southern peas. Accordingly, the Agency is allowing the use of existing stocks for these uses.

d. Recommendation to clarify language applying FIFRA provisions to persons qualifying for the existing stocks provision.

This language has been altered so that existing stocks are treated like registered pesticides for purposes of enforcing FIFRA provisions.

e. Recommendation to clarify "import" provision. The Agency has clarified reference to limits on imports contained in the draft Notice. The only "imports" provision which the Agency seeks to impose is a limitation on import and production of toxaphene such that, to the extent feasible, existing stocks will be used for all registered products until such stocks are exhausted.

USDA's remaining comments do not provide any documented basis for alteration of the agency's Notice or regulatory decision. For example, the Agency has considered the matters raised by USDA relating to whether the apparent toxaphene residues found distant from use sites are in fact toxaphene, or if the residues can be explained by althernative hypotheses. The Agency has received no information from USDA or elsewhere which adequately demonstrates the validity of any alternative hypothesis, and efforts to discover credible alternative explanations have not resulted in any basis for rejecting the conclusions that these measured residues are, in fact, toxaphene. The uncertainties and difficulties posed in analyses of these residues are discussed in the Toxaphene Decision Document.

USDA also criticizes the requirement of a showing of emergency circumstances prior to application of toxaphene for the registered uses to control certain sporadic insect infestations on small grains, corn, and cotton. USDA states that the "Section 18 [of FIFRA] mechanism is predicated on the fact that a material which is selected for use is not registered for that use." The labeling requirement for a prior showing of emergency circumstances, however, is not made pursuant to section 18 of FIFRA and serves different purposes. In particular, it assures that any significant contribution of additional toxaphene to the total environmental load will be permitted only in light of significant benefits from the use and only to the limited extent determined appropriate in light of the emergency circumstances.

V. Procedural Matters

This Notice announces the Administrator's intent to cancel registrations of products containing toxaphene for most uses, and to restrict registrations for the remaining uses to use by certified applicators. This Notice also announces the administrator's decision to deny any applications for registrations of pesticide products containing toxaphene unless they comply with the requirements of this Notice. As provided in FIFRA section 6(b), the cancellations and denials proposed in this Notice "shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of [this] notice, whichever comes later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice." Unless the necessary steps to make these changes are taken within 30 days, or unless a hearing is properly requested to contest the cancellation or denial of the registrations for specific toxaphene products, the cancellation or denial actions will become final at the end of 30 days. The 30-day time period in which to request a hearing is applicable to all the regulatory actions proposed in this Notice, includng the immediately effective cancellations; the registration restrictions on toxaphene products for control of scabies on beef cattle and sheep; the registration restrictions on toxaphene products for control of armyworms, cutworms, and

grasshoppers on cotton, corn, and small grains; the registration restrictions on toxaphene products for control of mealybugs and pineapple gummosis moths on pineapples and weevils in bananas; the existing stocks provisions; and the denial of applications. This section of the Notice explains how registrants and applicants may seek to modify the terms and conditions of registration or applications to make any necessary corrections and how registrants, applicants, and other adversely affected parties may request a hearing on the cancellation actions set forth in this Notice.

A. Procedures for Amending the Terms and Conditions of Registration

To make the changes required to avoid cancellation, registrants and applicants within a 30-day period from receipt of this Notice must submit application(s) for new or amended registration(s) as appropriate, making the necessary corrections. The application for new or amended registration(s) must be submitted to: Jay Ellenberger, Product Manager, Registration Division (TS–767), Office of Pesticide Programs, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

B. Procedure for Requesting a Hearing

Registrants or applicants adversely affected by the cancellation or denial actions described above may request a hearing on such actions within 30 days of receipt of this Notice, or within 30 days from publication of this Notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the cancellation or denial actions described above may request a hearing within 30 days of publication of this Notice in the **Federal Register**.

All registrants, applicants, and other affected parties, who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that (1) all requests must identify the specific registration(s) or application(s) by registration number(s) or file symbol and the specific use(s) for which a hearing is requested, (2) all requests must be accompanied by objections that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing.

Requests for a hearing must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing To File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's rules of practice for hearings under FIFRA section 6 (40 CFR Part 164). The hearing will be limited to the uses and registrations (or applications) as to which a hearing is requested.

2. *Consequences of failure to file in a timely and effective manner.* If no hearing is requested regarding specific registration(s) and/or specific use(s), the cancellation of such registrations or uses becomes effective thirty days after publication of this Notice or receipt by the affected registrants, whichever comes later. If a registrant wishes to contest the cancellation or required conditions for particular identified uses, but desires to modify the terms and conditions of his registration to secure continued registration of one or more of those uses permitted by this Notice, the registrant must apply for an appropriate new or amended registration as well as submit the hearing request.

Dated: November 10, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–32577 Filed 11–26–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System,** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Mercantile Texas Corporation,* Dallas, Texas; to acquire 100 percent of the voting shares or assets of Exposition Bank, N.A., San Antonio, Texas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than December 22, 1982.

Board of Governors of the Federal Reserve System, November 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 32542 Filed 11–26–82; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Company; Proposed "De Novo" Nonbank Activities

The organization listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Conpany Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12CFR 225.4(b)(1)), for permission to engage *De novo,* directly or indirectly, solely in the activities indicated, which have been determined by the board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the office 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.

Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Andrews Financial Corporation, Andrews, Texas (leasing activities; Texas): To engage, through its subsidiary, Andrews Bancshares, Inc., in making leases of personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Andrews, Texas, serving Texas. Comments on this application must be received not later than December 22, 1982.

Board of Governors of the Federal reserve System, Novenber 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-32541 Filed 11-26-82; 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 or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian,] Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Morgan Bancorp, Inc.*, Berkeley Springs, West Virginia; to become a bank holding company by acquiring 80 percent of the voting shares of Morgan County State Bank, Berkeley Springs, West Virginia. Comments on this application must be received not later than December 22, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Farmers National Corporation, Shelbyville, Indian; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers National Bank of Shelbyville, Shelbyville, Indiana. Comments on this application must be received not later than December 22, 1982.

2. *West Branch Bancorp, Inc.*, West Branch, Iowa; to become a bank holding company by acquiring 80 percent or more of the voting shares of West Branch State Bank, West Branch, Iowa. Comments on this application must be received not later than December 22, 1982.

Board of Governors of the Federal Reserve System, November 23, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-32543 Filed 11-26-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Contractor's Report of Orders Received (GSA Form 72A)

AGENCY: General Services Administration.

ACTION: Notice of information collection; extension.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget review and approval for the extension of an information collection request for the collection of data.

DATES: Comments on this information collection must be submitted on or before December 13, 1982.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Rose McCullough, GSA (703-557-2741).

SUPPLEMENTARY INFORMATION:

a. Purpose. The information collection request enables the Federal Government to collect data use to estimate requirements for new supply schedule contracts, evaluate the effectiveness of schedules, negotiate for better prices.

b. Description of information collection. Each federal supply schedule contractor is required to complete and submit a report (GSA Form 72A) of all Federal Government orders received under a contract. The frequency of reporting is changed from bimonthly to quarterly, and the estimated time per response is .25 hour.

c. Obtaining copy of proposal. A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 202-566-1164.

Dated: November 18, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82-32573 Filed 11-26-82; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Designation of Medically Underserved Areas; List of Final Deletions

Correction

In FR Doc. 82-31030 beginning on page 51324 in the issue of Friday, November 12, 1982, make the following corrections:

1. On page 51324, third column, a center heading for the State of Georgia was omitted. The listing for the State of Florida ended with the County of Seminole. Insert "Georgia" before the Counties of Franklin and Glynn.

2. On page 51326, third column, under Michigan, the County name "Isoco" should read "Iosco" and the County name "Otsewgo" should read "Otsego".

3. On page 51327, first column, under Minnesota, Waseca County, in the third line of the Census Tract description, "Isoco" should read "Iosco"; and in the seventh line of the same description, "Maseca City should read "Waseca City".

4. On page 51328, first column, under North Carolina, Watauga County, in the third line of the Census Tract description, "Brushy Twp." should read "Brushy Fork Twp." and in the fifth line of the same description, "Heat Camp" should read "Meat Camp". In the second column, under Ohio, Montgomery County, in the first line of the Census Tract description, "001.600" should read "0016.00".

5. On page 51329, third column, under Texas, Smith County, in the first line of the Census Tract description, "00150.,00" should read "0015.00".

BILLING CODE 1501-01-M

Office of the Secretary

Social Security Administration

Social Security; Average of the Total Wages for 1981, Construction and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1983

Correction

In FR Doc. 82–30887 beginning on page 51003 in the issue of Wednesday, November 10, 1982, make the following change:

On page 51005, third column, paragraph lettered (b), second line, "$234" should read "$324".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 53144]

New Mexico; Notice of Application

November 17, 1982.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Continental Divide Pipeline Company has applied for a 30-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 19 N., R. 7 W.,
Sec. 5, E½SE¼;
Sec. 8, E½;
Sec. 17, NW¼NE¼ and SE¼NW¼;
Sec. 18, SE¼SE¼;
Sec. 30, lot 1.
T. 20 N., R. 7 W.,
Sec. 8, E½NE¼.
T. 21 N., R. 7 W.,
Sec. 5, SW¼SW¼;
Sec. 6, lots 1, 2, S½NE¼ and SE¼;
Sec. 8, W½;
Sec. 17, E½;
Sec. 20, E½NE¼;
Sec. 29, E½E½;
Sec. 32, E½E½.
T. 22 N., R. 7 W.,
Sec. 31, lots 1, 2 and E½SW¼.
T. 22 N., R. 8 W.,
Sec. 3, lots 3, 4, S½NW¼, NE¼SW¼ and SW¼SE¼;
Sec. 4, lot 1;
Sec. 10, NE¼NE¼;
Sec. 11, SW¼;
Sec. 14, E½NW¼;
Sec. 23, NE¼SE¼;
Sec. 24, SW¼NW¼ and SW¼;
Sec. 25, W½NE¼, NE¼NW¼ and SE¼.
T. 23 N., R. 8 W.,
Sec. 6, lots 4, 5, 9 and 10;
Sec. 17, W½SW¼;
Sec. 18, N½NE¼ and SE¼NE¼;
Sec. 20, N½NW¼ and SE¼NW¼;
Sec. 28, SW¼NW¼.
T. 24 N., R. 8 W.,
Sec. 19, lots 3 and 4.
T. 25 N., R. 8 W.,
Sec. 19, lots 1, 2 and 3;
Sec. 25, lot 1.
T. 28 N., R. 8 W.,
Sec. 18, lots 3 and 4;
Sec. 19, lots 1, 2, 3 and 4.
T. 17 N., R. 9 W.,
Sec. 12, lot 2, SW¼NE¼ and W½SE¼.
T. 24 N., R. 9 W.,
Sec. 1, lot 1 and SE¼NE¼.
T. 25 N., R. 9 W.,
Sec. 1, E½SE¼;
Sec. 12, lot 1 and E½NE¼;
Sec. 24, SE¼SE¼;
Sec. 25, lot 4 and E½SE¼.
T. 26 N., R. 9 W.,
Sec. 1, lot 2, SW¼NE¼ and W½SE¼;
Sec. 12, W½SE¼;
Sec. 13, W½E½.
T. 27 N., R. 9 W.,
Sec. 1, SE¼SW¼.
T. 28 N., R. 9 W.,
Sec. 12, lots 2, 3 and S½SE¼;
Sec. 13, E½NE¼.
T. 29 N., R. 9 W.,
Sec. 9, SW¼NW¼ and W½SW¼;
Sec. 21, lots 1, 2 and 4;
Sec. 22, W½SW¼;
Sec. 27, W½NW¼ and SW¼;
Sec. 34, NE¼;
Sec. 35, lots 4, 5, 6, 10, 11, 15 and 16.
T. 30 N., R. 9 W.,
Sec. 7, lot 3 and SE¼SW¼;
Sec. 17, W½SW¼;
Sec. 18, NE¼ and NE¼NW¼;
Sec. 20, N½ and SE¼;
Sec. 28, SW¼SW¼;
Sec. 29, E½E½;
Sec. 33, W½W½.
T. 30 N., R. 10 W.,
Sec. 1, lots 8, 10, 15 and 19;
Sec. 12, lots 1, 2, 8 and 9.
T. 31 N., R. 10 W.,
Sec. 9, lots 4, 5 and 12;
Sec. 10, lot 10;
Sec. 15, lots 4, 6, 7 and 11;
Sec. 22, lots 1, 2, 8 and 9;
Sec. 23, lots 5 and 6;
Sec. 26, lots 1, 2 and 4.
T. 15 N., R. 11 W.,
Sec. 8, E½NE¼ and N½SE¼.
T. 14 N., R. 12 W.,
Sec. 24, SE¼NE¼, NW¼, S½SE¼ and NE¼SE¼.

The pipeline will convey natural gas across approximately 162.0 miles of Federal land in McKinley, Sandoval and San Juan Counties, New Mexico. The pipeline also extends into Colorado; however, no Federal lands are involved.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

L. Paul Applegate,

District Manager.

[FR Doc. 82–32493 Filed 11–26–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 172 Federal Unit Agreement No. 14–08–0001–8946, submitted on November 12, 1982, a proposed annual plan of development/production describing the activities it proposes to conduct on the South Timbalier Block 172 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 19, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–32574 Filed 11–26–82; 8:45 am]

BILLING CODE 4310–31–M

INTERSTATE COMMERCE COMMISSION

[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, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278, or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30–day notice requirement is not necessary in 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) not 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 Number, and Specifics	Review Board [1]	Decided Date
412	Missouri Pacific Railroad Co., ICC–MP–C–0182, (Grain and soybeans)	2	Nov. 22, 1982.
413	Consolidated Rail Corp., ICC–CR–C–0221, (Sulphuric acid)	3	Do.
414	Consolidated Rail Corp., ICC–CR–C–0209, (Vegetable and animal grease)	1	Do.
415	Southern Pacific Transportation Co., ICC–SP–C–0257, (Petroleum products), ICC–SP–C–0258, (Petroleum oil & noibn), ICC–SP–C–0259, (Petroleum oil, noibn & petroleum products).	2	Do.
416	Atchison, Topeka and Santa Fe Railway Co., ICC–ATSF–C–0138, (Newsprint)	3	Do.
417	Soo Line Railroad Co., ICC–SOO–C–0124, (Urea)	1	Do.
418	The Texas Mexican Railway Co., ICC–TM–C–31, Supplement 1, (Grain)	2	Do.

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. 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)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–32528 Filed 11–26–82; 8:45 am]

BILLING CODE 7035–01–M

Forms Under Review by the Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20413 and to Donald Arbuckle, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7313.

Type of Clearance: Revision
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I Motor Carriers of Passengers
OMB Form No.: 3120–0021
Agency Form No.: MP–1
Frequency: Annual
Respondents: Class I Regulated Motor Carrier of Passengers
No. of Respondents: 69
Total Burden Hrs.: 3,450
Type of Clearance: New
Bureau/Office: Bureau of Accounts
Title of Form: Annual Survey Form for certain Switching and Terminal Companies
OMB Form No.: None
Agency Form No.: None
Frequency: Annual
Respondents: Selected Switching and Terminal Railroad Companies
No. of Respondents: 18
Total Burden Hrs.: 72
Type of Clearance: Revision
Bureau/Office: Office of Proceedings
Title of Form: Application for Motor or Water Carrier Certificate, Permit, Broker License, Freight Forwarder Permit, or Water Carrier Exemption
OMB Form No.: 3120–0047
Agency Form No.: OP–1
Frequency: On occasion
Respondents: Regulated Motor Carriers, Water Carriers, Freight Forwarders, and Brokers
No. of Respondents: 20,000
Total Burden Hrs.: 160,000

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–32529 Filed 11–26–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protest to an application may be filed with the Region Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-217

The following applications were filed in Region I: Send protest to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 164620 (Sub-1–1TA), filed November 9, 1982. Applicant: ARIES CORPORATION OF MAINE d.b.a., ARIES TRANSPORTATION CO., 4 High Street, P.O. Box 532, Hampton, NH 03842. Representative: Jerome D. Freeman (Same as applicant). *Passengers and their baggage in charter and special operations* between points in CT, MA, ME, NH, NJ, NY, RI, VT. Supporting shipper(s): There are seven statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 156563 (Sub-1–2TA), filed November 8, 1982. Applicant: ATOMIC CARTAGE, Inc., 400 Norman Street, Ville St. Pierre, Quebec, CD H8R 1A1. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801. *Structural Steel* from ports of entry on the U.S./CD boundary line at Champlain, NY, and Highgate Springs, VT, to Berlin, Bridgeport, and Hartford, CT, Springfield, MA, Nashua, NH, Albany and Schenectady, NY, and Bennington and Burlington, VT. Supporting shipper: Marshall Steel, Ltd., 807 Marshall Street, Laval, Quebec, CD H7S 1J9.

MC 143233 (Sub-1–2TA), filed November 8, 1982. Applicant: CRAWFORD HOMES, INC., North Road, Houlton, ME 04730. Representative: Carl E. Crawford, 69 North Street, Houlton, ME 04730. *Contract Carrier:* irregular routes: *Modular and/or mobile homes in initial movements in truckaway service,* (1) from Pine Grove and Bloomsburg, PA to points in NY, VT, CT, NH, MA, RI, ME, NJ, MD, DE and WV under continuing contract(s) with Pine Grove Mfgd. Homes, Inc., of Pine Grove, PA, and Design Homes, Inc., of Bloomsburg, PA. Supporting shipper(s): Pine Grove Mfgd. Homes, Inc., P.O. Box 128, Pine Grove, PA 17963; Design Home, Inc., P.O. Box 463, Bloomsburg, PA 17815.

MC 150121 (Sub-1–3TA), filed November 15, 1982. Applicant: DVJ TRUCK LINES, INC., 1 Ridge Road, Monmouth Junction, NJ 08852. Representative: Capro & Hilliard, Esqs., 1585 Morris Avenue, Union, NJ 07083. *Contract carrier:* irregular routes: *Baby products, powder, shampoo, oil, creams, infant toys and games, dressings and bandages, surgical devices, feminine hygiene products, drugs, medicines, toilet preparations, disinfectants, sausage casings, veterinarian supplies, tissue products, woven and non-woven fabrics, pulp, diapers and advertising displays* between NJ, NY, PA, CT, MD, MA, VA, DE, RI, DC, NC, SC, GA, FL, TN, MS, AL & LA, under continuing contract(s) with Johnson & Johnson & Selected Subsidiary Companies, Somerset, NJ. Supporting shipper: Johnson & Johnson & Selected Subsidiary Companies, 1 Campus Drive, Somerset, NJ 08873.

MC 164100 (Sub-1–2TA), filed November 9, 1982. Applicant: HANNAFORD TRUCKING COMPANY, 54 Hannaford Street, South Portland, ME 04106. Representative: Beth Dobson, Esq., Two Canal Plaza, P.O. Box 586, Portland, ME 04112. *Contract carrier:* irregular routes: *Wood products* from Farmington, ME to points in NY, NC, AL, IL, PA, MI, under continuing contract(s) with Maine Dowel Corp., Farmington, ME. Supporting shipper: Maine Dowel Corp., North Main Street, Farmington, ME 04938.

MC 99273 (Sub-1–4TA), filed November 15, 1982. Applicant: KINDLE TRUCKING CO. INC., 449 Silver Street, P.O. Box 311, Agawam, MA 01001. Representative: David M. Marshall, Marshall & Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* (1) between points in Orange County, FL, on the one hand, and, on the other, points in FL, and (2) between points in MA. Supporting shipper: W. F. Young, Inc., 111 Lyman Street, Springfield, MA 01103; Dennison/National, Water Street, Holyoke, MA 01040; Hallmark Cards, Inc., 26 Manning Road, Enfield, CT 06032.

MC 164618 (Sub-1–1TA), filed November 9, 1982. Applicant: J. N. L'HEUREUX INC., 95 College Avenue, Waterville, ME 04901. Representative: Daniel J. L'Heureux (same as applicant). *Contract carrier:* irregular routes: *General merchandise as sold in retail drug stores* from Winslow, ME, to Portsmouth, Sommersworth and North Conway, NH, under continuinmg contract(s) with LaVerdiere's Enterprises, Winslow, ME. Supporting shipper: LaVerdiere's Enterprises, One La Verdiere Square, Winslow, ME 04902.

MC 155231 (Sub-1–3TA), filed November 15, 1982. Applicant: MAXAM TRUCKING, INC., R.D. No. 2, Bassette Road, Interlaken, NY 14847. Representative: Donald C. Carmien, Esq., Suite 501 Midtown Mall, 15 Chenango Street, P.O. Box 1922, Binghamton, NY 13902–1922. *Salt and salt products* between Watkins Glen and Lansing, NY to Walbridge, OH, under continuing contract(s) with Jones-Hamilton Co., Newark, CA. Supporting shipper: Jones-Hamilton Co., P.O. Box 464, Newark, CA 94650.

MC 164670 (Sub-1–1TA), filed November 15, 1982. Applicant: PATRICIA A. NELSON, R.D. No. 1, Townline Road, Jamestown, NY 14701. Representative: Patricia A. Nelson (same as applicant). *Contract carrier:* irregular routes: *New furniture,* (1) from Corry, PA to points in GA and NJ, under continuing contract(s) with Corry Jamestown Corp., Corry, PA; and (2) from Dayton, TN, and Florence, SC to points in PA and NY, under continuing contract(s) with Metzger's La-z-boy Showcases of Amherst, NY; and Western NY Chair Corp. of Rochester, NY. Supporting shipper(s): Corry Jamestown Corp., 844 E. Columbia Ave., Corry, PA 16407; Metzger's La-z-boy Showcases, 3493 Sheridan Drive, Amherst, NY 14226; Western NY Chair Corp., 1122 E. Ridge Road, Rochester, NY 14621.

MC 151193 (Sub-1–37TA), filed November 10, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *(1) Film and photo paper, unexposed; (2) Chemicals, NOI (except hazardous waste); (3) Corrosive liquids, NOS (except in bulk for (2) and (3)),* from NJ to CA, GA, and IL under continuing contract(s) with Ilford, Inc., Paramus, NJ. Supporting shipper: Ilford, Inc., W. 70 Century Road, Paramus, NJ 07652.

MC 151193 (Sub-1–38TA), filed November 10, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Ice Cream, Fresh and frozen dairy products and equipment, materials and supplies used in the sale and distribution of such commodities (except in bulk)* from NJ and NY to CO, under continuing contract(s) with Dreyer's Grand Ice Creams, Oakland, CA. Supporting shipper: Dreyer's Grand Ice Cream, 5929 College Aveune, Oakland, CA 94618.

MC 151193 (Sub-1–39TA), filed November 10, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant).

Contract carrier: irregular routes: *Such commodities as are dealt in and sold by manufacturers of artificial kidney and dialysis machines* from NJ to points in CA, CO, FL, GA, and IL, under continuing contract(s) with Erika, Inc., Rockleigh, NJ. Supporting shipper: Erika, Inc., One Erika Plaza, Rockleigh, NJ 07647.

MC 164674 (Sub-1–1TA), filed November 15, 1982. Applicant: QUADRA BUS CORP., 145–42 180th Street, Springfield Gardens, NY 11434. Representative: Sidney J. Leshin, Esq., 3 East 54th Street, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage,* beginning and ending in New York, NY and extending to NY, NJ, CT, MA, PA, DC and VA, under continuing contract(s) with Kingdom Hall Jehovah's Witnesses, Brooklyn, NY. Supporting shipper: Kingdom Hall Jehovah's Witnesses, 450 Fountain Avenue, Brooklyn, NY 11208.

MC 164634 (Sub-1–1TA), filed November 10, 1982. Applicant: SHELAU TRUCKING CO., INC., 284 Meserole Street, Brooklyn, NY 11206. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375. *Contract carriers:* irregular routes: *Emergency lighting systems* between the facilities of Lightalarms Electronics Corp. located at Nassau County, NY, to Port Newark, NJ, and *(2) Rags and used clothing* between the facilities of Romerovski Brothers, Inc. located at Roselle Park, NJ, on the one hand, and on the other, Port Newark, NJ, and Brooklyn, NY, under continuing contract(s) with Lightalarms Electronics Corp. of Baldwin, NY, and Romerovski Brothers, Inc. of Roselle Park, NJ. Supporting shipper(s): Lightalarms Electronic Corp., 1170 Atlantic Ave., Baldwin, NY 11510; Romerovski Brothers, Inc., 450 Westfield Avenue, W. Roselle Park, NJ 07204.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 145956 (Sub-3–9TA), filed November 16, 1982. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Road, Belleair, FL 33516. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. *Blood, derivatives of blood, plasma, medical products and materials, equipment and supplies used in connection therewith,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to the facilities used by Interstate Blood Bank, Inc. and Bio-Blood Components, Inc. Supporting shippers: Interstate Blood Bank, Inc. and Bio-Blood Components, Inc., 803 Mt. Moriah, P.O. Box 17924, Memphis, TN 38117.

MC 164691 (Sub-3–1TA), filed November 16, 1982. Applicant: COMPUTER MOVERS, INC., 5034 Alberta Drive, Marietta, GA 30062. Representative: James M. Parrish, P.O. Box 1365, Marietta, GA 30061. *Duplication machines, computers, typewriters, medical instruments and photographic goods,* between Atlanta, GA, on the one hand, and on the other, points in and east of MN, IA, KS, OK and TX. Supporting shippers: There are eight (8) statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 153679 (Sub-3–7TA), filed November 17, 1982. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219. (1) *Such commodities as are dealt in or used by retail or wholesale groceries or grocery distribution warehouses* between points in TN, on the one hand, and points in the U.S., on the other, (except AK and HI), (2) *Such commodities as are dealt in or used by department stores or discount stores* between Shelby Co., TN, on the one hand, and points in the U.S., on the other, (except AK and HI). There are 8 statements of support which may be examined at the Commission's Regional Office, Atlanta, GA.

MC 153679 (Sub-3–7TA), filed November 17, 1982. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219. *Contract,* irregular: (1) *Paper products and materials, equipment and supplies used in the manufacture thereof* between points in TN, on the one hand, and points in the U.S., on the other, (except AK and HI), under a continuing contract with Rock-Tenn Company, Tullahoma, TN; (2) *such commodities as are dealt in or used by retail or wholesale groceries or grocery distribution warehouses* between points in the U.S. (except AK and HI), under a continuing contract with MFP Enterprises, Biglerville, PA. Supporting shippers: Rock-Tenn Company, 410 Wilson Blvd., Tullahoma, TN 37388; MFP Enterprises, P.O. Box K, Biglerville, PA 17307.

MC 19537 (Sub-3–3TA), filed November 17, 1982. Applicant: CLARK TRUCK LINE, 628 Carnation St., Tupelo, MS 38801. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Copper wire* from Nashville, TN to Houston, MS. Supporting shipper: Pep Industries, Inc., 1000 Pep Drive, Houston, MS 38851.

MC 163839 (Sub-3–1TA), filed November 17, 1982. Applicant: R. W. DELANEY d.b.a. R. W. DELANEY CONSTRUCTION CO., P.O. Box 264, Natchez, MS 39120. Representative: R. W. Delaney (same address as applicant). *Mercer Commodities* between points in AL, MS, LA. Supporting shippers are: B. G. Fortenberry Drilling Company, Inc., P.O. Box CC, Natchez, MS 39120; New & Hughes Drilling Company, Inc., P.O. Box 1487, Natchez, MS 39120; Fluor Supply Company, P.O. Box 926, Natchez, MS 39120; Reata Drilling Company, P.O. Box 1813, Natchez, MS 39120.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 150098 (Sub-5–3TA), filed November 15, 1982. Applicant: CHARLES OFFUTT CO., Box 5065, Bossier City, LA 71111. Representative: Charles E. Offutt (same address as above). Malt beverages and materials, supplies and equipment used in the production and distribution of malt beverages, between Bossier City, LA, and Fort Worth, TX, and San Antonio, TX. Supporting shipper: G and G Distributing Corp., Bossier City, LA.

MC 160798 (Sub-5–4TA), filed November 15, 1982. Applicant: CRYOGENIC TRANSPORTATION, INC., 825 East South Omaha Bridge Road, Council Bluffs, IA 51502. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Foodstuffs,* from Omaha, NE and its Commercial Zone to Chicago, IL, Cincinnati, OH, Grand Rapids, MI, and Indianapolis, IN. Supporting shipper: ConAgra, Inc., Omaha, NE.

MC 160880 (Sub-5–2TA), filed November 16, 1982. Applicant: DELBERT RALEY AND WILLIS REASONER d.b.a. R & R Trucking Co., Route 2, P.O. Box 224, Stigler, OK 74462. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Coal* from Pittsburg County, OK, to TX. Supporting shipper: Triple H, Sallisaw, OK.

MC 161255 (Sub-5–2TA), filed November 15, 1982. Applicant: VERNON TIPTON, 1208 West Benton, Savannah, MO 64485. Representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. *Building materials and materials used in the manufacture of building materials,* between points in OK, CO, NE, NM, IA,

WI, IN, IL, AR, MO, KS, TX, WY, SD, ND, MN and MI. Supporting shipper: Pascoe Building Systems, Wathena, KS.

MC 164086 (Sub-5–2TA), filed November 15, 1982. Applicant: VERN'S TRUCKING, INC., 6721 So. 85th Street, Omaha, NE 68127. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats and packinghouse products,* between points in the U.S. (except AK and HI. Supporting shipper: Export Traders, Inc., Kansas City, MO.

MC 164660 (Sub-5–1TA), filed November 16, 1982. Applicant: JOE D. HUBBARD D.B.A. JOE HUBBARD TRUCKING CO., 2416 Pine Burr Road, Tyler, TX 75702. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Contract:* Irregular, *Housing Components or Parts Thereof, Materials, Equipment and Supplies used in the manufacture, sale and distribution of prefabricated housing* between Whitehouse, TX on the one hand, and, on the other, points in the U.S. Restricted to shipments originating at or destined to the facilities of Geodesic Domes & Homes, Inc. Supporting shipper: Geodesic Domes & Homes, Inc., Whitehouse, TX.

MC 164686 (Sub-5–1TA), filed November 15, 1982. Applicant: DANNIE GILDER, INC., Route 1, Whitewater, MO 63785. Representative: Georgia Helderman (same address as applicant). *General Commodities (except Classes A and B Explosives),* between points in Scott Co., MO, on the one hand, and on the other, points in the U.S. Supporting Shipper: Statler Mfg., Inc. Sikeston, MO.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 164576 (Sub-6–1TA), filed November 17, 1982. Applicant: DANIEL L. VANDERHOEF, d.b.a. ALDAN TRUCKING, Fairview Rt. Box 360, Coquille, OR 97423. Representative: Joseph W. McCool, 2350 NW York, Portland, OR 97210. *Carpet and vinyl floor covering* from points in Dalton, Georgia and Florence, AL, to points in Portland and Eugene, OR, and Seattle, WA, for 270 days. Supporting shipper: Pac-West Distributors, Inc., 2350 NW York, Portland, OR 97210.

MC 164143 (Sub-6–1TA), filed November 17, 1982. Applicant: B.P., INC., 1025 S. 25th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Meat and meat byproducts and commodities used by packing houses,* between points in Maricopa County, AZ on the one hand, and, on the other, points in CA, for 270 days; an underlying ETA seeks 120 days authority. Supporting shipper: Sunland Beef Co., 651 S. 91st Ave., Tolleson, AZ 85353.

MC 158818 (Sub-6–2TA), filed November 17, 1982. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N, Billings, MT 59101. *Tree or Weed Killing Compounds (Nos. 2,4-dichlorophe noxyacetic acid and MCPA acid 2,4-methchlorophenoxyacetic)* from points in Holt, AL; Tacoma, WA, and Jacksonville, AK, to Billings, MT for 270 days. Supporting shipper: Yellowstone Valley Chemical, Inc., 1525 Lockwood Road, P.O. Box 957, Billings, MT 59103.

MC 164012 (Sub-6–1TA), filed November 16, 1982. Applicant: JOSEPH E. BURL, d.b.a. BURCO DISTRIBUTING, 2801 W. Glendale, Phoenix, AZ 85021. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Meat and meat byproducts and commodities used by packing houses,* between points in Maricopa County, AZ on the one hand, and, on the other, points in CA for 270 days; an underlying ETA seeks 120 days authority. Supporting shipper: Sunland Beef Co., 651 S. 91st Ave., Tolleson, AZ 85353.

MC 16472 (Sub-6–1TA), filed November 18, 1982. Applicant: CARL EUGENE McCALLIE, d.b.a. C & L ENTERPRISES, 450 N. Lowell, Casper, WY 82601. Representative: Carl Eugene McCallie (same address as applicant). *Crushed clay, chemical drums, building materials, and related items, bentonite, soda ash, lime, salt, reconditioned drums, sanitary supplies, drilling mud, and roofing materials,* to points in WY, NE, SD, TX, OK, CO, KS, NM, LA, AR, UT, IL, CA, IA, ND, and MT for 270 days. Supporting shipper: There are five supporting shippers. Their statements may be examined at the Regional Office listed.

MC 153108 (Sub-6–2TA), filed November 18, 1982. Applicant: CARMEN CINTRON, d.b.a. THE "CON" AFFAIR, LTD., 924 East Mooney Drive, Monterey Park, CA 91754. Representative: Same as applicant: *Contract,* irregular; *General Commodities, with usual exceptions,* from Los Angeles, CA to all points in AZ and NV for 270 days. Supporting shipper: Aaron Brothers Art Marts, Inc., 1270 South Goodrich Blvd., Commerce, CA 90022.

MC 164486 (Sub-6–1TA), filed November 18, 1982. Applicant: DEL-MAR CONSTRUCTION CO., POB 148, Milford, UT 84751. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111. *Mercer commodities* from Milford, UT to points in NV, CA, OR and ID for 270 days. ETA seeking up to 120 days authority has been filed. Supporting shipper: Phillips Petroleum Company, 8055 Tufts Avenue Parkway, Denver, CO 80237.

MC 164669 (Sub-6–1TA), filed November 18, 1982. Applicant: FLEET LINES INC., 4446 Live Oak Ave., Arcadia, CA 91006. Representative: Dwight P. Magness (same address as applicant) *Government Property other than used household goods, hazardous or secret material, sensitive weapons or munitions,* from CA to points in AZ, for 270 days.

MC 145102 (Sub-6–20TA), filed November 18, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Food products* from New Albany, IN to Denison, TX, for 270 days. Underlying ETA seeks 120 day: authority. Supporting shipper or The Pillsbury Company, Pillsbury Center, Minneapolis, MN 55402.

MC 164487 (Sub-6–1TA), filed November 19, 1982. Applicant: JAMES R. HUSBANDS, d.b.a., JAMES R. HUSBANDS CO., P.O. Box 222, Sweet Home, OR 97386. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. *Contract carrier:* irregular routes: *paper and related products,* between points in OR and WA, on the one hand, and, on the other, points in CA, TX and AR, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Superior Transportation Systems, Inc., 9450 S W Commerce Ct, Ste. 400, Wilsonville, OR 97070.

MC 153634 (Sub-6–4TA), filed November 18, 1982. Applicant: RAND E. LITTLE d.b.a., LITTLE MONTANA TRANSPORTATION, P.O. Box 3485, Bozeman, MT 59715. Representative: Rand E. Little (same address as applicant). *Contract carrier,* Irregular route: *Furniture and fixtures.* Between UT, WA, OR, CA, NV, ID, MT, WY, ND, SD, CO, AZ, NM, for the Account of La-Z-Boy Chair and Between CA, UT, CO, AZ, TX, FL, MA, for the Account of Budget Furniture Rentals for 270 days. Supporting shipper: La-Z-Boy Chair Company, Sales Division, P.O. Box 3227 Butte, MT 59702; Budget Furniture Rentals, 3340 Oceanpark Blvd., Santa Monica, CA 90405.

MC 730 (Sub-6–20TA), filed November 16, 1982. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 8004, Walnut Creek, CA 94596.

Representative: Alfred G. Krebs (same address as applicant). *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 K-Mart Corporation, for 270 days. Supporting shipper: K-Mart Corporation, 3100 W. Big Beaver Rd., Troy, MI 48084.

MC 164741 (Sub-6–1TA), filed November 18, 1982. Applicant: PRO-TRAN CARRIERS LTD., P.O. Box 4020, Innisfail, Alberta, CD T0M 1A0. Representative: Frank Layden (same as applicant). *Contract;* irregular *Butane* between South Eastern Alberta, CD, and Mandan, ND, and Billings, MT, for 270 days. Supporting shipper: Amoco Canada Petroleum Co. Ltd., 444–7th Avenue, S.W., Calgary, AB T2P 0Y2.

MC 143658 (Sub-6–2TA), filed November 18, 1982. Applicant: SIERRA TRUCKING, INC., 1490 E. Second, St., Reno, NV 89502. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702. *Chemicals and related products in package and in bulk,* between points in MT and WA, for 270 days. Applicant intends to tack with existing authority. Supporting shippers: Sierra Chemical Company, Inc., 1490 E. Second St., Reno, NV 89502; ICI Americas, Concord and Murphy Roads, Wilmington, DE 19897; Dyce Engineering, Inc., P.O. Box 30176, Billings, MT 59107.

MC 154328 (Sub-6–4TA), filed November 19, 1982. Applicant: SMOKEY POINT DISTRIBUTING, INC., P.O. Box 189, Arlington, WA 98223. Representative: Matt Berry (same as applicant). *Contract carrier,* irregular routes: *Logging Equipt, Crawler tractors, Dozers, and Road Graders.* From Everett, WA, Prentice, WI, and Zebulo, N.C. to points in WA, OR, ID, WY, CO, OK, TX, CA, UT, and MT for the account of Calkins Equipment Co. Inc. for 270 days. Supporting shipper: Calkins Equipt Co. Inc., 2807 Highland, Everett, WA. 98201.

MC 154328 (Sub-6–5TA), filed November 19, 1982. Applicant: SMOKEY POINT DISTRIBUTING, INC., P.O.B. 189, Arlington, WA 98223. Representative: (same as applicant). *Contract carrier,* irregular routes: *Cranes and related crane parts and rigging,* Between points in the U.S. for the account of Neil F. Lampson Inc. for 270 days. Supporting shipper: Neil F. Lampson Inc., P.O. Box 6510, Kennewick, WA 99336.

MC 151878 (Sub-6–5TA), filed November 17, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St. N.W., Suite 800, Washington, D.C. 20036. *Contract, irregular, General commodities* (except Classes A and B explosives and commodities in bulk), between all points in the U.S., for 270 days. Supporting shipper: System Industries, Inc., 7561 Peach Blossom Dr., Cupertino, CA.

MC 151878 (Sub-6–6TA), filed November 17, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St. N.W., Suite 800, Washington, D.C. 20036. *Contract,* irregular, *General commodities* (except Classes A and B explosives and commodities in bulk), between all points in the U.S., for 270 days. Supporting shipper: Measurex Corporation, One Results Way, Cupertino, CA 95014.

MC 142186 (Sub-6–2TA), filed November 18, 1982. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW., Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421. *Contract Carrier,* Irregular Routes: *Plastic and plastic articles,* from Morrison and Wright Counties, MN and Hampton County, SC to points CO, KY, MT, NY, OR, PA, SC, TN, VA, and WA, for 270 days Supporting shipper: T. O. Plastics, Inc., 2901 E. 78th St., Minneapolis, MN 55420.

MC 164677 (Sub-6–1TA), filed November 15, 1982. Applicant: BAILIN, INC., d.b.a. CBR ENTERPRISES, INC., POB 7591, Bend, OR 97708. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. *Malt beverages,* from Fairfield, CA and Seattle, WA to St. Helens and The Dalles, OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: St. Helens Ice and Beverage, Inc., 504 Milton Way, St. Helens, OR 97051; and Neel Distributing of Columbia Basin, 2200 W. 2nd, The Dalles, OR 97058.

MC 42487 (Sub-6–73TA), filed November 15, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. B, 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *Games or Toys,* from City of Industry, CA and Edison, NJ to points in the U.S. (except AK and HI), for 270 days. Supporting shipper(s): Mattel Toys, Division of Mattel, Inc., 5150 Rosecrans Avenue, Hawthorne, CA 90250.

MC 136605 (Sub-6–47TA), filed November 15, 1982. Applicant: DAVIS TRANSPORT, INC., P.O.B. 8129, Missoula, MT 59807. Representative: W. E. Seliski, POB 8255, Missoula, MT 59807. *Bentonite and baronite* from Crook County, WY to Monroe, Onondaga, Chemung and Greene Counties, NY for 270 days. Supporting shipper: Pennsylvania Foundry Supply and Sand Co. Inc., 6801 State Rd. Bldg. B., Philadelphia, PA 19135.

MC 164678 (Sub-6–1TA), filed November 15, 1982. Applicant: JCI CORPORATION, 1235 East Millet, Mesa, AZ 85204. Representative: Robinson & Ames, 2228 West Northern Ave., Suite B201, Phoenix, 85021. *Machinery, Paper, metals, plastics, glass, wood, foodstuffs, components and products thereof,* between points in counties of Alameda, San Mateo and Los Angeles, CA; counties of Pinal, Pima, Cochise, Greenlee and Maricopa, AZ; counties of Dona Ana, Santa Fe and Bernalillo, NM; county of Oklahoma, OK; and counties of Cameron, Hidalgo, Harris, Dallas, El Paso and Randall, TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Exchange Enterprises International, 2155 South Main St., Suite 1, Salt Lake City, UT 84115, and Southwest Shippers Association, 14416 North Coral Gables Dr., Phoenix, AZ 85023.

MC: 164675 (Sub-6–1TA), filed November 15, 1982. Applicant: L. F. JOHNSTONE, d.b.a. LEN JOHNSTONE TRUCKING, 1930 Sebastopol Road, Santa Rosa, CA 95401. Representative: Len Johnstone, 1509 Yardley St., Santa Rosa, CA 95401. *Lumber and lumber products,* from points in CA to points in OK, TX and LA, for 270 days. Supporting shipper: Preston Lumber Co., P.O.B. 216, Cloverdale, CA 95425.

MC 164676 (Sub-6–1TA), filed November 15, 1982. Applicant: BYRON McCUNE, CLARK McCUNE, SCOTT McCUNE, DARRELL McCUNE, a partnership d.b.a. McCUNE TRUCKING, 4817 Harper St., Salt Lake City, UT. Representative: Byron McCune, same address as applicant. *Contract Carrier,* Irregular routes: *Food and related products,* Between Salt Lake City, UT, and Denver, CO, for the account of Safeway Stores Inc. for 270 days. Supporting shipper: Safeway Stores Inc., 3730 W. 1820 S., Salt Lake City, UT 84104.

MC: 143503 (Sub-6–6TA), filed November 15, 1982. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 210 W. Park Avenue, Suite 1120, Oklahoma City, OK 73102. *Contract;* irregular, *new furniture and furnishings,* between points in the U.S. under continuing contracts with Reichart Furniture Company, for 270

days. Supporting shipper: Reichart Furniture Company, 1st and Hanover Streets, Martins Ferry, OH 43935.

MC: 164651 (Sub-6–1TA), filed November 15, 1982. Applicant: WALTER MOSLEY, JR. d.b.a. MOSLEY'S MOBILE HOME MOVERS, 920 N. Arizona Ave., Apt. 9, Chandler, AZ 85224. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: *mobile homes, and equipment, materials and supplies, used in the distribution and installation of mobile homes* (1) from Phoenix, AZ, to points in NM, and (2) from Chandler, AZ, to points in NM, under account in (1) with Central Homes, Inc. of Farmington, NM and in (2) with Redman Mobile Homes, Inc. of Chandler, AZ for 270 days. An underlying ETA seeks 30 days authority. Supporting shippers: Central Homes, Inc. PO Box 21, Farmington, NM 87401 and Redman Mobile Homes, Inc. 400 E. Ray Rd., Chandler, AZ.

MC 163906 (Sub-G–1TA), filed November 15, 1982. Applicant: OVERLAND AGRICULTURAL ASSOCIATION, P.O. Box 32, Commerce City, CO 80037. Representative: David Robinson, 2228 W. Northern Ave., Suite B201, Phoenix, AZ 85021. *General commodities, except hazardous materials, commodities in bulk and household goods,* between points in the Counties of Maricopa, AZ; Denver, Jefferson, Adams and Araphao, CO; Cameron and Dallas, TX; Clark and Washoe, NV, on the one hand, and, on the other hand, points in CO, AZ, WY and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Southwest Shippers Association, 14416 N. Coral Gables Dr., Phoenix, AZ 85023; Exchange Enterprises International, 2155 S. Main St., Suite 1, Salt Lake City, UT 84115.

MC 97296 (Sub-6–1TA), filed November 15, 1982. Applicant: PINAL WAREHOUSE COMPANY, INC., P.O. Box 955, Casa Grande, AZ 85222. Representative: Thomas E. Erwin (same as applicant). *General commodities* (except classes A & B—explosives) between points in AZ, for 270 days. Supporting shippers: Western Electric Co. Inc., P.O. Box 5407, Tucson, AZ 85703; Drilling Fluids of Arizona, P.O. Box 565, Casa Grande, AZ 85222.

MC 164690 (Sub-G–1TA), filed November 15, 1982. Applicant: SAFE, INC., d.b.a. SAFE EXPRESS, 2510 Channing Ave., San Jose, CA 95131. Representative: Victoria Oldverg (same as applicant). *Contract Carrier:* irregular routes: *raw and production materials related to home computer systems and related software,* between points in the U.S. for the account of Atari, Inc., for 270 days. Supporting shipper: Atari Inc., 1265 Borregas Ave., Sunnyvale, CA.

MC 164252 (Sub-6–1TA), filed November 16, 1982. Applicant: T & F TRANSPORT, 229 Riverside, Sunnyside, WA 98944. Representative: Fred Cohu (same as applicant). *Fruit Juice Concentrates and fruit juice,* between Jakima and Benton counties, WA and points in CA, for 270 days. Supporting shipper(s): Seneca Foods Corp., P.O. Box 71, Prosser, WA 99350; Valley Juice Products, 1819 W. "J" Street, Yakima, WA 98902.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–32532 Filed 11–26–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** on December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 3, 1982. 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 1160.40–1160.49. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applicants 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, preliminarly, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–298

Decided: November 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 61502 (Sub-15), filed November 12, 1982. Applicant: WM. MCCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Hwy No. 1, Elizabeth, NJ 07201. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 111413 (Sub-4), filed November 16, 1982. Applicant: EDWARD DIETIKER MOVING AND STORAGE COMPANY, 918 LaBeaume St., St. Louis, MO 63102. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW, Washington, DC 20006, 202–833–1170 Transporting *used household goods* for the account of the United States

Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 157302 (Sub-6), filed November 12, 1982. Applicant: OLD SOUTH FREIGHT SERVICE, INC., 121 West Trinity Lane, Nashville, TN 37216. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., 315 Union St., Nashville, TN 37201, 615–255–9911. Transporting, for or on behalf of the United States Goverment: *General commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161232 (Sub-1), filed November 5, 1982. Applicant: ROMANS TRANSPORTATION, INC., 2498 Ralph Ave., Louisville, KY 40216. Representative: Cecil Romans (same address as applicant), 502–448–3755. As a *broker* of *general commodities,* (except household goods), between points in the U.S.

MC 164662, filed November 9, 1982 Applicant: DON SIEWERT TRUCKING, 16420 Vasquez Canyon Rd., Canyon Country, CA 91351. Representative: Richard C. Ceilo, 2300 Camino Del Sol, Fullerton, CA 92633, 714–525–1465. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 164663, filed November 12, 1982. Applicant: CARRIER SERVICES, INC., 87 Whapley Rd., Glastonbury, CT 06033. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413–781–8205. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–260

Decided: November 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163288 (Sub-1), filed November 4, 1982. Applicant: HARMONY TRANSPORT, INC., P.O. Box 9487, Yakima, WA 98909. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164258, filed October 14, 1982. Applicant: ARTHUR W. JOSLIN, JR. & KEVIN C. McDONALD, d.b.a. KB EXPRESS, 4 Rose Garden Court, Latham, NY 12110. Representative: Arthur W. Joslin, Jr., (same address as applicant), (518) 783–0871. Transporting *shipments weighing 100 pounds or less* if transported in motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164569, filed November 4, 1982. Applicant: JOE HUDSPETH, d.b.a. JOE HUDSPETH TRUCKING, Route 2, Box 670, Prineville, OR 97754. Representative: Joe Hudspeth, (same address as applicant), (503) 447–4401. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–32530 Filed 11–26–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** of December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 1, 1982. 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 1160.40–1160.49. 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 2, (202) 275–7030.

Volume No. OP2–297

Decided: November 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 105902 (Sub-33), filed November 8, 1982. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Rd., Penn Yan, NY 14527. Representative: Russell R. Sage,

P.O. Box 11278, Alexandria, VA 22312, 703–750–1112. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Monroe, Ontario, Schuyler, Steuben, Wayne and Yates Counties, NY, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, LA, MA, ME, MD, MI, MN, MS, MO, NH, NJ, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI.

MC 110683 (Sub-202), filed November 10, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 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 W. R. Grace & Company, of New York, NY.

MC 110683 (Sub-203), filed November 10, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 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 Cotter & Company, of Chicago, IL.

MC 129903 (Sub-22), filed November 9, 1982. Applicant: EMPORIA MOTOR FREIGHT, INC., Route 5 Box, 1103, Emporia, KS 66801. 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 the U.S. (except AK and HI).

MC 143223 (Sub-7), filed November 8, 1982. Applicant: CRAWFORD HOMES, INC., North Rd., Houlton, ME 04730. Representative: Carl E. Crawford, 69 North St., Houlton, ME 04730, 207–532–3907. Transporting *modular homes and mobile homes* in initial movements in truckaway service, (1) between points in Schuylkill County, PA, on the one hand, and, on the other, points in NY, VT, CT, NH, MA, RI, ME, NJ, MD, DE and WV, under continuing contract(s) with Pine Grove Homes, of Pine Grove, PA, and (2) between points in Columbia County, PA, on the one hand, and, on the other, points in NY, VT, CT, NJ, MA, RI, ME, NJ, MD, DE and WV, under continuing contract(s) with Design Homes, of Bloomsburg, PA.

MC 157132 (Sub-1), filed November 12, 1982. Applicant: FREEDOM TRANSPORT, INC., 4521 NE, 22nd, Portland, OR 97211. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *chemicals and related products*, between points in OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159963, filed November 10, 1982. Applicant: EAST-WEST TRANSPORTATION, INC., P.O. Box 7186, High Point, NC 27264–7186. Representative: Fletcher W. Miller (same address as applicant), 919–431–3176. 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 ND, SD, NE, KS, OK, and TX.

MC 161452, filed November 12, 1982. Applicant: COWBOY TRANSPORTATION CO., 401 East 6th St., P.O. Box 215, Stillwater, OK 74076. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, 405–424–3301. Transporting *rubber products, metal products, plastic products, glass products, paper products, wood products, and fiberglass products, machinery and electronic equipment, containers and container accessories, food and related products, office supplies, paint, petroleum products, chemicals and related products,* and *such commodities* as are dealt in by leisure product dealers, between points in AR, CO, IA, IN, KS, LA, MO, NE, NM, OH, OK, TX and WI, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 162832, filed November 12, 1982. Applicant: SOUTHERN REFRIGERATED CARRIERS, INC., 1720 Central Ave., Memphis, TN 38104. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, 301–986–1410. Transporting *food and related products,* between points in Gibson, Madison, and Shelby Counties, TN, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, TN, GA, MS, TX, MO, LA, NY, OH, FL, NJ, PA, VA, NC, SC, and WV.

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–259

Decided: November 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35358 (Sub-66), filed November 8, 1982. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Dr., NE., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South Eight St., Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 79658 (Sub-35), filed November 4, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Employee Transfer Corporation, of Chicago, IL.

MC 114028 (Sub-50), filed November 8, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with IBP, Inc. of Dakota City, NE.

MC 114098 (Sub-64), filed November 8, 1982. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29731–3117. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Ste. 1203, Alexandria, VA 22304, 703–751–2441. Transporting *metal products, machinery, rubber and plastic products, lumber and wood products, chemicals and related products, clay, concrete, glass or stone products, containers, and building materials,* between points in the U.S. (except AK and HI). Applicant now holds authority to transport the above-named commodities as a contract carrier under continuing contract(s) with a number of named shippers between various points in the U.S. The purpose of this application is to convert this contract authority to common carrier authority.

Note.—Application is being filed pursuant to 49 U.S.C. 10925(e).

MC 133009 (Sub-3), filed November 5, 1982. Applicant: MOORE TRUCKING, INC., 2160 Community Blvd., Bath, PA 18014. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, 215–357–7220. Transporting *ores and minerals,* between points in Rockland County, NY, on the one hand, and, on the other, points in PA.

MC 138388 (Sub-16), filed August 6, 1982. Published initially in the **Federal Register** (Republication) on August 27, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James

A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *chemicals and related products,* between points in WI, on the one hand, and, on the other, points in IA, IN, IL, MI, MN, OH, PA, ND, SD, MO, and NE. Issuance of a certificate in this proceeding is conditioned on the coincidental cancellation of Certificate No. MC–138388 (Sub-16).

Note.—The purpose of this republication is to include IL in the territorial description.

MC 144259 (Sub-10), filed November 4, 1982. Applicant: JENNARO LINES, INC., 14625 Carmenita Rd., No. 203, Norwalk CA 90650. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 146809 (Sub-4), filed November 2, 1982. Applicant: BARRY JACOBSON, d.b.a. BARRY JACOBSON TRUCKING, South Shore Drive, Albert Lea, MN 56007. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402 (612) 333–1341. Transporting *food and related products,* between points in MN, WI, IA, NE, ND, and SD.

MC 151139 (Sub-1), filed November 4, 1982. Applicant: CELESTIAL TRANSPORT, INC., 1780 55th St., Boulder, CO 80301. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357 (303) 892-6700. Transporting *such commodities* as are dealt in by manufacturers and distributors of solar products, between points in the U.S. (except AK and HI), under continuing contract(s) with Novan Energy, Inc., of Boulder, CO.

MC 158909 (Sub-3), filed November 4, 1982. Applicant: EDWARD G. ALBERINO, JR., d.b.a. E.G.A. FOOD DISTRIBUTORS, 403 Sawmill Rd., West Haven, CT 06516. Representative: Jack L. Schiller, 111 56 76th Dr., Forest Hills, NY 11375 (212) 263–2078. Transporting (1) *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Nomaco, Inc., of Ansonia, CT and (b) Laticrete International, of Bethany, CT, and (2) *paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Simkins Industries, of New Haven, CT.

MC 158938 (Sub-3), filed November 4, 1982. Applicant: BOSWELL FARMS, INC., 403 South State St., Lamoni, IA 50140. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312 (515) 274–4985. Transporting *metal products,* between points in Clinton County, IA, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IL, IA, IN, KS, KY, LA, MI, MN, MO, MS, MT, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, VA, WV, WI, and WY.

MC 160108 (Sub-1), filed November 8, 1982. Applicant: LUTHER E. AND MINNIE MARTIN, d.b.a. MARTIN'S LEASING COMPANY, 3502 Evergreen Pkwy., Flint, MI 48503. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084, 313–649–6650. Transporting *transportation equipment,* between points in MI, OH, IN, IL, KY, MO and WI.

MC 160948, filed November 5, 1982. Applicant: ITS TRUCKING, INC., 212 Neshaminy Plaza, Street Rd. and Rte. 13, Bensalem, PA 19020. Representative: David C. Wenger (same address as applicant), 215–639–8117. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in PA, NJ, MD, DE and DC.

MC 162509, filed November 4, 1982. Applicant: TEBCO TRUCKING, INC., 9155 Petit St., P.O. Box 2373, Sepulveda, CA 91343. Representative: Milton W. Flack, 8484 Wilshire Blvd. No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *such commodities* as are dealt in by manufacturers and distributors of spas, bathtubs, hot tubs and saunas, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164558, filed November 4, 1982. Applicant: TIMOTHY B. HORNBACKER, d.b.a. HORNBACKER CONSTRUCTION, 6611 C R 47, Spencerville, IN 46788. Representative: Tara Lea Hornbacker (same address as applicant), (219) 238–4268. Transporting (1) *rubber and plastic products,* and (2) *powdered milk products,* between points in the U.S., under continuing contract(s) with Reeves Brothers, Inc., of Auburn, IN and Meadows Fresh Farms, Inc., of Salt Lake City, UT.

MC 164568, filed November 4, 1982. Applicant: RAY HARRIS, INC., 310 W. Smith St., Greensboro, NC 27401. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635–4711. Transporting *wrecked or disabled vehicles and replacement vehicles for wrecked or disabled vehicles,* between points in NC, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and TX.

MC 164579, filed November 4, 1982. Applicant: GILBERT L. JUSTICE, JR., d.b.a. JUSTICE ENTERPRISES, 772 Kings Highway, Mickleton, NJ 08056. Representative: James T. Darby, 1021 Irving Avenue, Colonial Beach, VA 22443, (804) 224–0773. Transporting (1) *scrap metal,* between points in NJ and NY, on the one hand, and, on the other, Chicago, IL, points in Laurel County, KY, Kanawha County, WV and in NC, OH, and SC, and (2) *transportation equipment and plastic and plastic products,* between Philadelphia, PA and points in NJ, on the one hand, and, on the other, points in ME, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, OH, IN, IL, MI, NC, SC, GA, FL, AL, MS, LA, KY, TX, TN, AR and MO.

MC 164599, filed November 8, 1982. Applicant: JAMES M. BAUCOM, d.b.a. BAUCOM TRUCK SERVICE, R.R. No. 2, Camp Point, IL 62320. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701 (217–544–5468). Transporting *fertilizer and anhydrous ammonia,* between points in IA, IL, and MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–32531 Filed 11–26–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 436]

Railroad Cost of Capital—1982

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file statements in notice of institution of limited revenue adequacy proceeding.

SUMMARY: In the **Federal Register** of September 2, 1982 (47 FR 38733), the due date for opening statements of railroads in this proceeding, published at 47 FR 33344, August 2, 1982, was extended 45 days to November 1, 1982. Statements of other interested parties were due 30 days thereafter and rebuttal statements by railroads were due 20 days later. A large number of non-railroad parties, by petitions dated November 9 and November 15, 1982, have requested that the due date for the submission of statements by non-railroad parties be extended to January 17, 1983. The petitions shall be granted. Additional time is necessary to compile data and information to comply with specific questions posed by the Commission in the original Notice and to address specific contentions made by the railroads in comments submitted by the Association of American Railroads.

DATES: Statements of other interested parties (non-railroad) are due January 17, 1983. Rebuttal statements by the railroads are due 20 days thereafter.

ADDRESS: Send an original and 15 copies of comments to: Office of Proceedings, Room 5355, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Ward L. Ginn, Jr. (202) 275–7489.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-32527 Filed 11-26-82; 8:45 am]

BILLING CODE 7035-01-M

LEGAL SERVICES CORPORATION

Recipient Fund Balances; Proposed Instruction

AGENCY: Legal Services Corporation.

ACTION: Proposed instruction on recipient fund balances.

SUMMARY: The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355(a), 88 Stat. 378, 42 U.S.C. 2996 et seq., as amended, Pub. L. 95–222 (December 28, 1977). Section 1008(e) of the Legal Services Corporation Act provides:

(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the **Federal Register** at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

The Legal Services Corporation hereby publishes for comment its Instruction on Recipient Fund Balances.

DATE: Comments due December 15, 1982.

FOR FURTHER INFORMATION CONTACT:
Hulett H. Askew, Acting Director, Office of Field Services, Legal Services Corporation, 733 15th Street NW., Washington, D.C. 20005, (202) 272–4080.

Clinton Lyons,

Acting President.

Instruction

I. Purpose

The purpose of this Instruction is to provide notice and direction to recipients of Legal Services Corporation funding in meeting the terms of a Special Condition regarding recipient fund balances to be placed upon 1983 grant awards. The objective is to ensure the timely allocation of Corporation funds for the effective and economical provision of high quality legal assistance to eligible clients. To that end recipients will henceforth be permitted to maintain and reprogram from year to year fund balances of no more than 10% of their Legal Services Corporation funding.

A waiver of this provision to a maximum of 25% may be obtained upon satisfactory showing of good cause by the recipient. Funds carried over in excess of 10%, or the level permitted by a specific waiver, will be set off against the succeeding year's grant award.

II. Special Condition

The Special Condition to be placed upon all 1983 annualized grant awards will provide:

Consistent with the Instruction on Recipient Fund Balances to be published by the Corporation, unexpended funds in excess of 10% of the recipient's 1982 support from the Legal Services Corporation, carried forward as a fund balance at the close of the recipient's 1982 fiscal year, shall be set off against this grant award.

A waiver of this provision to a maximum of 25% may be sought by applicant to the appropriate Regional Office within 90 days of the close of the recipient's fiscal year.

III. Definitions

A. For purposes of this instruction the term "fund balance" shall be as defined on page 2–11 of the Corporation's *Audit and Accounting Guide for Recipients and Auditors,* to wit:

Any excess of support over expenses represents, as a general policy, a fund balance to be carried over to the next period or returned to LSC if grant or contract conditions are not complied with or if funding is terminated.

B. "Support" shall be defined as the sum of: (1) The recipient's LSC fund balance, if any, carried forward from the previous period; (2) its annualized LSC grant award for the period in question; and (3) any investment income attributable to such funds.

C. The "fund balance amount" shall be determined solely by reference to the recipient's annual audit and shall be limited to LSC support (as defined in (B) above) and LSC expenses.

D. The "fund balance percentage" shall be determined by expressing the fund balance amount as a percentage of the recipient's LSC support (as defined in (B) above) for the period in question.

IV. Policy

A. In the absence of a waiver from the Corporation, any fund balance in excess of 10% shall be set off against the recipient's annualized LSC grant award for the next period by pro rata deductions from the remaining monthly allocations to the recipient.

B. After receipt and review of the recipient's annual audit, written notice regarding any such deduction shall be provided to the recipient 30 days prior to such deduction being made.

C. In no way shall any such deduction be construed to affect the annualized funding level of such recipient.

D. A waiver of the 10% ceiling may be sought where the recipient can show good cause that a higher level should be permitted. Such waivers may be granted by the Regional Officer to a maximum of 25%

V. Process

A. Not later than 90 days after the close of its fiscal year, the recipient shall determine and submit to the appropriate Regional Office of the Corporation a statement of the fund balance amount which it expects to appear in the annual audit required by section 1009(c)(1) of the Legal Services Corporation Act, as amended.

B. Should the recipient expect its audit to show a fund balance amount in excess of 10% of its Corporation support during the previous fiscal year it may, not later than 90 days after the close of its fiscal year, apply to the appropriate Regional Office for a waiver of the 10% ceiling.

Such application must specify:

(1) The fund balance amount which is expected to appear in the recipient's annual audit;

(2) The reason that such level has been maintained;

(3) The recipient's plan for the disposition or reserve of such fund balance; and,

(4) The level of fund balance projected to be carried forward to the close of the recipient's then current period.

C. The decision of the Regional Office regarding the granting of a waiver shall be guided by the satutory mandate requiring the provision of the highest quality services in the most effective and economical manner. In addition, the Regional Office shall consider:

(1) Emergencies, unusual occurrences, or other circumstances giving rise to the existence of a short-term fund balance in excess of 10%;

(2) Management decisions related to the general funding of the recipient, the dictates of professional responsibility in the jurisdiction(s) within which the recipient operates, or other factors giving rise to the need to maintain operating or contingent reserves in excess of 10%; and/or,

(3) The special needs of eligible clients in the recipient's service area giving rise to the need to extend the spend down of a recipient's excess balance into the succeeding period.

D. The decision of the Regional Office shall be communicated to recipient within 30 days of the receipt of the request for a waiver and shall set forth the level of fund balance amount in excess of 10%, which shall not be subject to the set off provision of this policy.

E. The decision of the Regional Office may be appealed to the Director of the Office of Field Services who, upon

independent inquiry and consideration of the criteria set out above, shall make the final decision.

[FR Doc. 82-32550 Filed 11-26-82; 8:45 am]
BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 116 and 113 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the TS restrictions on burning low-level contaminated oil.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendments dated February 3, 1982, as supplemented on July 23, 1982, (2) Amendments Nos. 116 and 113 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation/Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of November 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-32583 Filed 11-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-389A]

Florida Power and Light Company, et al.; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received the following additional advice, pursuant to Section 105(c) of the amended Atomic Energy Act of 1954, from the Attorney General of the United States, dated October 25, 1982, with respect to the construction permit application for the St. Lucie Nuclear Generating Station,Unit 2.

You have requested our advice pursuant to section 105(c) of the Atomic Energy Act, as amended, regarding a proposed amendment to the construction permit of the above referenced nuclear units to allow the Florida Municipal Power Agency ("FMPA") to become a co-owner of these units. FMPA will acquire an 8.806 percent ownership interest in St. Lucie, Unit 2, which will be operated by Florida Power & Light Company.

Our review of the information submitted for antitrust review purposes, as well as other information available to the Department, provides no basis at this time to conclude that the participation in St. Lucie, Unit 2 by FMPA would create or maintain a situation inconsistent with the antitrust laws. Accordingly, it is the Department's view that no antitrust hearing is necessary with respect to the proposed amendment to the construction permit.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "rules of practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed on or before December 29, 1982 either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW, Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn.: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

Argil L. Toalston,

Chief, Antitrust & Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 82-32575 Filed 11-26-82; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF STATE

Shipping Coordinating Committee; Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on December 14, 1982, at 9:30 A.M., in room 3906 (Mall), Waterside Mall, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

The purpose of the meeting is to review the outcome of the Sixth Meeting of the Ad Hoc Scientific Group on Dumping, a technical advisory group of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. Preliminary discussions will also be held on the Provisional Agenda and related documents received to date from the Secretariat for the Seventh Consultative Meeting of Contracting Parties to the Convention, to convene February 14–18, 1983, in London, England.

Members of the public may attend up to the seating capacity of the room.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Dated: November 16, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-32587 Filed 11-26-82; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Jefferson Parish, Louisiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be

prepared for a proposed highway project in Jefferson Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth A. Perret, Project Development Engineer, Federal Highway Administration, Louisiana Division, P.O. Box 3929, Baton Rouge, Louisiana 70821, Telephone: (504) 389–0466; or Mr. Vincent Pizzolato, Public Hearings and Environmental Impact Engineer, Louisiana Department of Transportation and Development, Office of Highways, P.O. Box 44245, Capitol Station, Baton Rouge, Louisiana 70804, Telephone: (504) 342–7520.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development, Office of Highways (LDOTD), intends to prepare an environmental impact statement (EIS) on a proposal to extend LA–3134 from its terminus at the south end of Wagner's Ferry Bridge southwesterly through the town of Jean Lafitte crossing Bayou Barataria and terminating at LA–301 in Barataria. The proposed facility would be a two-lane highway between 2.4 miles and 3.6 miles in length, depending upon the location. The proposed highway would provide improved access to and from Jean Lafitte and Barataria.

Alternatives under consideration include: (1) No build; (2) a controlled access facility on structure; (3) controlled access facility on embankment; and (4) upgrading LA–45 and a new bridge across Bayou Barataria between Jean Lafitte and Barataria.

There are currently no plans to hold a formal scoping meeting for the proposed action. A public hearing will be held at a convenient time and place for persons in the project area after the draft environmental impact statement has been circulated. The hearing will be announced through the local news media.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or Louisiana Department of Transportation and Development at the addresses provided above.

Issued on: November 18, 1982.

Kenneth A. Perret,

Project Development Engineer, Louisiana Division, Baton Rouge, Louisiana.

[FR Doc. 82-32417 Filed 11-26-82; 8:45 am]

BILLING CODE 4910-22-M

Office of the Secretary

Privacy Act of 1974; Proposed Notice of System of Records

The Department of Transportation cancels seven systems of records and republishes three systems of records which have had minor editorial corrections and changes.

DOT/FAA Systems 800, 802, 803, 804 and 805 are cancelled because the general air transportation records on individuals are now covered by DOT/FAA 847, previously published in February 1980.

DOT/CG is cancelled because the records of proceedings under Article 15, (Non-Judicial Punishment Report) of Uniform Code of Military Justice are no longer retained pertaining to an identifiable individual, and are not retrievable by name or Social Security Number. After the records of non-judicial punishment are computerized as statistical information, they are disposed of.

DOT/FRA 116, Work Measurement Systems records were destroyed, will no longer be maintained.

DOT/OST 100, Investigative Records Systems, DOT/FRA 104, Statement of Employment and Financial Interest, and DOT–ALL–2, Loss Management Information System (LMIS) are republished with editorial changes and corrections. LMIS contains data about internal occupational safety and health and was formerly called the "Safety Management Information System."

Any person or agency may submit written comments on the proposals to the Privacy Act Officer (M–30), Room 7109, U.S. Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590. Comments must be received by December 15, 1982, to be considered.

If no comments are received, the proposed deletions and changes will become effective on December 31, 1982. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C. on November 15, 1982.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

DOT/OST 100

SYSTEM NAME:

Investigative Record System DOT/OIG

SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Secretary (OST), Office of Inspector General (OIG), 400 7th St., S.W., Washington, D.C. 20590. OIG Regional Offices in Baltimore, MD, Atlanta, GA, Chicago, IL, Fort Worth, TX, San Francisco, CA, and Federal Records Center, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former DOT employees, DOT contractors and employees as well as grantees, DOT monies, and other individuals or incidents subject to investigation within the purview of the Inspector General Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of investigations and inquiries conducted by Inspector General (OST); reports of investigations conducted by other departmental, Federal, State and local investigative agencies which relate to the mission and function of the Inspector General; reports and indices relating to "hotline" complaints; and investigative case index card files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in the Investigative Records System is collected and maintained in the administration of the Inspector General Act of 1978 (Pub. L. 95–452) to investigate, prevent and detect fraud and abuse in departmental programs and operations. Material gathered is used for prosecutive, civil or administrative actions. These records may be disseminated, depending on jurisdiction, to:

DOT Officials in the administration of their responsibilities.

Other Federal, State, local or foreign agencies or administrations having interest or jurisdiction in the matter.

See also Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Paper records in case folders in manual filing system and on index cards.

RETRIEVABILITY:

By name or incident title.

SAFEGUARDS:

Investigative files and case index files are maintained in several spaces with appropriate access controls. Access to investigative files is restricted to authorized investigative personnel on a "need to know" basis.

RETENTION AND DISPOSAL:

Investigative material is destroyed by secure means used for classified

materials. Central OIG investigative files are maintained in OIG Headquarters, from where the files are transferred to Washington Federal Records Center (FRC) at prescribed intervals and destroyed in accordance with the following schedule:

Lead Cases. Case files and temporary contents are destroyed 90 days after transmittal of the investigative report and permanent case documents to the case control office.

Official Case Folders. Official Investigative Case Folders are maintained for a period of 2 years in OIG Headquarters upon completion of legal or administrative action and transferred to the Washington, D.C. Federal Records Center (FRC), where they are held and destroyed 15 years from the date of case origin.

Investigative and Hotline Indices. Destroyed 20 years after date of creation.

OIG Hotline Files. Transferred to FRC 2 years after completion of legal or administrative action. Destroyed 15 years from date of origin.

General Investigative and Hotline Files. Retained in OIG Headquarters and Field Offices. Destroyed when 2 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General (J–1), Department of Transportation, Office of the Secretary, 400 7th St., S.W., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Same as "System Manager."

RECORD ACCESS PROCEDURES:

Same as "System Manager." Investigative data compiled for law enforcement purposes may be exempt from the access provisions pursuant to 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). The identity of an employee or other personal source who makes a complaint or provides information to the OIG via the OIG "Hotline" complaint center may be exempt from disclosure pursuant to Section 7(b) of the Inspector General Act of 1978 (Pub. L. 95–452).

CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedure."

RECORD SOURCE CATEGORIES:

These records contain information obtained from interviews, review of records and other authorized investigative techniques.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Investigative data compiled for law enforcement purposes may be exempt from the access provisions pursuant to 5 U.S.C. 552a (j)(2), (k)(1) or (k)(2).

DOT/ALL–2

SYSTEM NAME:

Loss Management Information System (LMIS). DOT/ALL. Title refers to data concerning occupational safety and health.

SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Assistant Secretary for Administration, 400 7th St., S.W., Washington, D.C. 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Federal, Civilian/Military Employees of the Department of Transportation and DOT Real and Personal Property.

CATEGORIES OF RECORDS IN THE SYSTEM:

All DOT Occupational Safety and Health Loss Management Reporting Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Issue reports and statistical information to the U.S. Department of Labor, OSHA. Provides information for safety and health program management analysis and functions and interface with workmens compensation charges, and maintain a 5-year OSHA requirement for record retention.

General routine uses apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic Tape and Disks.

RETRIEVABILITY:

The records are retrieved by case identifying number, and can be accessed by employees who have a need for the record in the performance of their duties, primarily headquarters and regional safety program managers.

SAFEGUARDS:

The records cannot be accessed without a code name, a specific control number and a password. Regional and headquarters safety program managers have access to the records.

RETENTION AND DISPOSAL:

The records are kept 5 years then disposed of by blanking or erasing the magnetic tape or disk.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Installation and Logistics (M–60), Chief, Internal Occupational Safety and Health Branch, Department of Transportation, Office of the Secretary, 400 7th St., S.W., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Data may be provided by written request, signed by the individual whose record(s) are being requested. Direct requests to: Chief, Internal Occupational Safety and Health Branch at the above address.

RECORD ACCESS PROCEDURES:

Individuals may gain access to their records by a request to their Regional Safety Manager, Headquarters Safety Manager or the System Manager given above.

CONTESTING RECORD PROCEDURES:

If the individual is not satisfied by the safety manager within their operating element of DOT, they may contest their records with the Office of Installations and Logistics. If resolution is still not satisfactory to the individual an appeal may be filed with the Secretary of Transportation addressed to the General Counsel: Department of Transportation, Office of the Secretary, Office of the General Counsel, 400 7th Street, S.W., Washington, D.C. 20590.

RECORD SOURCE CATEGORIES:

All records are derived from reports in a format consistent with the requirements established by the guidelines of the U.S. Department of Labor.

DOT/FRA 104

SYSTEM NAME:

Statement of Employment and Financial Interest DOT/FRA.

SYSTEM LOCATION:

Department of Transportation, Federal Railroad Administration, Office of the Chief Counsel, 400 7th Street, S.W., Room 5101, fWashington, D.C. 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FRA Permanent Employees GS–13 and above, supervisors, procurement personnel, and safety inspectors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Forms on Employment and Financial Interest.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

Review of Financial Interest to Employment.

Administrative References.

See Prefatory Statement of General Routine Uses.

STORAGE:

All records are maintained on standard form in a locked file cabinet located in the Chief Counsel's Office.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Physical security consists of locked file cabinet; records provided to individuals only after physical screening.

RETENTION AND DISPOSAL:

Records are maintained until new or amended forms are received. Upon receipt of new statements old records are removed and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, 400 7th Street, S.W., Room 5101, Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Requests for information about this system should be addressed to the System Manager either in person or in writing. Prior employees must provide notarized signature or provide valid security number.

RECORD ACCESS PROCEDURES:

Access to records require the individual to contact in person or write the System Manager.

CONTESTING RECORD PROCEDURES:

Contest of a record is first through the System Manager. FRA procedures are in Appendix F to 49 CFR Part 10.

RECORD SOURCE CATEGORIES:

Information is provided by the individual on Standard Form DOT F 3700.1, Confidential Statement of Employment and Financial Interest, and Form 278, Financial Disclosure Report.

[FR Doc. 82-32469 Filed 11-26-82; 8:45 am]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

Fiscal Year 1982; Bus Call

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: UMTA Bus Call Report.

SUMMARY: On August 3, 1982, the Urban Mass Transportation Administration issued a Federal announcement entitled "Fiscal Year 1982 Bus Call." This was a program to assist potential grantees in acquiring needed standard size (i.e., 35 and 40 foot) and articulated transit buses. The program consisted of three parts: 1) Encouragement and technical assistance to grantees to advertise for buses under grants previously approved; 2) solicitation of new grant applications for additional bus equipment using Section 3 discretionary funds; 3) issuance of Letters of No Prejudice (LONP) for prospective grantees to satisfy immediate vehicle needs. This announcement is designed to report on the results of the UMTA Bus Call.

Specifics

As a result of the UMTA Bus Call, 37 mass transit systems filed grant applications for Section 3 assistance in the purchase of, cumulatively, 1,650 standard size transit buses and 285 articulated transit buses. Of this total, UMTA was able to make grant awards with fiscal year 1982 Section 3 funds to 19 transit systems for the purchase of 538 standard size transit buses and 5 articulated transit buses. The remaining grant requests will be given priority consideration as early in fiscal year 1983 as possible. In the interim, Letters of No Prejudice (LONP) will be issued to those transit systems who are able to proceed immediately with the procurement of new transit buses.

FOR FURTHER INFORMATION CONTACT: Brian Cudahy (202) 472-2440 or Appropriate UMTA Regional Administrators.

SUPPLEMENTARY INFORMATION: While one purpose of the UMTA Bus Call was to stimulate lagging orders for new transit buses, UMTA encourages grantees who have received, or who will receive, assistance under the Bus Call to exercise prudence in timing the delivery of new buses from the manufacturers. A relatively large number of bus grants have been awarded within a short period of time, all of which have requirements that bids be advertised within sixty (60) days. Grantees are encouraged to stretch out delivery dates in order to help avoid unreasonable demands on manufacturers' production facilities.

Dated: November 10, 1982.

Arthur E. Teale,

Administrator.

[FR Doc. 82-32487 Filed 11-26-82; 8:45 am]

BILLING CODE 4910-57-M

UNITED STATES INFORMATION AGENCY

Agency Form Submitted for OMB Review

AGENCY: United States Information Agency.

ACTION: Notice.

In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), USIA has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION: USIA announces a program of selective assistance, through limited grant support to private not-for-profit organizations, for programs in support of the President's International Youth Exchange Initiative. The purpose of the program is to encourage an increase in the level and quality of youth exchanges between the United States and other countries in order to strengthen a shared understanding of, and commitment to, basic democratic values.

SUMMARY OF PROPOSAL: The following summarizes the information collection proposal submitted to OMB:

(1) Number of forms submitted: One

(2) Title of form: Guidelines for the President's International Youth Exchange Initiative Project Grants

(3) Type of request: New

(4) Frequency of use: Annually

(5) Description of respondents: Businesses or other institutions

(6) Estimated number of respondents: 75

(7) Estimated total number of hours to complete the forms: 375

(8) Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Questions should be directed to John A. Johnson, Administrative Officer, Office of the International Youth Exchange Initiative, Bureau of Educational and Cultural Affairs (202) 724-9262. Comments should be directed to David Reed, OMB desk officer (202) 395-7231, within 14 days.

Mary Jane Winnett,

Clearance Officer.

[FR Doc. 82-32497 Filed 11-26-82; 8:45 am]

BILLING CODE 8230-01-M

Advisory Committee on Ethical Values; Meeting

The Advisory Committee on Ethical Values will hold its second meeting on Monday, December 6, from 10:00 a.m. to 12:00 noon in Room 600, 1750 Pennsylvania Avenue, N.W.,

Washington, D.C. The committee will be presented with guidelines for undertaking its role as advisers to the Agency and will begin discussion of issues related to its mission.

Dated: November 16, 1982.

Robert R. Reilly,

Director, Office of Private Sector Programs.

Mary Jane Winnett,

Management Assistant.

[FR Doc. 82-32499 Filed 11-26-82; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists an extension. The entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (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 fill out the form; and (8) An indication of whether section 3504(H) of P.L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 389-7316.

DATES: Comments on forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: November 22, 1982.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

(1) Office of Procurement and Supply.
(2) Application for United States Burial Flag for Burial Purposes.
(3) VA Form 00-2008.
(4) Once.
(5) Relative of the deceased veteran.
(6) 310,000 responses.
(7) 77,500 hours.
(8) Not applicable under 3504(H).

[FR Doc. 82-32537 Filed 11-26-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 229
Monday, November 29, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Monday, December 6, 1982, 9:30 a.m.–12 noon; 1:30 p.m.–4 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Briefing on Graduation of Minority Contractors From the Small Business Administration's Section 8A Program

1:30–4 p.m.:

IV. Review of the Report, *A Growing Crisis of the Eighties—Disadvantaged Women and Their Children*
V. Briefing on Obtaining Presidential Appointment Data
VI. Discussion of the 1983 Winter Planning Retreat
VII. Maryland Advisory Committee Interim Appointment
VIII. State Advisory Committee Recharter: (A) Ohio
IX. Action re: New York Advisory Committee Report entitled *Fair Housing in America, Volume V: Section 8, Housing in Buffalo and Syracuse*
X. California Advisory Committee Report Entitled *Statement on the California Initiative to Establish a Reapportionment Commission*
XI. Maryland Advisory Committee Report Entitled *School Closings in Montgomery County, Maryland*
XII. Missouri Advisory Committee Report Entitled *State and Federal Civil Rights Enforcement in Missouri—Nondiscrimination in the New Health and Human Services Block Grant Programs*
XIII. Montana Advisory Committee Report Entitled *Civil Rights in Montana: 1982*
XIV. North Dakota Advisory Committee Report Entitled *The Same Right to Purchase and Lease? A Study of Housing Discrimination in Bismarck, North Dakota*
XV. Vermont Advisory Committee Report Entitled *Stereotyping and You: A Program for Awareness and Action In Vermont*
XVI. Civil Rights Developments in the New England Region
XVII. Staff Director's Report:
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division (202) 254–6697.

[S–1720–82 Filed 11–24–82; 1:06 pm]

BILLING CODE 6335–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, November 30, 1982.

PLACE: Commission Conference Room 5200, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington D.C. 20506.

STATUS: PART WILL BE OPEN TO THE PUBLIC AND PART WILL BE CLOSED TO THE PUBLIC.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 82–9–FOIA–69–ME, concerning a request for documents contained in a closed age file.
4. Freedom of Information Act Appeal No. 82–9–FOIA–14–BI, concerning a request for materials from a charge file.
5. Proposed Contract for Computer Communications Services.
6. Interim Regulations on the Federal Sector Complaints process.
7. Recommended four additional FY 83 contracts for age discrimination charge processing.
8. Recommended FY 83 contracts for Tribal Employment Rights Ofices (TEROs).

Closed:

1. Litigation Authorization; General Counsel Recommendations
2. Proposed requisition for contract services needed in connection with a court case.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Teva McCall, Executive Secretary to the Commission at (202) 634–6748.

Issued: November 23, 1982.

[S–1721–82 Filed 11–24–82; 3:51 pm]

BILLING CODE 6570–06–M

3

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: Beginning 8:30 a.m. and adjourning 4:30 p.m., December 16, 1982

PLACE: 1400 Walnut Street, Vicksburg, Mississippi.

STATUS: Open to the public for observation but not participation.

MATTERS TO BE CONSIDERED: The Commission will consider the following project reports:

Helena, Arkansas, and vicinity Feasibility Report
Yazoo Backwater Area, Mississippi, Fish and Wildlife Mitigation Report

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris: telephone (601) 634–5776.

[S–1719–82 Filed 11–21–82; 11:48 am]

BILLING CODE 3710–GX–M

4

NATIONAL COUNCIL ON THE HANDICAPPED

DATE: December 13, 14, 15, 1982.

PLACE: Old Town Holiday Inn, 480 King Street, Old Town Alexandria, VA 22314.

STATUS: Open meeting.

AGENDA: The Council will hold its introductory session on the evening of December 13. The following day, December 14, the Council will convene at 9:00 am and adjourn at 5:00 pm with a lunch break at noon. Orientation of programs and issues of legislated concern to the Council will be the topic of presentors from the Departments of Education, Health and Human Services and Justice. The morning of the 15th will consist of committee organization and future meeting plans.

Please Note.—Any individual requiring an interpreter or other special services, please contact NCH staff no later than December 6, 1982.

CONTACT PERSON FOR MORE INFORMATION: Hilda Gay Legg, Acting Executive Director, National Council on the Handicapped; Phone (202) 245–3498.

[S–1718–82 Filed 11–24–82; 9:29 am]

BILLING CODE 4000–01–M

federal register

Monday
November 29, 1982

Part II

Department of the Interior

Minerals Management Service

How to Value Oil for Royalty Purposes From Federal and Indian Onshore and Offshore Leases; Proposed Guideline and Request for Comments

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 221 and 250

Proposed Guideline and Request for Comments on How to Value Oil for Royalty Purposes From Federal and Indian Onshore and Offshore Leases

November 22, 1982.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed guideline and request for comments.

SUMMARY: The January 1982 *Report of the Commission on Fiscal Accountability of the Nation's Energy Resources* noted that oil and gas industry representatives had voiced concern about the lack of consistency in valuation guidelines for royalty computation purposes between one U.S. Geological Survey/Conservation office (now MMS) and another. The Commission recommended that MMS issue detailed, definitive product valuation guidelines (*Report*, Internal Controls Recommendation 10, page 67). The Minerals Management Board decided that MMS should publish separate guidelines for each of the major leasable minerals. These MMS product valuation guidelines will appear in the **Federal Register** for comment and review and will be published as chapters in the Royalty Management Program *Payor Handbook*. These amended guidelines will supersede applicable parts of various Notices to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases (NTL 1, 1A, 4, 4A, 5).

This first, preliminary guideline covers the method that MMS proposes to use to value crude oil from both onshore and offshore production for royalty purposes.

DATE: Written comments on this proposed guideline must be received in Royalty Standards and Measurements, Denver Federal Center, Denver, Colorado, by 12:00 noon, m.s.t., December 29, 1982.

ADDRESSES: Comments may be mailed to Mr. William H. Feldmiller, Chief, Royalty Standards and Measurements Division, Minerals Management Service, P.O. Box 25165, Denver Federal Center, Denver, CO 80225, or delivered to Room F 211, in Building 85, Denver Federal Center.

FOR FURTHER INFORMATION CONTACT:

Mr. William H. Feldmiller, (303) 231-3184, (FTS) 326-3184, or Mr. Thomas J. Blair, (303) 231-3153, (FTS) 326-3153.

SUPPLEMENTARY INFORMATION:

I. Valuing Oil for Royalty Purposes

When a company or an individual leases U.S. Government or Indian land for oil development, that company or individual (the lessee) agrees to pay a share (royalty) of what it produces from that lease to the United States, Indian Tribe, or Indian allottee (the lessor). Royalty provisions are specified in the lease between the Federal Government or Indian Tribe and the lessee.

By law, the royalty responsibilities of the lessee are to:

1. Properly handle and protect lease production;
2. Place lease production in a marketable condition;
3. Accurately measure production and sell it at the highest price obtainable;
4. Maintain accurate records of production and sales;
5. Make timely reports on production and sales volumes; and
6. Properly value production and correctly pay royalties.

In the role of agent for the lessor, it is the responsibility of MMS to:

1. Obtain lessee reports of lease production sold and of royalties paid;
2. Collect and record royalties due from, and paid by, lessees;
3. Promptly deposit royalty payments in the U.S. Treasury, or to the account of each Indian Tribe or Indian allottee; and
4. Assure payment of the correct amount of royalty by developing and distributing royalty standards and guidelines, monitoring product value, and auditing lessee documents, reports, and payments.

The royalty received by the Federal Government, Indian Tribe, or Indian allottee does not include any expenses incurred while placing crude production in marketable condition. A royalty can be paid either: (1) As a percentage of the money that the oil is worth, or (2) as a percentage of the actual oil production (royalty-in-kind oil), or (3) as a share of the profits from the lease operation (net profits share).

The period of time between the production and the sale of crude is usually short enough so that sales reports are ordinarily accepted by MMS as the basis of payment for the royalty percentage or the net profit share. Under some conditions, however, MMS may require that the royalty be based on the value of actual monthly production, including any products stored on or near the leased lands awaiting sale.

The Royalty Management Program of MMS must assure that the Federal Government and Indian lessors receive fair market value for their oil royalty. "Fair market value" means the price that U.S. crude will bring in an open and free market as a result of negotiations between a willing and knowledgeable buyer and an equally willing and knowledgeable seller, neither of whom is under any pressure to buy or to sell—given that the product is on the open market long enough to allow all potential buyers to be aware that it is being offered for sale and that the transaction is a normal one unaffected by special financing or other considerations. "Fair market value" transactions meeting this definition are referred to as "arm's-length" transactions.

II. Computing Oil Royalties

A. Definition of Oil: For the purpose of paying royalties on Federal and Indian leases "oil" is defined as follows:

"Oil" (variously called crude oil, condensate, distillate, drip, frac oil, junk oil, load oil, petroleum, scrubber condensate, skim oil, slop oil, sump oil, tank bottoms, or waste oil) means all liquid hydrocarbons that are recovered from the leased lands without resorting to a manufacturing process. The changing of pressures and/or temperatures within a reservoir is *not* considered "manufacturing."

"Manufacturing process" here means the same as "extraction" or "processing" or "refining" or "topping." It refers to any process designed to remove liquid hydrocarbons from gases or to strip liquid hydrocarbon fractions from oil by changing pressures and/or temperatures, or by introducing other materials. A manufacturing process may include the fractionation of oil, or the absorption, adsorption, and/or refrigeration of a gas stream.

Reporting Oil Volumes: To report oil volumes for royalty purposes, corrections must be made for basic sediment, water, and other impurities. (Some crude price schedules specify that chemical additives, such as oxygenated and halogenated hydrocarbons, are impurities that make oil not saleable.) Volumes are measured in terms of barrels of clean oil of 42 standard U.S. gallons of 231 cubic inches each at 60° F. Reports are based either on meter measurements—*provided* prior approval has been obtained from the appropriate MMS official—or on tank measurements of oil level differences that are made and recorded to the nearest quarter-inch of 100-percent capacity tank tables. (If circumstances warrant, MMS can

require greater accuracy in tank measurements.) Reported API oil gravities must be corrected to 60° F.

B. Oil Valuation Methods: MMS requires that oil produced under normal operating circumstances be valued at the highest posted price for like quality production in the same field or area. That is, oil royalties must ordinarily be based on the reasonable market price received by the lessee at the wellhead, lease, unit participating area, communitization agreement boundary, or onshore sales delivery point from the sale of clean, merchantable quality production—that is, crude free of impurities and contaminants and fit for normal refinery processing.

Furthermore, oil royalties must ordinarily be based on the highest price available to the lessee under an arms-length agreement. Agreements that are non-arms-length may be acceptable to MMS if there is convincing proof that the agreement represents fair market value. If there is no arms-length agreement or if in the opinion of MMS, the lessee's selling arrangement does not appear to obtain fair market value, MMS will establish a value for royalty purposes.

If MMS has to establish a value for oil, its first basis will be comparable arms-length sales of like quality oil in the same field or area. That is, MMS will first review posted prices and arms-length spot sales. Next, MMS may consider non-arms-length contracts if they represent fair market value. Then, if there is no suitable open market comparison, MMS may have to work backwards from a fair market sales point that is downstream from the lease to establish a value at the lease. Finally, if no suitable open market comparison can be found, MMS may work backwards from the end use of the oil.

After establishing a fair market value for oil for royalty purposes, MMS sets up a price schedule for the lessee that adjusts that value for differences in API gravity and, where appropriate, in sulfur content. The lessee must then pay royalties according to this schedule. Whenever possible, MMS-established prices will be based on industry-posted prices for the same or a nearby field or area. In this way, the lessee can best know immediately of fluctuations in the market prices on which the MMS schedule is based.

Although oil royalties are generally acceptable if they are based on the highest price available to the lessee under an arms-length agreement (or any other agreement that represents fair market value), all the following factors must still be considered by MMS before it uses any value for royalty computation purposes:

1. The price received by the lessee;
2. The highest price paid for some or all of a like quality oil in the same field or area;
3. Other prices available to the lessee;
4. Efforts made by the lessee to obtain a higher price;
5. Posted prices; and
6. Other relevant matters, including circumstances unique to a particular lease operation, general market conditions, fluctuations in supply and demand, saleability of certain types of oil, and the reasonable cost to a lessee of transporting lease production to the nearest available market outlet.

Note: Condensate, whether recovered at pipeline "drips" or at mechanical "scrubbers" at gas processing plants, is valued at 100 percent of volume—the same quantity as if recovered on the lease.

C. Royalty Computations/Gross Proceeds: "Gross proceeds" means the total money paid to the lessee according to the established open market price plus any additional money paid as a consideration for the purchase of the oil, less any approved allowances. "Gross proceeds" also includes, but is not limited to, tax reimbursements and payments to the lessee for certain services, such as measuring and/or field gathering. *Under no circumstances can royalty be accepted on less than the gross proceeds that a lessee receives from the sale of lease production.*

III. Typical Oil Valuation Problems

1. Question: I get a reimbursement from my purchaser for state severance taxes. Must I add this to my sales price to establish a "gross" value for royalty purposes?

Answer: No reimbursements should be added to the sales price. The sales price you use to pay royalty must be the fair market value without any addition for reimbursements or subtraction for approved allowances.

Note: ALL tax reimbursements are subject to royalty payment. Report a tax reimbursement as a separate line item of Form 9–2014 and identify it by Transaction Code 14 (Tax Reimbursement).

2. Question: Will MMS accept an oil price reduction to help me pay transportation costs?

Answer: Nothing is to be subtracted from the sales price. The price used to compute royalty due must *always* be the fair market value of the oil, without deductions.

Note: Under some circumstances, however, a lessee may apply to MMS to deduct a transportation allowance. If MMS approves such an allowance, the lessee reports the deduction as a separate line item on Form 9–2014 (Transaction Code 11) and takes it as a credit from the total royalties due.

3. Question: Will MMS lower its oil value for royalty purposes if a lessee can prove economic hardship?

Answer: The oil value itself is not to be lowered. It must always represent fair market value.

However, you may apply for a royalty reduction. Under certain circumstances the Secretary of the Interior can approve an application for reduction of a Federal lease royalty rate. You can then deduct any approved reduction from the royalty or net profits share percentage, but not from the oil value.

Note: Royalty rate reductions on an Indian Tribal Lease must be negotiated with that Indian Tribe. For an Indian Allotted Lease, royalty rate reduction requests must be submitted to the appropriate office of the Bureau of Indian Affairs.

4. Question: Company A holds a 50 percent royalty interest in Example Lease No. 2X. It sells its share of oil production under a contract which reads "Price: Example 3Z's posting plus 40¢ per barrel to recompense seller for costs and risks of transporting said crude oil to onshore delivery point." Is the 40¢ to be added to the price when Company A reports and pays royalty?

Answer: No. Company A must report the oil value and the transportation reimbursement separately. Company A should use 3Z's posting as the value for computing royalty due. The 40¢ per barrel reimbursement for transportation is part of Company A's gross proceeds on which royalties are due. Company A should report it as a separate line item on Form 9–2014 (Transaction Code 13) and pay royalty thereon.

5. Question: Company B has the other 50 percent royalty interest in Lease No. 2X. It sells its 50 percent share of oil production at the same 3Z posting and at the same onshore delivery point, but without a 40¢ per barrel transportation reimbursement. Should Company B pay royalty on 3Z's posting plus 40¢, the same as Company A?

Answer: Yes. Company B is obligated by its lease with the Federal Government to get the highest price available. The highest fair market value for oil from Lease No. 2X appears to be 3Z's posting plus 40¢. MMS expects Company B to have contracted for the 40¢ reimbursement unless a very convincing reason to the contrary has been presented *and* approved.

6. Question: How do I value "pump" oil?

Answer: You don't. You pay no royalty on oil that is used for production

operations on the same lease or unit area.

Royalty will be due when lease production is ready for market.

7. Question: Must I pay royalty if I take oil from one of my Federal (or Indian leases) to use as "pump" oil on another of my Federal or Indian leases?

Answer: Yes. You must pay royalty when you move oil from the lease (or unit area) where it is produced. Any such oil is valued in the same manner as oil sold from the lease.

8. Question: I purchased oil from one of my Federal leases to use as load oil on one of my State leases. It was several months before I recovered the load oil. In the meantime there was a price increase. The load oil was eventually sold at a higher price than I had used to compute the royalty payment. Do I now owe the Federal Government more royalty money?

Answer: No. If you paid royalty on the fair market value of the oil at the time you sold it from your Federal lease, you do not owe any additional royalty.

9. Question: Do I pay royalty on oil that is used as "frac" or load oil when it is produced from, and used for, well treatment on the same lease?

Answer: Yes. You must pay royalty on "frac" or load oil whether it is used on the same lease or on another. It must be valued *as if it had been sold from the lease* at the time it was taken for "frac" or load oil use.

But it is possible to recover most, if not all, of these royalty payments. If you *promptly* report the recovery and sale of oil from the treated well (by that MMS means that the *first* oil recovered from the well is considered the "frac" or load oil and is so reported) you may recover whichever has the lesser value:

1. The royalty you paid on what was used as "frac" or load oil; or

2. The price you get for the volume of "first" recovered oil which equals the volume of oil you used in the well treatment.

Note: In other words, recovered "frac" or load oil is valued for royalty purposes at the price for which recovered oil is sold.

10. Question: Do I still pay royalty if the load oil is not from the same lease but is instead a heavy crude that I bought elsewhere (in the private sector) and brought in to use in treating the Federal (or Indian) well? That is, may I claim an exemption from royalty payment for this load oil?

Answer: No royalty is due on that load oil you brought to the lease because it was not produced there.

Also you may claim an exemption from royalty payment on either the first oil you recover up to the value you paid for the load oil *or* until you recover a volume of oil equal to the volume of load oil you used. (This oil must be valued at the price for which you sell the recovered oil from the treated well. If the value of the recovered load oil is less than what you paid for the load or treatment oil, you must absorb the loss). See Answer No. 9.

Note: MMS must approve the amount and value of equivalent load oil for which you request an exemption.

11. Question: Does this mean that I must absorb a loss if I buy condensate for well treatment and subsequently recover an equal volume of less valuable oil?

Answer: Yes. You can only recover value on the condensate as explained above in Answer No. 9. If your claim for credit against royalties is less than the cost of the load oil, the loss is yours.

12. Question: How do I value royalty oil that the Government takes "in kind" as my royalty payment—and offers for sale to eligible refiners?

Answer: Report the value of royalty-in-kind oil at the same posted price for which you sell your share of the production. (Do *not* pay royalty money on this RIK oil because you are already paying the royalty in oil *instead of* in value).

Note: If there is no posted price, MMS will establish a value for royalty purposes in the manner previously described in Part B of this Notice.

Report royalty oil as a separate line item on Form 9–2014, using Transaction Code 06 (Royalty In Kind) and Payment Code 04 (Amount of Royalty In Kind). MMS will use that reported value in preparing a billing to any eligible refiner who contracts to buy royalty oil.

13. Question: MMS regulations state that one of the things considered when valuing oil is "the highest price paid for a part of or for a majority of like quality oil in the same field or area." What do you mean by "field"? By "area"? By "like quality" oil?

Answer: "Field" means a geographic area situated over one or more underground oil reservoirs. Specifically, the outermost boundaries of a field encompass at least the boundaries of all underground oil reservoirs vertically projected to the land surface.

Note: Onshore fields are given names and their official boundaries are designated by state oil regulatory agencies; offshore fields are named and their boundaries are designated by MMS.

"Area" means a geologic trend, basin, or province and may contain a number of fields and may extend beyond state lines. Area boundaries are not officially designated, and the areas are not necessarily named.

"Like quality" means near-identical oils. MMS will match the chemical and physical characteristics and the refinery processing methods of oils as closely as possible and look for the closest posted price in the same or nearest field or area.

14. Question: What is a posted price?

Answer: Posted price means the same thing as "posted field price" and is the publicly announced price that a crude buyer will pay for like quality oil from the specific field(s) or at the specific onshore terminal(s) listed in the announcement.

15. Question: If MMS establishes a fair market value for oil, how will it adjust for sulfur content and API gravity differences?

Answer: MMS tries to find a posted price schedule for like quality oil in the same field or area when it has to establish the value for oil. Those schedules also post sulfur content (sour or sweet crude oil) and contain adjustments for API gravity. Thus, whenever MMS can adopt a posted price as a fair market value base, the existing adjustments for sulfur content and API gravity will automatically apply. Otherwise, MMS will develop a price schedule with adjustments for sulfur content and API gravity.

16. Question: Sometimes there are two postings in our field for the same quality oil, and one is higher than the other. Suppose I sell my production at the lower posting. For royalty purposes do I have to value my oil at the higher posting?

Answer: Most likely. However, it depends on the situation. Before accepting any oil value for royalty purposes, MMS considers these specifics on a case-by-case basis:

1. The price actually received by you as lessee;

2. The highest price paid for some or all of a like quality crude in the same field or area (the highest posting);

3. Other prices available to you as the lessee—if any;

4. Reasonable efforts made by you, the lessee, to obtain a higher price, including a statement describing your attempts to get the higher posting;

5. Posted price schedules; and

6. Other relevant matters, including the reason you sold your oil at the lower posted price.

Note: Without knowing the specifics of a particular case, this question can only be answered generally. However, unless there is convincing evidence to support your acceptance of the lower posting, MMS would

probably require that you pay royalty on the higher posting.

17. Question: When there is more than one lessee on a lease does MMS establish different fair market values for each co-lessee or are values established for the lease as a whole?

Answer: That depends. Co-lessees may represent undivided interests in a lease or they may hold ownership in separate reservoirs producing different quality oils under the same lease. MMS must look at the value attached to each individual selling arrangement reported on Form 9–2014. Identical oil from the same lease will probably be valued identically.

Note: MMS will review each selling arrangement according to the criteria listed above in Answers 13 and 16 before making a determination.

18. Question: My purchaser does not specify the sales price until after the month of production. I receive the actual sales price too late to report it on time on Form 9–2014. How should I value my oil for royalty purposes?

Answer: This is basically a problem in reporting, not in valuing oil, because you do eventually find out the actual sales price. We recommend that you estimate the value when you first report and pay your production on Form 9–2014, then adjust it later. Your estimate and accompanying payment should be as accurate as possible to avoid possible late payment penalties.

19. Question: I produce condensate from my gas well. Only one purchaser is willing to buy it. He has offered $23 per barrel. Another purchaser in the same area pays $30 per barrel for larger amounts but says that he doesn't want to bother with my small amount of oil. If I have to take the $23 per barrel, will MMS accept the $23 as value for royalty purposes?

Answer: MMS needs more information to answer before answering "yes" or "no". For instance: Is the $30 per barrel the highest price paid for similar quality condensate in your field or area? Are any other prices available to you? What efforts have you made to get the higher price?

Who have you gone to? What did they tell you? What are the posted prices for condensate of your quality in your field or area? Are there other factors MMS should know? *Example:* Is the large purchaser a common carrier pipeline with an obligation to purchase oil from all?

20. Question: The oil I produce is low gravity, sour crude. Only one buyer has a $23 per barrel posting for sour crude in my field. But this buyer isn't interested in buying my oil. However, another buyer has offered to buy my oil and combine it with a large volume of high gravity sweet crude. But this second buyer will only pay $17 a barrel. Will MMS accept $17 per barrel as fair market value for royalty purposes?

Answer: Again, MMS needs more information about your attempts to get the prevailing market price before it can determine fair market value for royalty purposes. That information is reviewed in Answer 19.

21. Question: My lease produces both a low API gravity oil (low priced oil) and condensate (high priced oil). Do I value them separately? What if they are mixed and then sold?

Answer: As a lessee you are obligated to get the highest price possible for your lease production. If you can get a better price by selling the high and low API gravity oil separately, then you must value the production separately. If you can get more by mixing (commingling) the oils, then you value the oil mixture for royalty purposes.

Note: Any commingling of oil from different reservoirs must first be approved by MMS.

22. Question: What recourse do I have—what can I do—if MMS sets a value for royalty purposes that is higher than the value I actually get?

Answer: In sequence, there are four things you can do:

1. You can take reasonable steps to receive the higher value.

2. If you can't get the higher value, you can appeal to MMS to accept the price you are getting because it reflects fair market value.

3. If MMS rules against you, you may appeal to the Department of the Interior Board of Land Appeals.

4. If that fails, you may take your case to the Federal courts.

List of Subjects in 30 CFR Parts 221 and 250

Crude oil valuation, Fair market value, Mineral royalties, Petroleum price regulations, Royalty-in-kind oil.

Dated: November 22, 1982.

Robert E. Boldt,

Associate Director for Royalty Management, Minerals Management Service.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 28, 1982