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Friday
December 10, 1982

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Animal Drugs

Food and Drug Administration

Authority Delegations (Government Agencies)

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Classified Information

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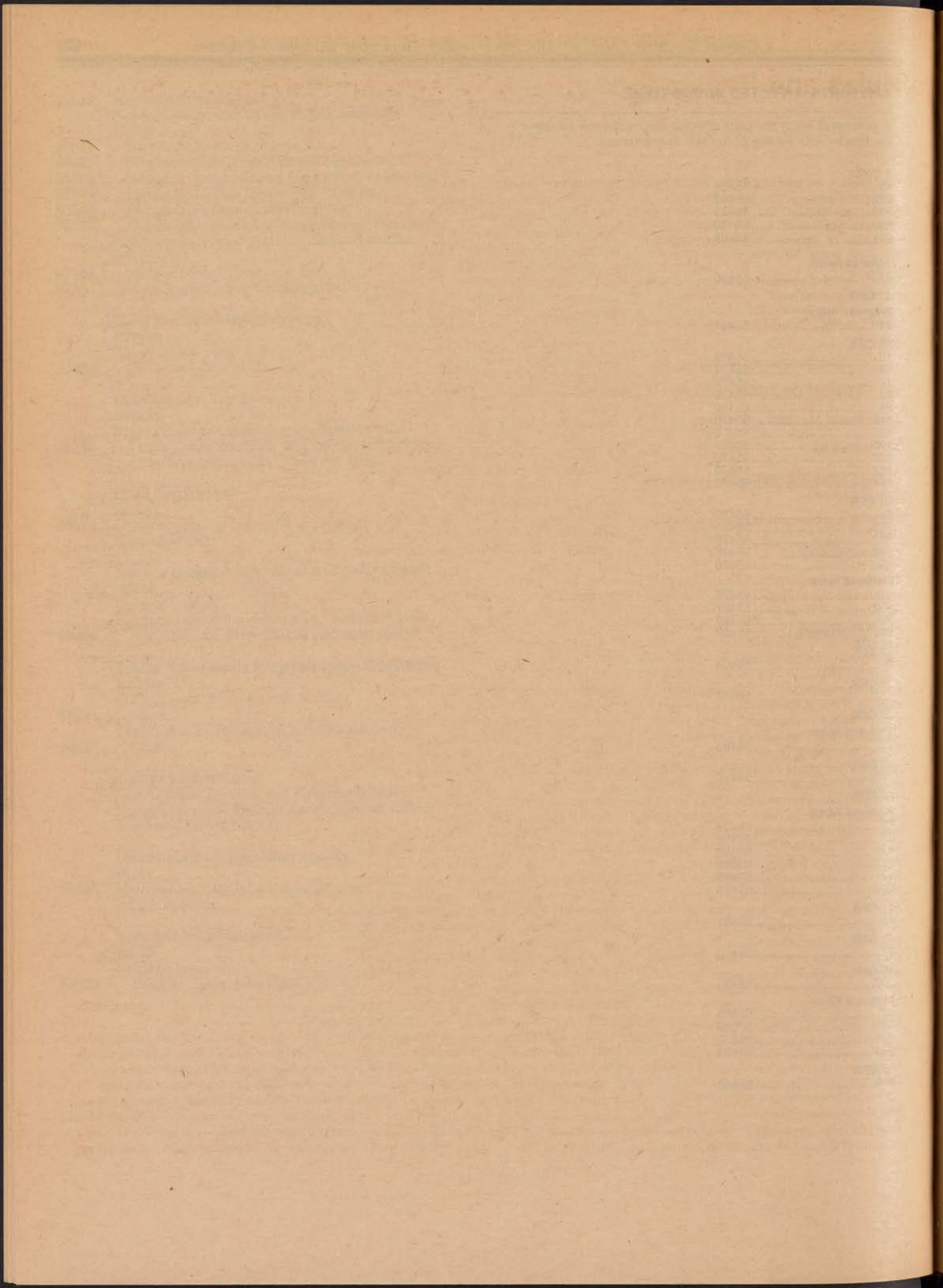
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Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Orange Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Orange Juice. The final rule was developed by the United States Department of Agriculture (USDA) at the request of segments of the citrus industry. This rule revises the voluntary grade standards to: (1) Include grade standards for reduced acid frozen concentrated orange juice; (2) combine all orange juice standards into a single format with easy-to-read tables; (3) replace dual grade nomenclature with single letter grade designations; (4) raise the maximum Brix value/acid ratio requirement for "Grade A" concentrated orange juice for manufacturing and for "Grade A" canned concentrated orange juice; (5) allow for optional use of electronic colorimetry to provide objective measurement of color of reduced acid frozen concentrated orange juice; and (6) incorporate minor editorial changes that promote better understanding and uniformity. Its effect will be to improve the standards and promote orderly and efficient marketing of orange juice.

EFFECTIVE DATE: January 10, 1983.

Note.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

FOR FURTHER INFORMATION CONTACT: Paul Jennings, Processed Products Branch, Fruit and Vegetable Division,

Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-6247.

SUPPLEMENTARY INFORMATION: This rule has been revised under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of \$100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations; or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Eddie F. Kimbrell, Deputy Administrator, Commodity Services, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The effective dates for the current voluntary grade standards are: canned orange juice, July 1, 1969; frozen concentrated orange juice, September 21, 1968; concentrated orange juice for manufacturing, November 17, 1964; canned concentrated orange juice, September 21, 1968; dehydrated orange juice, September 21, 1968; pasteurized orange juice, July 1, 1969; orange juice from concentrate, July 1, 1969.

The USDA was petitioned by segments of the citrus industry to revise the grade standards for orange juice and include grade standards for reduced acid frozen concentrated orange juice.

The Food and Drug Administration (FDA) established on February 26, 1980 (45 FR 12414) to become effective July 1, 1981, Standards of Identity for Reduced Acid Frozen Concentrated Orange Juice. This action was based on a petition by the Coca-Cola Company, Foods Division, P.O. Box 2079, Houston, Texas 77001.

Currently, there are no voluntary USDA grade standards for reduced acid frozen concentrated orange juice. This final rule includes requirements for grades of reduced acid frozen concentrated orange juice.

Reducing the acid of orange juice changes the flavor just as the flavor of

orange juice is changed when a nutritive sweetener is added. In both cases the ratio of the solids to acid has increased, resulting in a sweeter tasting juice.

The acidity of orange juice is reduced by anionic (negatively charged ions) exchange resins. A technically complex process, ion exchange depends upon the naturally occurring potassium content of orange juice. As the electrical charge is exchanged between potassium ions (positive charge) and other chemical components of orange juice, the acidity is reduced. Nutritive carbohydrate sweeteners may not be used since sugar would accomplish essentially the same process as the ion exchange—increase the ratio between Brix value and acid—but would be deceiving to the consumer who bought reduced acid orange juice under the premise of "no sugar added."

The term "acid" is used to express the percent, by weight, of anhydrous (free from water) citric acid. The method used to test for acidity is visual color change, or an equivalent value on a potentiometer, reached when the acidity is neutralized by a basic (sodium hydroxide) solution. The accuracy of the test for acidity is important because the ratio of Brix value to acid is a parameter of the minimum FDA Standards of Identity for Reduced Acid Frozen Concentrated Orange Juice.

The current voluntary grade standards for canned orange juice, frozen concentrated orange juice, concentrated orange juice for manufacturing, canned concentrated orange juice, dehydrated orange juice, pasteurized orange juice, and orange juice from concentrate contain narrative content that is common to all these grade standards. Much of the narrative content is eliminated by having a common format with easy-to-read tables. The reduced acid frozen concentrated orange juice standards are included in the tables.

The standards are updated to replace dual grade nomenclature (U.S. Grade A or U.S. Fancy; U.S. Grade B or U.S. Choice) with single letter grade designations (U.S. Grade A; U.S. Grade B).

Most of the concentrated orange juice for manufacturing (OM) is blended with other concentrated orange juices to produce frozen concentrated orange juice (FCOJ) or to produce orange juice from concentrate. When producing these products, the processor is able to blend high ratio (Brix value/acid ratio) juices

and low ratio juices to produce a product within the ratio requirements outlined in the grade standards for: (1) FCOJ or (2) orange juice from concentrate.

Since the end product would be within the existing requirements, the maximum ratio requirement for "Grade A" OM is raised from 20.0:1 to 24.0:1. The other ratio requirements are not changed from the requirements of the existing standards.

The maximum ratio requirement for "Grade A" canned concentrated orange juice is raised from 18.0:1 to 20.0:1. This change brings the ratio requirements for canned concentrated orange juice more in line with the ratio requirements for FCOJ.

Minimum color criteria have been established in the U.S. Standards for Grades of Orange Juice, government purchase specifications, and frozen concentrated orange juice traded under the Commodities Exchange Act. To provide objective color measurement of orange juice, electronic colorimetry may be used to establish the quality grade. Under this revision of the U.S. standards, electronic colorimetry may be used to objectively measure the color of reduced acid frozen concentrated orange juice. An inexpensive plastic color comparator is also available, from a USDA licensed supplier, to determine the color of orange juice. Since the pricing structure of orange juice is determined, in part, by its color an objective method of measurement of color is desirable.

On September 11, 1981, a proposed rule, revising the current orange juice grade standards, was published in the *Federal Register* (46 FR 45357). Comments could be filed until July 30, 1982. The USDA was petitioned by the Florida Citrus Processors Association (FCPA) to extend the comment period. On July 29, 1982, an extension of comment period was published in the *Federal Register* (47 FR 32724). Under the extension, comments could be filed until September 30, 1982.

FCPA, Florida Citrus Mutual, and the Florida Department of Citrus combined their comments and submitted them jointly. They requested that the term Brix be used when the product is canned orange juice, pasteurized orange juice, dehydrated orange juice (reconstituted), or orange juice from concentrate. They requested that the term Brix value be used when the product is frozen concentrated orange juice, reduced acid frozen concentrated orange juice, concentrated orange juice for manufacturing, or canned concentrated orange juice. They also asked that some minor editorial changes be made in the

definitions of Brix and Brix-acid ratio. They asked that a definition be added for Brix value and Brix value-acid ratio. Since these terms are commonly used in the citrus industry, the USDA agrees with these changes.

Another request was that flavor be "very good" for Grade A classification and "good" for Grade B classification in all orange juice products; also, that flavor be evaluated based upon characteristics normal to each type of product. They requested a definition for "very good flavor" and the deletion of the term and definition for "reasonably good flavor." The currently effective standards require "very good flavor" for Grade A in most orange juice products. By making this a requirement for all the orange juice products, the standards will be more uniform. Therefore, the USDA agrees with the recommendation and the change is reflected in this final rule.

Another request was that for all sweetened orange juice, there be established a minimum soluble orange solids requirement. This would assure adequate orange solids in the finished product. The USDA agrees with the recommendation and this final rule establishes a minimum soluble orange solids requirement for all sweetened orange juice.

They also requested that, for grading purposes, the reconstituted Brix for concentrated orange juice for manufacturing and dehydrated orange juice be 11.8°. Since this would promote uniformity, the USDA concurs and the revised standards reflect the change.

They requested that the standards for dehydrated orange juice follow, where practicable, the standards for orange juice from concentrate. Since dehydrated orange juice is reconstituted before use, the USDA agrees that the requirements should be similar and similar requirements have been established in this final rule.

Several editorial changes were requested and the USDA has incorporated these changes in this final rule. They requested that temperature correction charts, acid correction charts, FDA standards of identity, and inspection aids be made part of the standards. The USDA has determined that this material is useful, but since the USDA has no control over changes in some of this material, the industry would be better served by having this material in a separate volume. This material is available in the official USDA citrus handbook, so the USDA has concluded that it should not be included in this final rule.

The only other comments came from Sunkist Citrus Growers of California and Arizona. They were in agreement

with most of the proposal, but did oppose increasing the maximum ratio requirement for concentrated orange juice for manufacturing. The proposal increased the maximum ratio requirement for "Grade A" from 20.0:1 to 24.0:1. They commented, "Valencia oranges from the California/Arizona region will yield a high ratio juice (over 20:1) when they are over mature, and the flavor of that juice is not good. Accordingly, high ratio juice should not be considered to be Grade A."

The USDA has determined that since the ratio requirement is an analytical requirement and flavor is graded organoleptically, without restrictions of analytical requirements, juice that is not of high flavor quality will fail the quality criteria of the grade standards. USDA has determined that raising the maximum ratio requirement for concentrated orange juice for manufacturing will not result in poor flavor juice being graded "Grade A".

After review of the comments received and in order to promote the orderly marketing of orange juice, USDA hereby revises the grade standards for orange juice to: (1) Include grade standards for reduced acid frozen concentrated orange juice; (2) combine all orange juice standards into a single format with easy-to-read tables; (3) replace dual grade nomenclature with single letter designations; (4) raise the maximum Brix value/acid ratio requirement for "Grade A" concentrated orange juice for manufacturing and for "Grade A" canned concentrated orange juice; (5) allow for optional use of electronic colorimetry to provide objective measurement of color of reduced acid frozen concentrated orange juice; and (6) incorporate minor editorial changes that promote better understanding and uniformity.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, 7 CFR Part 52 is amended as set forth below:

Subpart—United States Standards for Grades of Frozen Concentrated Orange Juice [Reserved]

1. Subpart—United States Standards for Grades of Frozen Concentrated Orange juice (7 CFR 52.1581–52.1592) is removed and reserved.

Subpart—United States Standards for Grades of Concentrated Orange Juice for Manufacturing [Reserved]

2. Subpart—United States Standards for Grades of Concentrated Orange Juice for Manufacturing (7 CFR 52.2221–52.2231) is removed and reserved.

Subpart—United States Standards for Grades of Canned Concentrated Orange Juice [Reserved]

3. Subpart—United States Standards for Grades of Canned Concentrated Orange Juice (7 CFR 52.2251–52.2262) is removed and reserved.

Subpart—United States Standards for Grades of Dehydrated Orange Juice [Reserved]

4. Subpart—United States Standards for Grades of Dehydrated Orange Juice (7 CFR 52.2981–52.2991) is removed and reserved.

Subpart—United States Standards for Grades of Pasteurized Orange Juice [Reserved]

5. Subpart—United States Standards for Grades of Pasteurized Orange Juice (7 CFR 52.5641–52.5652) is removed and reserved.

Subpart—United States Standards for Grades of Orange Juice from Concentrate [Reserved]

6. Subpart—United States Standards for Grades of Orange Juice From Concentrate (7 CFR 52.5681–52.5692) is removed and reserved.

7. The title of Subpart—United States Standards for Grades of Canned Orange Juice (7 CFR Part 52) is revised to read "Subpart—United States Standards for Grades of Orange Juice" and the sections thereunder (7 CFR 52.1551–52.1559) are revised to read as follows:

Subpart—United States Standards for Grades of Orange Juice

Sec.	
52.1551	Product description.
52.1552	Styles.
52.1553	Definitions of terms.
52.1554	Recommended sample unit size.
52.1555	Grades.
52.1556	Factors of quality and analysis.
52.1557	Requirements for grades.
52.1558	Sample size.
52.1559	Lot requirements.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

§ 52.1551 Product description.

(a) For the purpose of these standards the following products are represented as defined in the Standards of Identity

issued under the Federal Food, Drug, and Cosmetic Act.

(1) "Pasteurized orange juice" (21 CFR 146.140).

(2) "Canned orange juice" (21 CFR 146.141).

(3) "Orange juice from concentrate" (21 CFR 146.145).

(4) "Frozen concentrated orange juice" (21 CFR 146.146).

(5) "Reduced acid frozen concentrated orange juice" (21 CFR 146.148).

(6) "Canned concentrated orange juice" (21 CFR 146.150).

(7) "Concentrated orange juice for manufacturing" (21 CFR 146.153 and 21 CFR 146.154).

(b) For the purpose of these standards the following product is not defined in the Standards of Identity issued under the Federal Food, Drug, and Cosmetic Act. The product is defined as follows: "Dehydrated orange juice" is the product made from any of the products listed in paragraph (a) of this section. Optional functional ingredient(s) permissible under the Federal Food, Drug, and Cosmetic Act may be used. The dehydrated orange juice is reduced to a suitable moisture content necessary for preservation.

§ 52.1552 Styles.

(a) Unsweetened.

(b) Sweetened (not applicable to reduced acid frozen concentrated orange juice).

§ 52.1553 Definitions of terms.

In these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Acid* means the percent, by weight, of total acidity (calculated as anhydrous citric acid).

(b) *Appearance* means the physical properties of orange juice which are evaluated by the human eye.

(c) *Brix* means the total soluble solids as determined when tested with a Brix hydrometer and applying the applicable temperature correction. The Brix may be determined by any other method that gives equivalent results.

(d) *Brix/acid ratio* means the ratio of the degrees Brix of the juice to the grams of anhydrous citric acid per 100 grams of the juice.

(e) *Brix value* means the refractometric sucrose value determined in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" and to which the applicable correction for acid is added. The Brix value is determined in accordance with the refractometric method outlined in the "Official Methods of Analysis of the

Association of Official Analytical Chemists."

(f) *Brix value/acid ratio* means the ratio of the Brix value of the concentrate, in degrees Brix, to the grams of anhydrous citric acid per 100 grams of concentrate.

(g) *Coagulation* means curdling of orange juice.

(h) *Color*. The color of the orange juice is evaluated by comparing the color of the juice with the USDA orange juice Color Standards as points of reference.

(i) *Color standards* means the official USDA Orange Juice Color Standards. The availability and procedure for using the color standards may be obtained from: Chief, Processed Products Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250.

Any device approved by the USDA which gives values equivalent to the USDA Color Standards may be used.

(j) *Defects* means juice cells, pulp, seeds or portions of seeds, specks, particles of membrane, core, peel, or any other distinctive features that adversely affect the appearance or drinking quality of the orange juice.

(1) *Practically free from defects* means defects in excess of that normally expected in orange juice are not present.

(2) *Reasonably free from defects* means the presence of defects does not seriously affect the appearance or drinking quality of the orange juice.

(k) *Flavor*. The flavor is evaluated based upon characteristics normal to each type of product.

(1) *Very good flavor* means that the flavor is fine, distinct, and substantially typical of orange juice extracted from fresh mature sweet oranges and is free from off flavors of any kind.

(2) *Good flavor* means the flavor is similar to the flavor of juice extracted from fresh mature sweet oranges. The orange juice may be slightly affected by processing, packaging, or storage conditions.

(3) *Poor flavor* means orange juice that fails the requirements for "good flavor."

(m) *Reconstituted juice* means the product obtained by thoroughly mixing the concentrate with the amount of water prescribed on the label or other appropriate directions.

(n) *Reconstitutes properly* means that, upon mixing with water, the concentrate dissolves readily and has no material coagulation or separation.

(o) *Recoverable oil* means the volume of oil that may be recovered from orange juice as determined by the "Methods of Analysis of the Association of Official Analytical Chemists."

(p) *Sample unit* means a portion of orange juice selected for grading.

(q) *Separation* means that the lighter suspended material rises and heavier suspended material sinks resulting in a zone of clear or transparent liquid.

§ 52.1554 Recommended sample unit size.

The requirements for all factors of quality are based on the following:

- (a) The entire contents of a container;
- (b) A representative portion of the contents of a container;
- (c) Combination of the contents of two or more containers; or
- (d) A portion of unpacked product.

§ 52.1555 Grades.

(a) *U.S. Grade A* is the quality of orange juice that meets the applicable requirements of Tables I-VIII;

(b) *U.S. Grade B* is the quality of orange juice that meets the applicable requirements of Tables I-VIII;

(c) *Substandard* is the quality of orange juice that fails to meet the requirements for "Grade B."

§ 52.1556 Factors of quality and analysis.

The grade of a lot of product is based on observation and analysis of the orange juice for the following applicable quality and analytical factors:

(a) *Quality:*

- (1) Appearance;
- (2) Coagulation;
- (3) Color;
- (4) Defects;
- (5) Flavor;
- (6) Reconstitution;
- (7) Separation; and
- (8) Total score points.

(b) *Analytical:*

- (1) Acid;
- (2) Brix measurement or Brix value measurement;
- (3) Brix/acid ratio or Brix value/acid ratio; and
- (4) Recoverable oil.

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§ 52.1557 Requirements for grades.

Table I - Canned Orange Juice

Factors Quality:	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Coagulation.	None.		Slight.	
Color.	Good. (Equal to or better than USDA OJ 6.)		Reasonably good. USDA (Not as good as OJ 6, but not off color.)	
Score Points	36 - 40.		32 - 35.	
Defects.	Practically free.		Reasonably free.	
Score Points	18 - 20.		16 - 17.	
Flavor.	Very Good.		Good.	
Score Points	36 - 40.		32 - 35.	
Total Score Points.	Minimum - 90.		Minimum - 80.	
Analytical:	Unsweetened	Sweetened	Unsweetened	Sweetened
Brix: Minimum.	10.5°	10.5°	10.0°	10.5°
Soluble Orange solids, exclusive of sweetener (percent by weight of finished product): Minimum.		10.5		10.0
Brix/Acid Ratio:	Min	Max	Min	Max
Brix < 11.5°	10.5:1	20.5:1	9.5:1	20.5:1
Brix 11.5° or more.	9.5:1	20.5:1	9.5:1	20.5:1

Table I - Canned Orange Juice (Continued)

Factors Analytical:	Grade A		Grade B	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Brix < 15°	Min	Max	Min	Max
Brix 15° or more.	12.5:1	20.5:1	12.5:1	20.5:1
Acid (wt/100g):	9.5:1	20.5:1	9.5:1	20.5:1
California/ Arizona.	0.70g	1.40g	0.70g	1.40g
Outside California/ Arizona.	0.60g	1.40g	0.60g	1.40g
Recoverable Oil (percent by volume): Maximum	0.035	0.035	0.055	0.055
			0.055	0.055

Table II - Frozen Concentrated Orange Juice

Factors Quality: 1/	Grade A	Grade B
Appearance.	Fresh orange juice.	Fresh orange juice.
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Very Good. (Equal to or better than USDA OJ 5.)	Good. (Not as good as USDA OJ 5, but not off color.)
Score points	36 - 40.	32 - 35.
Defects.	Practically free.	Reasonably free.
Score points	18 - 20.	16 - 17.
Flavor.	Very Good.	Good.
Score points	36 - 40.	32 - 35.
Total Score Points.	Minimum - 90.	Minimum - 80.
Analytical:	Unsweetened	Sweetened
Concentrate:		
Brix value: Minimum.	41.8°	42.0°
Brix value/Acid Ratio: California/ Arizona.	Min Max 11.5:1 19.5:1 12.0:1 19.5:1	Min Max 10.0:1 10.0:1
Outside California/ Arizona.	12.5:1 19.5:1 13.0:1 19.5:1	10.0:1
Reconstituted Juice:		
Brix: Minimum.	11.8°	11.8°
Soluble Orange Solids, exclusive of sweetener (percent by weight of finished product): Minimum.	11.8	11.8
Recoverable Oil (percent by volume): Maximum.	0.035	0.040

1/ Reconstituted prior to grading

Table III - Reduced Acid Frozen Concentrated Orange Juice

Factors Quality: 1/	Grade A	Grade B
Appearance.	Fresh orange juice.	Fresh orange juice.
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Very good. (Equal to or better than USDA OJ 5.)	Good. (Not as good as USDA OJ 5, but not off color.)
Score Points.	36 - 40	32 - 35
Defects.	Practically free.	Reasonably free.
Score Points.	18 - 20	16 - 17
Flavor.	Very good.	Good.
Score Points.	36 - 40	32 - 35
Total Score Points.	Minimum - 90.	Minimum - 80.
Analytical:		
Concentrate:		
Brix value: Minimum.	41.8°	41.8°
Brix value/Acid Ratio.	Min Max 21.0:1 26.0:1	Min Max 21.0:1 26.0:1
Reconstituted Juice:		
Brix: Minimum.	11.8°	11.8°
Recoverable Oil (percent by volume): Maximum	0.035	0.040

1/ Reconstituted prior to grading.

Table V - Canned Concentrated Orange Juice

Factors Quality: 1/	Grade A	Grade B
Appearance.	Reasonably characteristic of fresh orange juice.	Fairly characteristic of fresh orange juice.
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Very Good. (Equal to or better than USDA OJ 5.)	Good. (Not as good as USDA OJ 5, but not off color)
Score Points	36 - 40.	32 - 35.
Defects.	Practically free.	Reasonably free.
Score Points	18 - 20.	16 - 17.
Flavor.	Very Good	Good.
Score Points	36 - 40.	32 - 35.
Total Score Points.	Minimum - 90.	Minimum - 80.
Analytical:	Unsweetered	Sweetened
Concentrate:		
Brix value: Minimum	41.8°	42.0°
Brix/Acid Ratio.	Max 11.5:1 Min 20.0:1	Max 12.0:1 Min 20.0:1
Reconstituted Juice:	11.8°	11.8°
Brix: Minimum.		
Soluble Orange Solids, exclusive of sweetener (percent by weight of finished product): Minimum.		
Recoverable Oil (percent by volume): Maximum	0.035	0.040
1/ Reconstituted prior to grading.		

Table IV - Concentrated Orange Juice for Manufacturing

Factors Quality: 2/	Grade A	Grade B
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Good. (Equal to or better than USDA OJ 6.)	Reasonably good. (Not as good as USDA OJ 6, but not off color)
Score Points.	36 - 40.	32 - 35.
Defects.	Practically free.	Reasonably free.
Score Points.	18 - 20.	16 - 17.
Flavor.	Very Good.	Good.
Score Points.	36 - 40.	32 - 35.
Total Score Points.	Minimum - 90.	Minimum - 80.
Analytical:		
Soluble Orange solids, exclusive of sweetener (percent by weight of finished product): Minimum.	11.8	11.8
Brix value/Acid Ratio.	Min 8.0:1 Max 24.0:1	Min 8.0:1 Max 24.0:1

2/ Reconstituted to 11.8° Brix prior to grading.

Table VI - Dehydrated Orange Juice

Factors Quality: 2/	Grade A	Grade B
Appearance.	Reasonably characteristic of fresh orange juice.	Fairly characteristic of fresh orange juice.
Reconstitution.	Reconstitutes properly.	Reconstitutes properly.
Color.	Good. (Equal to or better than USDA OJ 6.)	Reasonably Good. (Not as good as USDA OJ 6, but not off color.)
Score Points	36 - 40.	32 - 35.
Defects.	Practically free.	Reasonably free.
Score Points	18 - 20.	16 - 17.
Flavor.	Very Good.	Good.
Score Points	36 - 40.	32 - 35.
Total Score Points	Minimum - 90.	Minimum - 80.
Analytical: 3/		
Brix: Minimum.	11.8°	11.8°
Brix/Acid Ratio.	Min 12.0:1 Max 18.0:1	Min 10.5:1 Max 19.0:1
Soluble Orange Solids, exclusive of sweetener (percent by weight of reconstituted Juice): Minimum.	11.8	11.8
Recoverable Oil (percent by volume): Maximum	0.035	0.045

2/ Reconstituted to 11.8° Brix prior to grading.

3/ Reconstituted by label directions prior to analysis.

Table VII - Pasteurized Orange Juice

Factors Quality:	Grade A	Grade B
Appearance.	Fresh orange juice.	Fresh orange juice.
Coagulation.	None.	None.
Separation.	No material.	Some.
Color.	Very good. (Not as good as OJ 5 but much better than OJ 6)	Good. (Fails Grade A, but not off color.)
Score Points	36 - 40.	32 - 35.
Defects.	Practically free.	Reasonably free.
Score Points	18 - 20.	16 - 17.
Flavor.	Very Good.	Good.
Score Points	36 - 40.	32 - 35.
Total Score Points.	Minimum - 90.	Minimum - 80.
Analytical:		
Brix: Minimum.	11.0°	10.5°
Soluble Orange Solids, exclusive of sweetener (percent by weight of finished product): Minimum.	11.0°	10.5°
Brix/Acid Ratio:	Min 11.5:1 Max 18.0:1	Min 10.5:1 Max 23.0:1
California/Arizona.	12.5:1	20.5:1
Outside California/Arizona.	12.5:1	20.5:1
Recoverable Oil (percent by volume): Maximum	0.035	0.045

Table VIII - Orange Juice from Concentrate

Factors	Grade A				Grade B			
	Quality:				Quality:			
Appearance.	Fresh orange juice.				Fresh orange juice.			
Coagulation.	None.				None.			
Separation.	No material.				Some.			
Color.	Very Good. (Equal to or better than USDA OJ 5.)				Good. (Not as good as USDA OJ 5, but not off color.)			
Score Points	36 - 40.				32 - 35.			
Defects.	Practically free.				Reasonably free.			
Score Points	18 - 20.				16 - 17.			
Flavor.	Very Good.				Good.			
Score Points	36 - 40.				32 - 35.			
Total Score Points.	Minimum - 90.				Minimum - 80.			
Analytical:								
	Unsweetened		Sweetened		Unsweetened		Sweetened	
Brix: Minimum.	11.8*		11.8*		11.8*		11.8*	
Soluble Orange Solids, exclusive of sweetener (percent by weight of finished product): Minimum.			11.8				11.8	
Brix/Acid Ratio:	Min	Max	Min	Max	Min	Max	Min	Max
California/Arizona.	11.5:1	18.0:1	12.5:1	20.5:1	11.0:1	23.0:1	11.0:1	23.0:1
Outside California/Arizona.	12.5:1	20.5:1	12.5:1	20.5:1	11.0:1	23.0:1	11.0:1	23.0:1
Recoverable Oil (percent by volume): Maximum			0.035				0.045	

§ 52.1558 Sample size.

The sample size to determine acceptance with the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1-52.83).

§ 52.1559 Lot requirements.

A lot of orange juice is considered as meeting requirements for quality if:

(a) The requirements specified in Tables I, II, III, IV, V, VI, VII, and VIII, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1-52.83 are met.

Done at Washington, D.C. on November 30, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-33413 Filed 12-9-82; 8:45 am]

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Food and Nutrition Service**7 CFR Parts 272 and 273**

[Amdt. No. 234]

Food Stamp Program; Sponsored Aliens

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This action will amend Food Stamp Program (FSP) Regulations by requiring that a portion of the income and resources of an alien's sponsor and the sponsor's spouse be used in determining the eligibility and allotment level of a sponsored alien. This change is called for in the 1981 Food Stamp Act Amendments and is intended to reduce program costs, waste and abuse.

DATES: This action is effective December 10, 1982. Comments must be received on or before March 10, 1983 to be assured of consideration in the final rulemaking process.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 am to 5:00 pm, Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: If you have any questions, contact Mr. O'Connor at the above address or by telephone at (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information requirements contained in § 273.11 have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0584-0064.

Classification

This interim rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified "not major." The rule will not have annual effect on the economy of \$100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. This rule will not affect the business community and will not result in significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Adoption of this rule will, to some extent, reduce program costs, waste and abuse by tightening eligibility standards for sponsored aliens.

Regulatory Flexibility Act

This interim rule has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980

(Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The proposed changes will affect State agencies and a relatively small number of food stamp recipients.

This rulemaking is being published as an interim rule, effective on publication consistent with the mandate of Section 193 of the Omnibus Reconciliation Act of 1982 (Pub. L. 97-253, enacted on September 8, 1982). Section 193 mandates that most of the provisions of Pub. L. 97-98 (enacted on December 22, 1981), including the provisions addressed in this rule, are effective as of the date of enactment of Pub. L. 97-253. We believe it is necessary to provide guidance to State agencies as soon as possible regarding the new provisions. For these reasons, Samuel J. Cornelius, Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C. 553, has determined that prior public comment on this rule is impracticable and contrary to the public interest and that good cause exists for making this rule effective less than 30 days after publication. Public comment is solicited on this rule for 90 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Attribution of Sponsor's Income and Resources to the Alien

Background

Section 1308 of the 1981 Food Stamp Amendments (Pub. L. 97-98) enacted December 22, 1981 requires that a portion of the income and resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) be deemed as unearned income and resources of the alien. The amount of deemed income and resources are to be considered in determining the eligibility and benefit level of the household of which the alien is a member. The procedure would be used for a period of 3 years from the date the alien entered the United States as a lawful permanent resident. In accordance with the law, the sponsor and alien are both liable for overissuances due to the sponsor's failure to supply correct information,

unless the sponsor had good cause or was "without fault."

The 1981 Food Stamp Act Amendments also require the Department to enter into an agreement with the Departments of State and Justice under which these Departments will inform sponsors and aliens of the requirements of the law. The Memorandum of Agreement will also provide for the release of information from State Department and Immigration and Naturalization Service (INS) files to State agencies for State agencies' use in determining the eligibility and benefit levels of sponsored alien households as authorized by the Amendments. The statutory language makes it clear that the information is to be used in the food stamp certification process. Since the State agencies have responsibility for food stamp certification, the Department intends that the information be provided directly to the State agencies. The agreement among the three Departments is being formulated now. Upon its completion, sponsors will be informed, at the time they initiate their sponsorship of an alien, of the financial responsibility and liability they are assuming. The agreement will give State agencies a second source of information about sponsors and sponsored aliens. The primary source of this information, as detailed later in this preamble and as provided in the statute, is the applicant sponsored alien.

Similar sponsored alien provisions have already been implemented under the Aid to Families with Dependent Children (AFDC) Program (see 46 FR 46750, dated September 21, 1981 and 47 FR 5648, dated February 5, 1982). To the greatest extent possible these rules parallel the rules used in the AFDC program. Where there are significant differences we have noted and explained them.

Who Are Sponsors and Sponsored Aliens?

The requirements of the law apply only to those aliens as described in 7 CFR 273.4(a)(2) as aliens lawfully admitted for permanent residence in the United States. These are the only categories of eligible aliens who may be required to have a sponsor. A sponsor is a person who signed an affidavit or other statement accepted by the

Immigration and Naturalization Service (INS) agreeing to support an alien as a condition of the alien's admission for permanent residence.

Aliens and their sponsors who are members of the same Food Stamp Program household are exempt from the provisions by statute.

On occasion, an organization or institution may agree to sponsor an alien. We do not believe there is current authority under the law to deem income and resources to alien's from sponsoring organizations or institutions. The nature of the income disregard for the sponsor (i.e. the appropriate income eligibility standard for a household equal in size to the sponsor, the sponsor's spouse and any dependents of the sponsor or spouse) indicates that the provision was intended to apply only to individuals who sponsor aliens.

INS reports that sponsors frequently claim to have given up sponsorship responsibilities. Although there is no INS requirement for the alien to obtain another sponsor, the deeming requirements of the law will not be waived. Deeming of the income and resources of the sponsor and the sponsor's spouse occurs for the purpose of determining eligibility whether or not the income/resources are actually available to the alien. Should the alien obtain another sponsor, then the income/resources deemed available to the alien must be recalculated. The alien is totally responsible for notifying the State agency of any new sponsor and supplying the information needed for recalculating deemed income/resources.

Calculating Sponsor's Income

The 1981 Food Stamp Act Amendments give guidelines on how to attribute income of a sponsor to the alien, but give the Secretary the authority to determine what constitutes income. It specifies that the amount of income from the sponsor and the sponsor's spouse (if living with the sponsor) to be deemed available to the alien each month shall be based on the total yearly rate of their earned and unearned income divided by 12.

While the language of the law is written in terms of annual income, the intent of the deeming calculation is to arrive at a monthly income amount that would be attributed to the alien. Our procedures are written on the basis of monthly income. This is consistent with current income procedures for other types of households. If the income information the alien supplies on the sponsor is an annual amount, the State agency will simply divide that amount by 12 before proceeding with the calculation procedures outlined in this

rule. The income of the sponsor and spouse will be determined on a retrospective or prospective basis depending on which method the State agency will use for all other income of the particular alien household.

The Act specifies that income of the sponsors and their spouses shall be determined under rules prescribed by the Secretary. This interim rule specifies that "income" of the sponsor and the sponsor's spouse means all gross income, including income from self employment, but excluding in-kind or vendor payments to the sponsor. The Department does not believe that the Food Stamp Program (FSP) definition of "income" (gross income minus several exclusions) should be applied for deeming purposes. The Program's income exclusions are intended for use in identifying what constitutes income for Program applicants. We do not believe it would be practicable or appropriate to require State agencies to perform the same detailed eligibility paperwork for deeming purposes as they must do for eligibility determinations of Program applicants. If an alien has already reported gross income information on his/her sponsor (and the sponsor's spouse) to the State agency as a result of AFDC sponsored alien rules, that income amount may be used for FSP sponsored alien provisions. However, amounts to be subtracted from such gross income are limited to those amounts outlined in this rule at § 273.11(h)(i).

The 1981 Food Stamp Act Amendments only require a subtraction from the combined income of the sponsor and sponsor's spouse of the FSP eligibility standard for a household equal in size to the sponsor's household prior to attributing an income amount to the alien household. This rule also requires subtraction of an 18 percent earned income deduction amount to offset working expenses. By law, AFDC provides reductions for working expenses, living expenses, and payments of alimony or child support. Under the Food Stamp Act Amendments, the FSP gross eligibility standard to be subtracted from the sponsor's income will take into account any person which the sponsor claims as a dependent and will, therefore, offset some costs associated with living expenses and payments of alimony or child support.

The procedure established in this interim rule for attributing income of an alien's sponsor requires the alien and/or the alien's spouse to report to the State agency the amount of gross monthly earned and unearned income (as described earlier) of an alien's sponsor

and sponsor's spouse (if living with the sponsor). The income of the sponsor's spouse will be considered even if the marriage occurred after the sponsor signed an agreement to support the alien. The State agency will subtract an 18 percent earned income deduction amount for that portion of the combined income determined as earned income of the sponsor and spouse, and subtract the monthly FSP gross income eligibility standard for a household equal in size to the sponsor, the sponsor's spouse and any other persons dependent on or receiving support from the sponsor or spouse. The amount obtained from the calculation will be attributed to the alien as unearned income and considered in determining the eligibility and benefit level of the household containing the sponsored alien. Such income will continue to be attributed for a period of three years from the aliens "date of entry" or "date of admission" into the United States as a lawful permanent resident.

The interim rule specifies that persons "dependent on" or "receiving support from" the sponsor or sponsor's spouse, will be those individuals which can be claimed as dependents for Federal income tax purposes. This procedure will enable State agencies to clearly identify and verify persons claimed as dependents by the sponsor or spouse and preclude the claiming of individuals who receive no financial support from them.

We define an alien's "date of entry" or "date of admission" as the date established by the INS as the date the alien was admitted for permanent residence in the United States.

In addition, the interim rule provides that actual money payments to the alien by the sponsor or the sponsor's spouse will not be considered income to the alien unless the amount paid exceeds the amount of the combined income of the sponsor and sponsor's spouse that was attributed to the alien. Only that portion of the amount paid that actually exceeds the amount attributed will be considered income to the alien.

Calculating Resources of a Sponsor

As with calculating the income of a sponsor for deeming purposes, the 1981 Food Stamp Act Amendments also give guidelines on how to attribute resources of a sponsor to the alien but give the Secretary authority to determine what resources are. The interim rule provides that the resources of the sponsor and the sponsor's spouse shall be the same as those prescribed in 7 CFR 273.8 for FSP applicants. The 1981 Food Stamp Act Amendments further provide that the

amount of resources to be attributed to the alien shall be the total resources of the sponsor and the sponsor's spouse, reduced by \$1,500.

The interim rule does provide, however, that if an alien has already had a portion of the resources of his/her sponsor and sponsor's spouse attributed to him/her for the AFDC Program, such deemed resource amount may be used for FSP deeming purposes.

Some individuals sponsor more than one alien. The interim rule provides that the deemed income/resources shall be divided by the number of such aliens that apply for or participate in the FSP Program. This is consistent with AFDC procedures for prorating when more than one alien is sponsored by the same sponsor.

Responsibility for Obtaining/Reporting Sponsored Alien Information

As noted earlier, the alien is responsible for obtaining the cooperation of his or her sponsor and supplying information which the agency requests to carry out these deeming procedures. Until such time as the information about the sponsor is received and verified, sponsored aliens will be ineligible to participate. The State agency may want to develop a special form or adopt an existing one for aliens to use in obtaining information from their sponsors. FNS does not plan to design such a form for State agency use.

The Food Stamp Act and current rules provide that an alien is ineligible while awaiting verification of legal alien status and that remaining household members may participate if otherwise eligible. A prorated share of such ineligible alien's income and his/her total resources is considered when determining the eligibility and benefit level of the remaining members. In the case of sponsored aliens, the 1981 Food Stamp Act Amendments do not contain a provision on the treatment of the remaining household members while the State agency is awaiting receipt from the alien or the alien's spouse of the income and resources information of the alien's sponsor (and the sponsor's spouse). The interim rule expands the current procedure to apply in both situations. This procedure will safeguard Program integrity by reducing the amount of additional benefits an alien household could receive if alien and/or his spouse refuse to cooperate in supplying information about their sponsor's income and resources.

The Department would like to explain further that the income, resources and number of dependents of an alien's sponsor and the sponsor's spouse

directly impact on the eligibility and benefit level of the alien. Thus, any changes in these areas of the sponsor's circumstances must be reported to the State agency by the alien in accordance with 7 CFR 273.21(h)(3)(i) which requires any information that affects the allotment level of a food stamp household to be reported.

Overissuances Resulting From Incorrect Sponsor Information

Under the provisions of the Public Law, the sponsored alien and his/her spouse are responsible for obtaining and providing to the State agency information concerning the income and resources of the alien's sponsor and sponsor's spouse. This information must be provided to the State agency for a period of three years after the alien's entry into the United States in order to determine the alien's eligibility for food stamp benefits. If the State agency is provided incorrect information, the sponsor and the alien are held liable for repayment of any overissuance which results, except where the sponsor had good cause or was without fault.

The interim rule incorporates these statutory changes into the Program's regulations by requiring State agencies to establish a claim against the sponsor and/or the alien's household for any overissuance caused by incorrect information concerning the alien's sponsor and sponsor's spouse. Where the sponsor has good cause or is without fault, the State agency will establish a claim against only the alien's household. In all other cases, the State agency will have the option of establishing a claim against the sponsor or the alien's household, or both. This will enable the State agency to pursue collection action against both parties at once or to attempt collection from the party it believes most likely to repay before pursuing collection against the other. However, in no instance is a State agency authorized to collect more than the amount of the claim. The State agency shall return to the alien and/or sponsor any amount collected in excess of the total amount of the claim.

The State agency will initiate collection of a claim against an alien's sponsor by sending the sponsor a written demand letter for repayment. The State agency can also pursue other appropriate collection actions against any sponsor which fails to respond to a written demand letter. The State agency will have the option of terminating collection action at any time if the sponsor cannot be located or the cost of further collection action is likely to exceed the amount that can be recovered. In addition, the State agency

will initiate collection action against the alien's household whenever the sponsor fails to respond to a written demand letter within 30 days of receipt, unless such action has already been taken.

Claims against the alien's household will be collected according to established Program requirements governing the collection of other types of claims against food stamp households. Prior to initiating collection action against the alien's household, the State agency will determine whether the overissuance resulted from an inadvertent error or intentional misrepresentation or fraud on the part of the alien. If the State agency has sufficient documentary evidence to substantiate that the alien committed intentional misrepresentation or fraud, it will pursue the case in accordance with the procedures specified at 7 CFR 273.16 for misrepresentation and fraud disqualifications. Until the determination of intentional misrepresentation or fraud was obtained from the administrative disqualification hearing official or a court of appropriate jurisdiction, the claim will be handled as an inadvertent household error claim. Likewise, the claim will be handled as an inadvertent household error claim, in accordance with the procedures specified at 7 CFR 273.18, if the overissuance resulted from a misunderstanding or unintended error on the part of the sponsored alien.

The Department issued proposed regulations on June 22, 1982 (at 47 FR 27038) which would substantially revise current Program requirements governing the pursuit of claims against food stamp households. The June 22 proposal would implement certain provisions of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, enacted on August 13, 1981. These provisions relate to the disqualification penalties for misrepresentation and fraud at 7 CFR 273.16, and claims against households at 7 CFR 273.18. As a result, we refer the reader to the June 22 proposal for more information concerning the effect these proposed changes would have on the alien's household.

Among the changes proposed by the June 22 rulemaking which would affect any alien household that received an overissuance is the method of collecting inadvertent household error claims. The State agency will be required to collect any inadvertent household error claim, regardless of the amount, by reducing the monthly allotment of a household still participating in the Program. Prior to reduction, the household will be sent a written demand letter which informs it of the amount of food stamps to be

recovered each month and of the availability of other methods of repayment. If the household does not respond within 30 days of receipt of the demand letter, the household's allotment will be reduced without further notice being provided. The amount of food stamps to be recovered each month will be the greater of 10 percent of the household's monthly allotment or \$10 per month. The State agency could also pursue other appropriate collection actions against any household which fails to respond to a written demand letter.

The Department also issued, on June 1, 1982, at 47 FR 23786, a public notice of the implementation of another provision of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) which affects the State agency's treatment of inadvertent household error claims. This notice informs State agencies that they may retain 25 percent of the value of those nonfraud claims recoveries that did not result from administrative error. This change will enable State agencies to retain 25 percent of the funds recovered from alien households due to overissuances that were not caused by intentional misrepresentation or fraud on the part of the alien in supplying incorrect sponsor information. Under current rules, State agencies may retain 50 percent of the funds recovered from alien households due to overissuance caused by intentional misrepresentation or fraud on the part of the alien in supplying incorrect sponsor information. In addition, this interim rule also allows State agencies to retain 25 percent of the funds recovered from the alien's sponsor when the overissuance resulted from inadvertent error on the part of the alien. (See 7 CFR 273.8(c), 273.9(b), and 273.11(h)).

Implementation

The provisions of this rule shall apply to those sponsored aliens on behalf of whom the sponsor signed an affidavit of support or similar agreement on or after February 1, 1983.

List of Subjects

7 CFR Part 272

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

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (g)(54) is added to read as follows:

§ 272.1 [Amended]

(g) *Implementation.* * * *
(54) Amendment No. 234: The provisions of Amendment No. 234 shall apply to those sponsored aliens on behalf of whom the sponsor signed an affidavit of support or similar statement (as a condition of the alien's entry into the United States as a lawful permanent resident) on or after February 1, 1983.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.8, a new paragraph (c)(3) is added to read as follows:

§ 273.8 Resource eligibility standards.

(c) *Definition of resources.* * * *
(3) For households containing sponsored aliens (as defined in § 273.11(h)(1)), resources shall also include that portion of the resources of an alien's sponsor and the sponsor's spouse (if living with the sponsor) which have been deemed to be those of the alien in accordance with the procedures established in § 273.11(h), unless the sponsored alien is otherwise exempt from this provision in accordance with § 273.11(h).

3. In § 273.9, paragraph (b)(4) is redesignated as (b)(5) and a new paragraph (b)(4) is added to read as follows:

§ 273.9 Income and deductions.

(b) *Definition of income.* * * *
(4) For households containing sponsored aliens (as defined in § 273.11(h)(1)), unearned income shall also include that amount of the monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien as unearned income in accordance with the procedures established in § 273.11(h), unless the sponsored alien is otherwise exempt from this provision in accordance with § 273.11(h). Actual money paid to the alien by the sponsor or the sponsor's spouse would not be considered income to the alien unless the amount paid exceeds the amount attributed. The amount paid that actually exceeds the

amount attributed would be considered income to the alien in addition to the amount attributed to the alien.

4. In § 273.11, paragraph (h) is redesignated as paragraph (i) and a new paragraph (h) is added to read as follows:

§ 273.11 Action on households with special circumstances.

(h) *Households containing sponsored alien members.*

(1) *Definitions.* "Sponsored alien" means those aliens lawfully admitted for permanent residence into the United States as described in § 273.4(a)(2). "Sponsor" means a person who executed an affidavit(s) of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident. "Date of entry" or "Date of admission" means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

(2) *Deeming of sponsor's income and resources as that of the sponsored alien.* Portions of the gross income and the resources of a sponsor and the sponsor's spouse (if living with the sponsor) shall be deemed to be the unearned income and resources of a sponsored alien for three years following the alien's admission for permanent residence to the United States. The spouse's income and resources will be counted even if the sponsor and spouse were married after the signing of the agreement.

(i) The monthly income of the sponsor and sponsor's spouse deemed to be that of the alien shall be the total monthly earned and unearned income of the sponsor and the sponsor's spouse (if living with the sponsor) at the time the household containing the sponsored alien member applies or is recertified for Program participation, reduced by an 18 percent earned income amount for that portion of income determined as earned income of the sponsor and the sponsor's spouse, and the FSP monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed by the sponsor or sponsor's spouse as a dependent for Federal income tax purposes. If the alien has already reported gross income information on his/her sponsor due to AFDC's sponsored alien rules, that income amount may be used for FSP deeming purposes. However, allowable reductions to be applied to the total gross income of the sponsor and the

sponsor's spouse prior to attributing an income amount to the alien, shall be limited to the 18 percent earned income amount and the FSP gross monthly income amount stated above.

(ii) Actual money paid to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount attributed to the alien under paragraph (h)(2)(i) of this section. Only the amount paid that actually exceeds the amount deemed would be considered income to the alien.

(iii) Resources of the sponsor and sponsor's spouse to be deemed to be that of the alien shall be the total amount of their resources as determined in accordance with § 273.8, reduced by \$1,500. If the alien has already reported total resource information on his/her sponsor due to AFDC's sponsored alien rules, the resource amount calculated by AFDC as the amount to be attributed to the alien may be used for FSP deeming purposes.

(iv) The amount of income and resources deemed to be that of the sponsored alien in accordance with paragraphs (h)(2)(i) and (iii) of this section, shall be considered in determining the eligibility and benefit level of the household of which the alien is a member.

(v) If a sponsored alien can demonstrate to the State agency's satisfaction that his/her sponsor sponsors other aliens, then the income and resources deemed under the provisions of paragraphs (h)(2)(i) and (iii) of this section shall be divided by the number of such aliens that apply for or are participating in the program.

(vi) If the alien switches sponsors during the certification period, then deemed income/resources would be recalculated based on the required information about the new sponsor as soon as possible after the information is supplied by the alien and verified by the State agency.

(3) *Exempt aliens.* The provisions of this paragraph do not apply to:

(i) An alien who is participating in the Food Stamp Program as a member of his or her sponsor's household;

(ii) An alien who is sponsored by an organization or group as opposed to an individual;

(iii) An alien who is not required to have a sponsor under the Immigration and Nationality Act, such as, but not limited to, a refugee, a parolee, one granted asylum, and a Cuban or Haitian entrant.

(4) *Sponsored alien's responsibility.* The sponsored alien and his/her spouse are responsible for providing the State agency with any information or

documentation necessary to determine the income and resources of the alien's sponsor and the sponsor's spouse for three years from the alien's date of entry or date of admission as a lawful permanent resident. The alien and his/her spouse shall also be responsible for demonstrating to the State agency that the sponsor also sponsors other aliens and how many and for obtaining any necessary cooperation from the sponsor.

(5) *Verification.* (i) The State agency shall obtain from the alien or alien's spouse the following information:

(A) The income and resources of the alien's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the alien's application for food stamp assistance.

(B) The number of other aliens for whom the sponsor has signed an affidavit of support or similar agreement.

(C) The provision of the Immigration and Nationality Act under which the alien was admitted.

(D) The date of the alien's entry or admission as a lawful permanent resident as established by INS.

(E) The alien's date of birth, place of birth, and alien registration number.

(F) The number of dependent's for Federal income tax purposes of the sponsor and the sponsor's spouse.

(G) The name, address and phone number of the alien's sponsor.

(ii) The State agency shall verify the information obtained in accordance with paragraphs (h)(5)(i)(A) and (i)(B) of this section. The State agency shall verify all other information which the State agency determines is questionable and which affects household eligibility and benefit level in accordance with procedures established in § 273.2(f)(2) for verifying questionable information.

(6) *Awaiting verification.* If information necessary to carry out the provisions of paragraph (h)(2) of this section is not received or verified on a timely basis, the sponsored alien and his/her spouse shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible alien and his/her spouse (excluding the attributed income and resources of the alien's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member as set forth in paragraph (c) of this section, and considered available in determining the eligibility and benefit level of the remaining household members. If the information or verification is subsequently received, the State agency shall act on the information as a reported change in

household membership in accordance with the timeliness standards in § 273.12.

(7) *Memorandum of Agreement.* The Secretary shall enter into an agreement with the Secretary of State and the Attorney General whereby they shall inform any sponsor of an alien and the alien, at the time the sponsor executes an affidavit of support or similar agreement on behalf of an alien, of the requirements of Section 1308 of Pub. L. 97-98. Under the agreement the Bureau of Consular Affairs of the State Department and local INS offices shall provide information to State agencies that is needed to carry out the provisions of this paragraph. This agreement shall set forth the specific information that must be released by all parties to facilitate identification of the alien and sponsor and enable State agencies to perform required verification of information supplied by the alien which is essential for eligibility determinations, as specified in paragraph (h)(5) of this section.

(8) *Overissuance due to incorrect sponsor information.* (i) Any sponsor of an alien and alien shall be jointly and severally liable for repayment of any overissuance of coupons as a result of incorrect information provided by the sponsor. However, if the alien's sponsor had good cause or was without fault for supplying the incorrect information, the alien's household shall be solely liable for repayment of the overissuance. The State agency shall establish procedures for determining good cause under this provision, and shall include such procedures in its State Plan of Operation.

(ii) Where the sponsor did not have good cause, the State agency shall decide whether to establish a claim for the overissuance against the sponsor or the alien's household, or both. The State agency may choose to establish claims against both parties at the same time or to establish a claim against the party it deems most likely to repay first. If a claim is established against the alien's sponsor first, the State agency shall ensure that a claim is established against the alien's household whenever the sponsor fails to respond to the State agency's demand letter within 30 days of receipt. The State agency shall return to the alien's sponsor and/or the alien's household any amounts repaid in excess of the total amount of the claim.

(iii) *Collecting claims against sponsors.* (A) State agencies shall initiate collection action by sending the alien's sponsor a written demand letter which informs the sponsor of the amount owed, the reason for the claim,

and how the sponsor may pay the claim. The sponsor shall also be informed that the sponsor will not be held responsible for repayment of the claim if the sponsor can demonstrate that he/she had good cause or was without fault for the incorrect information having been supplied to the State agency. In addition, the State agency shall follow-up the written demand letter with personal contact, if possible.

(B) The State agency may pursue other collection actions, as appropriate, to obtain payment of a claim against any sponsor which fails to respond to a written demand letter. The State agency may terminate collection action against a sponsor at any time if it has documentation that the sponsor cannot be located or when the cost of further collection is likely to exceed the amount that can be recovered.

(C) If the alien's sponsor responds to the written demand letter and is financially able to pay the claim at one time, the State agency shall collect a lumpsum cash payment. The State agency may negotiate a payment schedule with the sponsor for repayment of the claim, as long as payments are provided in regular installments. Payments shall be submitted to FNS in accordance with the procedures specified in § 273.18(h). For submission to FNS, any funds collected from the sponsor shall be reported and the State agency's retention shall be based on whether the corresponding claim against the alien's household is being treated as an inadvertent household error claim or intentional misrepresentation or fraud claim.

(iv) *Collecting claims against alien households.* Prior to initiating collection action against the household of a sponsored alien for repayment of an overissuance caused by incorrect information having been supplied concerning the alien's sponsor or sponsor's spouse, the State agency shall determine whether such incorrect information was supplied due to inadvertent error or intentional misrepresentation or fraud on the part of the alien. If sufficient documentary evidence exists to substantiate that the incorrect information concerning the alien's sponsor or sponsor's spouse was provided due to intentional misrepresentation or fraud on the part of the alien, the State agency shall pursue the case in accordance with the procedures specified in § 273.16 for misrepresentation and fraud disqualifications. The claim against the alien's household shall be handled as an

inadvertent household error claim prior to the determination of intentional misrepresentation or fraud by and administrative disqualification hearing official or a court of appropriate jurisdiction. If the State agency determines that the incorrect information was supplied due to misunderstanding or unintended error on the part of the sponsored alien, the claim shall be handled as an inadvertent household error claim in accordance with the procedures specified in § 273.18. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011-2029))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: December 6, 1982.

Robert E. Leard,

Association Administrator, Food and Nutrition Service.

[FR Doc. 82-33602 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-30-M

Federal Grain Inspection Service

7 CFR Part 800

Fees for Original Inspection, Official Weighing (Class X), Supervision of Weighing (Class Y), Reinspection, Appeal Inspection, and Supervision of Official Services

Correction

In FR Doc. 82-32365 beginning page 54275 in the issue for Thursday, December 2, 1982, make the following changes:

(1) On page 54279, § 800.71, first column, the headings for the table were reversed and should read as set forth below: "Schedule A.—Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in the United States.¹

Table 1"

(2) On page 54279, second column, Table 1, (2)(iv)(A) should read "Service (per hour per Service representative)"; (4)(i), second line, "(class x)" should read "(Class X)"; directly below the Note for Table 1, the heading "Table 2" should be inserted; and in Table 2, the second heading should read "Supervision of Weighing Services (Class Y)".

(3) On page 54279, third column, in the footnotes, the word "service" should read "Service" in the following places:

- (a) Footnote 1, line two
- (b) Footnote 2, line five

(c) Footnote 4, lines six, ten, eleven, and thirteen

(d) Footnote 5, lines one and four

(f) Footnote 6, line five

(4) On page 54279, third column, the heading "Table 1" should be moved so that it appears below "Schedule B ****", and should read as follows: "Schedule B.—Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in Canada¹

Table 1"

(5) On page 54279, Schedule B, Table 1, entry (1), line two, "(class x)" should read "(Class X)"; and in (1)(iii)(A), insert "per" after "hour".

(6) On page 54280, first column, in the footnotes, the word "service" should read "Service" in the following places:

(a) Footnote 1, line two

(b) Footnote 3, lines six, eleven and thirteen

(c) Footnote 5, line five

(7) On page 54280, first column, the heading "Table 1" should be moved so that it appears below "Schedule C ****" and should read as follows: "Schedule C.—Fees for FGIS Supervision Services for the Official Inspection and Weighing Services Performed by the Delegated States and/or Designated Official Agencies in the United States¹

Table 1"

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 389; Lemon Reg. 388, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 12-18, 1982, and increases the quantity of lemons that may be shipped during the period December 5-11, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective December 12, 1982,

and the amendment is effective for the period December 5-11, 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 Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on December 7, 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 weeks. The committee reports the demand for lemons is good.

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 and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. 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 times.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.689 is added as follows:

§ 910.689 Lemon Regulation 389.

The quantity of lemons grown in California and Arizona which may be handled during the period December 12, 1982, through December 18, 1982, is established at 250,000 cartons.

2. Section 910.688 *Lemon Regulation 388* (47 FR 54421) is revised to read as follows:

§ 910.688 Lemon Regulation 388.

The quantity of lemons grown in California and Arizona which may be handled during the period December 5, 1982, through December 11, 1982, is established at 275,000 cartons.

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

Dated: December 9, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-33822 Filed 12-9-82; 11:59 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 19, 22, 24, 113, 125, 127, 132, 142, and 144

[T.D. 82-204]

Customs Regulations Amendments Relating To Customs Bonded Warehouses

Correction

In the *Federal Register* of Friday, November 19, 1982, on page 52139 there was a correction to FR Doc. 82-29742, which was originally published Monday, November 1, 1982 on page 49355. The heading of the correction document cited only 19 CFR Part 144; however, it should have included references to Parts 10, 18, 19, 22, 24, 113, 125, 127, 132, and 142 also.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Petitions Under Part 10

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding officials who can grant or deny certain petitions submitted under 21 CFR Part 10. The petitions covered by this delegation are those that are submitted requesting either a stay of the effective date or an exemption from the tamper-resistant packaging and labeling requirements for certain over-the-counter (OTC) drug and cosmetic products and contact lens solutions and tablets.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: FDA is amending § 5.31 (21 CFR 5.31) by adding new paragraph (c) which delegates to certain officials the authority to grant or deny citizen petitions submitted for a stay of the effective date or for an exemption from the tamper-resistant packaging and labeling requirements published in the *Federal Register* of November 5, 1982, for certain OTC drug and cosmetic products (47 FR 50442) and for certain medical devices (47 FR 50452).

The tamper-resistant packaging and labeling requirements for certain OTC drugs were set forth in new § 211.132 (21 CFR 211.132). The requirements for certain cosmetic products were set forth in new § 700.25 (21 CFR 700.25). The requirements for certain medical devices were set forth in new § 800.12 (21 CFR 800.12). Each of these three new sections includes a paragraph regarding the procedure firms should follow if they want to request that a product covered by the rule be exempted from the tamper-resistant packaging and/or labeling requirements. Included as part of the specified procedure is that such a request be submitted in the form of a citizen petition under § 10.30 (21 CFR 10.30). In addition, the preambles to the OTC drug and cosmetic document and the medical device document both recognize that a petition for a stay of the

effective date may be submitted and provide instructions for the submission.

The agency has concluded that the authority to grant or deny such petitions should be delegated to the FDA component responsible for handling the product for which a stay or exemption is being requested. Therefore, § 5.31 is amended to redelegate to: (1) The Director, National Center for Drugs and Biologics (NCDB), and the Director and Deputy Director of the Office of Drugs, NCDB; (2) the Director, Deputy Director, and Associate Director for Compliance of the Bureau of Foods; and (3) the Director and Deputy Director, National Center for Devices and Radiological Health (NCDRH), and the Director and Deputy Director of the Office of Medical Devices, NCDRH, the authority to grant or deny petitions requesting a stay of the effective date or an exemption from the tamper-resistant packaging and labeling requirements set forth in §§ 211.132, 700.25, and 800.12, respectively. Representatives of officials to whom authority is redelegated will work together to ensure consistent and careful decisionmaking on petitions for stays of the effective date of tamper-resistant packaging requirements or for exemptions from the requirements.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended in § 5.31 by adding new paragraph (c), to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.31 Petitions under Part 10.

(c) The following officials are authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter for a stay of an effective date or for an exemption from the tamper-resistant packaging and labeling requirements set forth in §§ 211.132, § 700.25, or § 800.12 of this chapter for certain over-the-counter human drug and cosmetic products and medical devices which relate to the assigned

functions of the respective organizations:

- (1) The Director, NCDB, and the Director and Deputy Director of the Office of Drugs, NCDB.
- (2) The Director, Deputy Director, and Associate Director for Compliance of the Bureau of Foods.
- (3) The Director and Deputy Director of the National Center for Devices and Radiological Health (NCDRH), and the Director and Deputy Director of the Office of Medical Devices, NCDRH.

Effective date. This regulation is effective December 10, 1982.

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

Dated: December 2, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-33661 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 145

[Docket No. 78P-0429]

Canned Pineapple; Amendment of Standards of Identity and Quality; Termination of Stay of Regulation and Establishment of a New Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; termination of stay and establishment of a new effective date.

SUMMARY: The Food and Drug Administration (FDA) is terminating the stay of the regulation and establishing a new effective date for compliance with all provisions of the amendment to the standards of identity and quality for canned pineapple published in the Federal Register of November 24, 1981 (46 FR 57474). That amendment redesignated as "small cubes" or "dice" the style currently referred to as "cubes" or "dice" and provided for an optional style designated as "large cubes". The regulation was stayed to allow FDA to consider issues raised by objections and to decide whether a public hearing was justified. The agency has evaluated the objections and requests for a hearing and concludes that they are not justified. Therefore, this document terminates the stay of the regulation and establishes a new effective date of July 1, 1985.

DATES: Compliance with the final regulation may have begun January 25, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply, in accordance with the August 13, 1982 (47 FR 35185) final rule establishing a new uniform effective date.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 24, 1981 (46 FR 57474), FDA published a final regulation amending the U.S. standards of identity and quality for canned pineapple (21 CFR 145.180 (a) and (b)). The amendment redesignated as "small cubes" or "dice" the style of pineapple previously designated as "cubes" or "dice" and provided for an optional style of canned pineapple designated as "large cubes". The final regulation was based on a petition filed by the Malaysian Pineapple Industry Board, Ministry of Primary Industries of Malaysia, submitted through the Embassy of Malaysia, 2401 Massachusetts Ave. NW., Washington, DC 20008. The agency received two objections and requests for a hearing from the Pineapple Growers Association of Hawaii (PGAH). In the Federal Register of March 9, 1982 (47 FR 9997), FDA announced that the effective date of the provisions of this regulation to which objections had been submitted (§ 145.180(a)(2) (viii) and (xi) and (b)(1)(ii)(g)) was stayed while FDA considered whether a hearing had been justified by the objections.

FDA is terminating the previously announced stay because it has concluded that the objections are unpersuasive and the requests for a hearing do not satisfy the requirements for justifying a hearing. The hearing requests are accordingly denied.

Administrative law now firmly establishes that agencies need not grant hearings in circumstances in which it is clear on the basis of the request for hearing that that hearing would be a futile exercise. (See *Costle v. Pacific Legal Foundation*, 445 U.S. 198, 213-216 (1980); *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620 (1973).) The instances in which the courts have agreed that agencies have appropriately denied hearings in the face of alleged unresolved factual issues fall into two broad categories. First, persons requesting hearings in some instances have identified factual issues that are not material to the resolution of the matter in dispute. Thus, even if taken as true, the person's factual allegations would not change the outcome of the proceeding. Second, there may be instances in which the parties have failed to show that there is a factual issue to be resolved, by failing to present evidence, in accordance with applicable regulations, that could

possibly lead to a resolution of the dispute in the party's favor.

Here, the principal basis for denial of hearing is the lack of materiality of the issues identified by PGAH for resolution at a hearing. Even if the factual issues identified by PGAH were material, however, there is a second, and totally independent, ground for denial of the hearing. PGAH has failed to identify and come forward with evidence as required by FDA regulations that demonstrates that any issues of fact exist to be heard. This document discusses the lack of materiality of the grounds asserted by PGAH and then addresses the question of the sufficiency of the PGAH submission to justify a hearing even on the factual issues it has identified. Finally, this document addresses the one purely legal issue raised by PGAH's submission.

Failure To Raise Material Factual Issues

The failure to justify a hearing because of failure to raise material issues of fact is exemplified by a recent decision of the United States Court of Appeals for the Ninth Circuit in *Pineapple Growers Association of Hawaii v. FDA*, 673 F. 2d 1083 (9th Cir. 1982). There the court upheld FDA's denial of a hearing involving an earlier amendment of the canned pineapple food standards. It noted that FDA conceded the requestor's allegations with respect to several purported issues but found that those allegations, even taken as true, did not alter the agency's final resolution of the issues. FDA regulations specifically contemplated denial of a hearing in such instances. See 21 CFR 12.24(b)(4): " * * * A hearing will not be granted on factual issues that are not determinative with respect to the action requested, e.g., if the Commissioner concludes that the action would be the same even if the factual issue were resolved in the way sought * * * ". See also *Processors Council of the California-Arizona Citrus League v. FDA*, No. CV 80-3714-MRP (C.D. Cal. September 7, 1982), slip op. at 8 (district court, assuming arguendo that it has jurisdiction to review the matter, holds that denial of hearing on revocation of food standard regulation is justified because objecting party failed to raise material issues of fact).

Each of PGAH's purported factual issues is immaterial to the outcome of this proceeding. In many cases FDA agrees with PGAH's factual assertions. In others, those assertions, even if taken as true, would not change the regulation. Thus, no need for a hearing was demonstrated.

PGAH objected to and requested a hearing on both the "large cubes" style

and the "small cubes" or "dice" style, in each case contending that the styles "will not promote honesty and fair dealing in the interest of consumers," the statutory standard (21 U.S.C. 341). PGAH in its Objections and Request for Hearing (PGAH objections) set out its grounds for its objection to the "large cubes" style in two ways. First, PGAH stated certain grounds for objection in textual discussion (PGAH objections at 2-4); then it enumerated specific contentions as to which it said it "is prepared to present specific factual information" (PGAH objections at 4-7). There is some overlap and this notice will attempt to deal with each purported ground.

First, PGAH argued that the "large cubes" style "will serve to mislead consumers by contributing to a proliferation of canned pineapple styles" (PGAH objections at 2), and offered to present evidence to the same effect. Specifically, PGAH stated that it would present evidence that the final standard of identity for canned pineapple provides for 11 separate optional styles, stating that that was 5* more styles than provided for in any other canned food standard, and that none of the standards for canned grapefruit, peaches, or pears provides for more than 7 styles of pack (PGAH objections at 7).

FDA does not disagree that the addition of this new style pack will provide for 11 separate optional styles of canned pineapple. It is also true that, at the time when PGAH submitted its objections, the standards for canned grapefruit, peaches, or pears did not provide for more than 7 styles. (An additional eighth style of canned peaches, "chunky", has been established since the time of the objections (see the *Federal Register* of January 15, 1982 (47 FR 2311)).) It would, however, make no difference to this proceeding if the 11 pineapple styles were 4 or 5 more than the number in any other canned fruit standard.

It should be noted that PGAH has itself sought amendment of the canned pineapple standards to provide for up to nine styles of pack. If 9 styles of pack are consistent with the statute's requirements, as PGAH has asserted, and if 10 styles of pack are consistent with that requirement, as the Ninth Circuit has ruled in *Pineapple Growers Association of Hawaii v. FDA*, *supra*, it is implausible that 11 styles of pack, on the other hand, will impermissibly

* PGAH probably meant to say that 11 separate optional styles for canned pineapple was 4 more styles than are provided for in any other canned food standard.

confuse consumers. Just as it did in denying a hearing on a similar objection to the addition of the tenth ("pieces") style to the canned pineapple standard, FDA here believes that the proper label declarations of each style will inform consumers about the pineapple product they are buying and will, therefore, promote honesty and fair dealing in the consumer's interest. The number of permissible styles does not change that conclusion.

PGAH argued that the "large cubes" style will mislead consumers by employing a label term, i.e., "cubes", exclusively associated with small pineapple units for over 30 years (PGAH objections at 2), and, in a similar vein, offered to prove that, since the 1940's, United States consumers have associated the term "cubes" exclusively with very small pineapple units (i.e., with the preamendment style of "cubes") (PGAH objections at 6) and the term "chunks" with bite size units (PGAH objections at 6). PGAH stated that it would present evidence that FDA in the 1951 hearing that led to the preamendment standard concluded that the term "cubes" was associated with small units and the term "chunks" was "widely preferred" for bite sized units (PGAH objections at 6). Similarly, PGAH offered to present specific factual information that the "large cubes" canned pineapple style has not been sold in the United States, that United States consumers are not familiar with the style and that they would not discern a distinction between "large cubes" and "chunks" or between "large cubes" and "small cubes" (PGAH objections at 6).

Each of these arguments is a variation on the simple assertion that the new style is in fact new. As the Ninth Circuit said when PGAH made a similar argument with respect to the amendment allowing "pieces" or "irregular pieces" as a style within the standard, "if consumer unfamiliarity with a new food standard were sufficient to preclude its authorization, American consumers would be forever barred from the opportunity to become acquainted with any new product or product style. This simply cannot be said to be in the consumer's best interest." *Pineapple Growers Association of Hawaii v. FDA*, *supra*, 673 F. 2d at 1086. Certainly it is true that consumers are not now familiar with the "large cubes" style. Similarly, to the extent that consumers are familiar with canned pineapple styles at all, they are now familiar with the preamendment styles. If the amendment in question is implemented, however, it is fair to

conclude that consumers will become familiar with what the new styles designate.

PGAH argued that the "large cubes" style would confuse consumers by permitting the same pineapple product to be offered for sale under two different names (i.e., "chunks" and "large cubes") (PGAH objections at 2), and offered to present specific factual information that the cubes that the Malaysians seek to market may come within the style for "chunks" in the preamendment standard (PGAH objections at 5). That state of affairs is said to be a departure from the established format of mutually exclusive styles in canned fruit standards and thus to be not in the interest of the United States consumers (PGAH objections at 5).

Even accepting PGAH's factual assertions as true, as FDA did in issuing the final rule (46 FR 57474), those assertions do not undercut the justification or need for the "large cubes" style. As the preamble to the final rule stated, the products that would be labeled as "large cubes" are different from the products that are normally marketed in this country under the "chunks" designation (PGAH objections at 5). As PGAH does not, and cannot, deny, "chunks" as marketed in the United States have two curved and four planar surfaces, two of the opposing planar surfaces being not parallel. "Large cubes", on the other hand, are cube shaped, i.e., have six planar surfaces.

There is no requirement in the law that prohibits FDA from setting a standard defining styles which are not mutually exclusive. For consistency with other regulations, however, FDA is proposing elsewhere in this issue of the Federal Register to amend the standard of identity for canned pineapple to make clear that those products which come within the "large cubes" definition are not included as "chunks". That action is consistent with other designations of styles that make each style mutually exclusive from each other. See, e.g., 21 CFR 145.180(a)(2)(ix) (defining "pieces" or "irregular pieces" as "consisting of irregular shapes and sizes not identifiable as a specific style and [stating that this style] does not include chunks" (emphasis added)). Thus, the request for hearing on this assertion is denied because FDA does not dispute PGAH's allegation and there is thus nothing to hear. The objection itself does not suggest a need to withdraw the "large cubes" amendment because mutual exclusivity is not an absolute requirement for food standard styles

and, in any case, FDA is amending the "chunks" style to exclude "large cubes".

PGAH also offered to present factual information to the effect that the Malaysian product does not consist of reasonably uniform cube-shaped units of canned pineapple (PGAH objections at 3 and 5). PGAH argued that a sample of the Malaysian pineapple analyzed by FDA was made up of pineapple pieces that were neither cube-shaped nor uniform in size.

The definition of the style does not require absolute uniformity; rather, the pieces must be "reasonably" uniform. Similarly, "cube-shaped" does not require each piece to be a "perfect cube". If PGAH is simply asserting that the hand-cut Malaysian cubes do not approach perfection in either uniformity or shape, FDA concedes that point but finds it irrelevant. The Malaysian pineapple would still conform to the "large cubes" style.

If PGAH is asserting that there will be no product at all marketed in this country that will comply with the "large cubes" definition as articulated, that fact would be "material" to the question whether there should be a "large cubes" style. If that is PGAH's assertion, however, FDA regards that assertion as frivolous. The Malaysian petitioner sought the style specifically to cover its particular product. If, after the regulation establishing this style becomes effective, products are marketed under that style that do not comply with it, those products would be misbranded within the meaning of 21 U.S.C. 343(g)(1) and 341. There is thus a clear impetus for the Malaysian petitioner to assure that the "large cubes" style accurately describes its product.

FDA analyzed the Malaysian cubes on two separate occasions. On the first (on June 19, 1978), the dimensions were found to range from $\frac{1}{8}$ to $\frac{1}{4}$ inch. The second analysis (on Feb. 26, 1981) found similar dimensions $\frac{1}{8}$ to $\frac{1}{4}$ inch, with most cubes having dimensions of $\frac{1}{8}$ and $\frac{1}{4}$ inch. FDA analysts concluded that the Malaysian cubes appear to have a "uniform size and shape" and the product consists of "nearly perfect cubes." (The two FDA analyses are part of the record in the docket of this proceeding.) The product analyzed also fits the dimensions of the style and therefore complies with the "large cubes" style in the standard. Thus, if PGAH is contending that there will be no product that will conform to the "large cubes" style, PGAH has failed to identify or present factual information to justify a hearing on that assertion. See discussion below.

PGAH argued that the "large cubes" style will mislead consumers because it deviates from the Codex Recommended International Standard for Canned Pineapple (PGAH objections at 2, 6-7).

FDA agrees that the "large cubes" style is not a Codex style. As a general policy, FDA does, as PGAH asserts, adopt Codex standards where practicable and agrees that, in general, utilization of such standards is in the public interest. Yet it is clear that the absence of an international Codex standard for "large cubes" will have little or no effect on consumer understanding of that term in the United States. The effect, if any, is on international trade, an issue whose legal significance is discussed below.

PGAH also offered to present factual information that the "large cubes" style, by enlarging the number of permitted canned pineapple styles, will increase the cost of distribution, inventory control, and supermarket shelving, thereby raising the price of canned pineapple products to the consumer's detriment (PGAH objections at 7). This same argument was made by PGAH with respect to the addition of the "pieces" or "irregular pieces" style of pack to the pineapple standard reviewed in the Ninth Circuit case.

Even if it were correct that adding this additional style to the canned pineapple standard would increase certain costs, that fact would not be material to the question whether the style should be permitted. No manufacturer is obligated to market the "large cubes" style, no merchandiser is required to sell it, and no consumer is obligated to buy that style. Thus, any additional cost associated with the new style will simply reflect a business decision of manufacturers and merchandisers that the style is worth marketing and a personal decision by consumers that the style is sufficiently attractive to warrant purchase and consumption.

PGAH objected to the redesignation of the "cubes" or "dice" style as "small cubes" or "dice" on the grounds that, because PGAH says the "large cubes" style is unnecessary, there is no justification for the addition of the adjective "small" to the designation of the "small cubes" or "dice" style (PGAH objections at 8).

As discussed above, the agency has concluded that none of the grounds advanced by PGAH on the question of the propriety of the "large cubes" style justifies a hearing on that issue. Accordingly, those grounds do not support the hearing request with respect to "small cubes" either.

In addition, PGAH stated that it would present specific factual evidence to show that consistent industry practice has established a strong consumer expectation that the "cubes" style of canned pineapple contains very small units and that, thus, the change in the name of that style to "small cubes" will generate consumer confusion (PGAH objection at 8).

This is simply a restatement of the argument, made with respect to "large cubes", that American consumers are not familiar with a style designation that is new. As discussed above, that argument, if accepted, could mean that there would never be any new styles of pack. That outcome is not consistent with the statute's requirements, as the Ninth Circuit held.

PGAH also noted, as a ground for its request for hearing concerning the "small cubes" or "dice" style, that the Codex standard for canned pineapple provides for only one size of pineapple cubes.

As discussed above, the Codex standard is not determinative of what is appropriate for American consumers.

Failure To Identify Factual Evidence

The Supreme Court has recently reaffirmed the validity of a hearing denial based on failure to proffer evidence justifying a hearing. In *Costle v. Pacific Legal Foundation*, supra, 445 U.S. at 214-215, the Court emphasized that an agency may, within its discretion, promulgate rules that "require an applicant who seeks a hearing to meet a threshold burden of tendering evidence suggesting the need for a hearing." Consistent with that holding, FDA has placed upon a person seeking an evidentiary hearing an obligation to identify specifically reliable evidence upon which a factual issue stated by that person may be resolved (21 CFR 12.24(b)(2)) and a further obligation to submit data and information which, if established at the hearing, would be adequate to justify resolution of the factual issue in the way sought by the person requesting the hearing (21 CFR 12.24(b)(3)).

PGAH's objections and request for a hearing are a nine page document signed by counsel. With one exception noted below, no evidence is specifically identified for any of the propositions argued by PGAH. As FDA regulations state, "a hearing will not be granted on the basis of mere allegations or denials or general descriptions and contentions" (21 CFR 12.24(b)(2)). That, however, is all that PGAH has provided here. Thus, even if PGAH in its request for a hearing had made factual assertions that were

material to the agency's determination, as it has not, those factual issues would not require a hearing. PGAH has simply failed to meet its burden to present evidence suggesting that those factual issues are genuine and warrant a hearing.

In the one place at which PGAH has pointed to specific factual evidence, that evidence directly contradicts PGAH's assertion about it. PGAH refers to a sample of Malaysian pineapple cubes received and analyzed by FDA that PGAH says "demonstrated that the units are neither cube-shaped nor uniform in size" (PGAH objections at 5). As noted above, FDA analysis of that sample disproves that assertion. PGAH has not suggested that the analyst who recorded measurements of the analyzed cubes did not perform the measurements competently or did not record those measurements truthfully. Thus, PGAH's assertion about this evidence is, at best, an argument that a different inference (i.e., that the pieces are not "reasonably uniform" and "cube shaped") should be drawn from established fact (the dimensions of the pieces) than the agency has drawn. No hearing is required in such circumstances. (See *Anti-Defamation League of B'nai B'rith v. FCC*, 403 F. 2d 169, 171 (D.C. Cir. 1968), cert. denied, 394 U.S. 930 (1969).)

Legal Issue

PGAH makes one assertion that is clearly legal rather than factual. It points to FDA's conclusion, in the preamble to the final regulation, that this regulation would facilitate international trade (PGAH objections at 3-4). That conclusion, PGAH argued, was an improper basis for the regulation. FDA's conclusion that adoption of the amended standard would facilitate international trade was, however, not a predicate for its determination that the standard satisfied the criteria set out in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). As is obvious, it is possible for more than one version of a food standard to satisfy those statutory criteria. In choosing among the different potential versions, FDA may take into account the effect of its choice upon international trade and, consistent with the congressional statement of purpose in the Trade Agreements Act of 1979, should do so (19 U.S.C. 2502). Because the effect of a standard on trade is not a criterion of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), there is no right to a hearing on the factual question whether the revised standard would facilitate international

trade, and PGAH has not sought a hearing on that issue.

Nor is a hearing warranted on the legal issue raised by PGAH's assertion that FDA may not rely on international trade consequences in promulgating food standards. The propriety of denial of a hearing on legal and policy issues is well established. (See, e.g., *Citizens for Allegan County, Inc. v. FPC*, 414 F. 2d 1125, 1128 (D.C. Cir. 1969); *Sun Oil Co. v. FPC*, 256 F. 2d 233, 240 (5th Cir.), cert. denied, 358 U.S. 872 (1958).) FDA regulations specifically contemplate denial of hearings on such issues (21 CFR 12.24(b)(1)).

Because an analysis of PGAH's objections and request for hearing demonstrates that PGAH has not presented sufficient grounds to justify a hearing, no hearing will be granted to PGAH.

List of Subjects in 21 CFR Part 145

Canned fruit, Food standards, Fruits.

PART 145—CANNED FRUIT

§ 145.180 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and regulations promulgated thereunder (21 CFR 12.22, 12.24, 12.28), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the objections filed to the final regulation amending the standard of identity for canned pineapple under § 145.180(a)(2)(viii) and (xi) and (b)(1)(ii)(g) have been rejected and the request for hearing on those objections has been denied. Accordingly, the stay of this regulation, announced on March 9, 1982 (47 FR 9997), is terminated.

Effective date. Compliance with the November 24, 1981 final regulation may have begun January 25, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: December 6, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-33633 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 172**[Docket No. 81F-0379]****Food Additives Permitted for Direct Addition To Food for Human Consumption; Sucrose Fatty Acid Esters****AGENCY:** Food and Drug Administration.**ACTION:** Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sucrose fatty acid esters as components of protective coatings on fruit. This action is being taken in response to a petition filed by TAL Chemicals Co.

DATES: Effective December 10, 1982; objections by January 10, 1983.

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

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St., SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 5, 1982 (47 FR 347), FDA announced that a petition (FAP 2A3590) had been filed by TAL Chemicals Co., 24-26 Queens Rd., Reading, Berkshire RG1 4AU, United Kingdom, proposing that the food additive regulations be amended to provide for the safe use of sucrose fatty acid esters as components of protective coatings on fruit. The coating is used to retard ripening and spoiling. The specific fruits are apples, bananas, and pears.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of the food additives is safe and that the regulations should be amended as set forth below.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact

on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 172 is amended in Subpart I by adding new § 172.859, to read as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION**§ 172.859 Sucrose fatty acid esters.**

Sucrose fatty acid esters identified in this section may be safely used in accordance with the following prescribed conditions:

(a) Sucrose fatty acid esters are the mono-, di-, and tri-esters of sucrose with fatty acids and are derived from sucrose and edible tallow. The only solvents which may be used in the preparation of sucrose fatty acid esters are those generally recognized as safe in food or regulated for such use by an appropriate section in this part. Ethyl acetate may be used in the preparation of sucrose fatty acid esters.

(b) Sucrose fatty acid esters meet the following specifications:

(1) The total content of mono-, di-, and tri-esters is not less than 80 percent as determined by a method titled "Determination of Free and Combined Sucrose," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) The free sucrose content is not more than 5 percent as determined by a method titled "Determination of Free and Combined Sucrose," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(3) The acid value is not more than 6.

(4) The residue on ignition (sulfated ash) is not more than 2 percent.

(5) The total ethyl acetate content is not more than 350 parts per million as determined by a method titled "Determination of Ethyl Acetate," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(6) Arsenic is not more than 3 parts per million.

(7) Total heavy metal content (as Pb) is not more than 50 parts per million.

(8) Lead is not more than 10 parts per million.

(c) Sucrose fatty acid esters may be used as components of protective coatings applied to fresh apples, bananas, and pears to retard ripening and spoiling.

(d) Sucrose fatty acid esters are used in accordance with current good manufacturing practice and in an amount not to exceed that reasonably required to accomplish the intended effect.

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 10, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective December 10, 1982.

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

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on October 28, 1982, and is on file at the Office of the Federal Register.

Dated: December 6, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-33667 Filed 12-9-82; 10:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Piperazine Phosphate With Thienium Closylate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Wellcome Animal Health Division, Burroughs Wellcome Co., providing for safe and effective use of a larger dosage size tablet containing a combination anthelmintic drug in treating weaned pups and dogs.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION:

Wellcome Animal Health Division, Burroughs Wellcome Co., Kansas City, MO 64108, filed a supplemental NADA (101-161) providing for a 750-milligram (mg) size of the combination proprietary drug product Thenatol Tablet (piperazine phosphate equivalent to 500 mg of piperazine hexahydrate and thienium closylate equivalent to 250 mg of thienium). The 750 mg tablet size makes administration of the drug easier when more than one of the smaller-sized (375 mg) originally approved tablets are required. The drug is indicated for removal of immature (fourth stage larvae) and adult hookworms (*Ancylostoma caninum*, *A. braziliense*, and *Uncinaria stenocephala*) and ascarids (*Toxocara canis*) from weaned pups and adult dogs.

This approval does not change the approved use of the drug. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this application does not require reevaluation of the safety and

effectiveness data in the original approval.

Approval of this supplement did not require the generation of new effectiveness or safety data. Therefore, a freedom of information summary is not required for this action.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.1805 by revising paragraphs (a) and (c) (1) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1805 Piperazine phosphate with thienium closylate tablets.

(a) *Specifications.* Each scored tablet contains the equivalent of 250 milligrams piperazine hexahydrate (as piperazine phosphate) and 125 milligrams thienium (as thienium closylate) or 500 milligrams piperazine hexahydrate (as piperazine phosphate) and 250 milligrams thienium (as thienium closylate).

(c) Conditions of use—(1) *Amount.* Administer orally to dogs as follows:

NUMBER OF TABLETS AT EACH OF THE TWO DOSES

Animal weight (lb)	375 mg	750 mg
2 but less than 5	$\frac{1}{2}$	$\frac{1}{2}$
5 but less than 10	1	1
10 or heavier	2	1

Effective date. December 10, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 4, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-33660 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol Valerate and Norgestomet in Combination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by G. D. Searle and Co. providing for safe and effective use of a two-component drug consisting of a norgestomet (synthetic progesterone) implant and an estradiol valerate/norgestomet injectable solution for synchronizing estrus/ovulation in heifers.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: G. D. Searle and Co., P.O. Box 5110, Chicago, IL 60680, filed an NADA (97-037)

providing for use of a two-component drug product consisting of an implant containing 6.0 milligrams (mg) of norgestomet and an injection containing 5.0 mg of estradiol valerate and 3.0 mg of norgestomet per 2 milliliters (mL). The product is used to control timing of estrus to permit synchronized breeding of heifers with or without estrus detection. The treatment regimen involves subcutaneous placement of the implant in an ear and intramuscular injection of 2 mL of the solution at the time of implantation. The implant is removed from the ear after 9 days. The cattle are artificially inseminated 48 hours after the last implant has been removed or 12 hours after estrus detection.

The NADA contains adequate and well-controlled studies demonstrating the product's effectiveness. The studies justify the approved dosage regimen and have established the optimal balance between estrus synchronization and fertility. Toxicity studies in both pregnant and nonpregnant heifers adequately establish safety of the product for the specified conditions of use.

The Bureau of Veterinary Medicine (BVM) concludes that the NADA contains human safety studies demonstrating that consumers will be protected with regard to possible residues remaining in the edible tissues of treated animals. Human investigation has demonstrated that norgestomet has no antiovarian effects when administered orally up to 1.0 milligram per day. Based on rat (two-generation) and rhesus monkey reproduction studies, a hormonal no-effect level (using a 1000-fold safety margin) for humans has been calculated for norgestomet at 0.1 part per billion that coincides with the level to which the drug has been projected to deplete in all edible tissue within the 42-day (two attempted inseminations) inherent withdrawal period. Standards prescribed in the agency's proposal of March 20, 1979 (44 FR 17070) on chemical compounds in food-producing animals were not applied to the approval of norgestomet in this NADA. The approval is based on alternative criteria which assure that the product is safe and on factors which justify the equitable treatment of this sponsor who completed drug development testing adequately according to scientific standards extant before March 20, 1979.

The NADA also demonstrates that serum levels of estradiol-17 *beta* (estradiol valerate is exclusively transformed to this compound and its metabolites) essentially return to preinjection levels 9 days after treatment with estradiol valerate. BVM estimates that under foreseeable conditions of use, a withdrawal period of at least 51 days (9 days preceding implant removal plus 42 days inherent withdrawal) exists from time of administration of estradiol valerate until the earliest time of slaughter.

Because of the expected residue levels, the endogenous nature of estradiol-17 *beta*, and the inherent withdrawal period, BVM concludes that for this approval, post-slaughter regulatory methods of analysis for residues of norgestomet and estradiol valerate are not required by section 512(b)(7) of the act (21 U.S.C. 360b (b)(7)). Moreover, tolerances and withdrawal period are not required by section 512(b)(8) of the act. The inherent withdrawal period is reasonably certain to be followed in practice. Based on the foregoing, the NADA is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of

safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(e)(3)) may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.850, to read as follows:

§ 522.850 Estradiol valerate and norgestomet in combination.

(a) *Specifications.* The product is a two-component drug consisting of the following:

(1) An implant containing 6.0 milligrams of norgestomet.

(2) An injectable solution (sesame oil) containing 3.0 milligrams of norgestomet and 5.0 milligrams of estradiol valerate per 2 milliliters.

(b) *Sponsor.* See 000014 in § 510.600(c) of this chapter.

(c) *Conditions of use—(1) Amount.* One implant and 2 milliliters of injection at time of implantation.

(2) *Indications for use.* For synchronization of estrus/ovulation in cycling heifers.

(3) *Limitations.* Insert implant subcutaneously in the ear only; then immediately inject solution intramuscularly only. Counting the day of implantation as day 1, remove the implant on day 10. Collect all implants as they are removed and burn them. While animals are restrained for artificial insemination, avoid other treatments such as vaccinations,

dipping, pour-on grub and louse prevention, spraying, etc. When inseminating without estrus detection, the entire treated group should be started at 48 hours after the last implant has been removed and should be completed within 6 hours. Where estrus detection is preferred, insemination should be approximately 12 hours after first detection of estrus. Those that do not conceive can be re-bred when they return to estrus approximately 17 to 25 days after implant removal. Do not use in cows producing milk for human consumption.

Effective date. This regulation is effective December 10, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 3, 1982.

Lester M. Crawford,

Director Bureau of Veterinary Medicine.

[FR Doc. 82-33664 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7843]

Indirect Foreign Tax Credit for Domestic Corporations Required To Include Amounts in Gross Income With Respect to Certain Third-Tier Corporations Under Section 951

Correction

In FR Doc. 82-30416 beginning on page 50471 in the issue of Monday, November 8, 1982, make the following corrections:

1. In § 1.960-1(c)(3), in the 22nd line from the top of the third column of page 50473, the text belonging in paragraph (ii) should end with the words "are attributable", and the text beginning with "then, for the purposes * * *" should begin a new line.

2. In § 1.960-1(h)(1)(ii), in the 27th line from the top of the third column of page 50475, the text belonging to paragraph (ii) should end with "960(a)(1).", and the text beginning with "shall be deemed * * *" should begin a new line.

3. In § 1.960-2(e)(2), in the fourth line from the bottom of the third column, the text belonging to paragraph (2) should end with the words "of this section," and the text beginning with the words "then, for purposes * * *" should begin a new line.

4. In § 1.960-2(f), Example 8, in the 13th line from the bottom of the third column, the citation "§ 1.960-2(b)(2) (i)

and (ii)" should have read "§ 1.960-2(d)(2) (i) and (ii)".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1903

Use of Personal Sampling Devices During Inspection

AGENCY: Occupational Safety and Health Administration (OSHA); Department of Labor.

ACTION: Final rule.

SUMMARY: This document amends 29 CFR 1903.7 to expressly authorize compliance officers to use personal sampling devices and to attach such devices to employees during the conduct of workplace inspections. This amendment is necessitated by conflicting judicial decisions as to whether the present regulation provides sufficient authorization for OSHA to use personal sampling devices.

EFFECTIVE DATE: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Public Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue, N.W., Room N3641, Washington, D.C. 20210 (202-523-8151).

SUPPLEMENTARY INFORMATION

I. Background

On February 12, 1982, the Occupational Safety and Health Administration ("OSHA" and the "agency") published two documents in the *Federal Register*: (1) An interpretative and procedural rule which clarified the term "reasonable investigative techniques" as used in 29 CFR 1903.7(b), and (2) a notice of proposed rulemaking which proposed to amend § 1903.7(b) to expressly authorize OSHA compliance officers to use personal sampling devices and to attach such devices to employees during the conduct of workplace inspections (47 FR 6530-34). The agency invited the public to submit written data, views and arguments with respect to the proposed amendment and all issues involved therein, particularly with respect to whether the placement of a sampling device, e.g., noise dosimeter or air sampling pump, on an employee may under certain circumstances constitute an inherent hazard which subjects the employee to potential accident and

injury. Comments were to be postmarked by April 13, 1982.

The agency has received forty-five comments from businesses, unions, trade associations, law firms and others. In addition, comments relating to the issues in this proceeding were submitted by OSHA field personnel. All submissions were made part of the record and were duly considered.

Three commentators requested public hearings on the proposed amendment. See Exhibits 2-23, 2-25, 2-27. The agency considered these requests and determined that public hearings would not be held. Since the regulation at 29 CFR 1903.7(b) is not an occupational safety and health standard as defined by Section 3(8) of the Occupational Safety and Health Act (the "Act"), 29 U.S.C. 652(8), the provisions of Section 6(b) of the Act, 29 U.S.C. 655(b), do not apply. Additionally, hearings are not required by the Administrative Procedure Act when, as here, an agency is engaged in informal rulemaking. 5 U.S.C. 553; *Vermont Yankee Nuclear Power Corp. v. National Resources Defense Council*, 435 U.S. 519 (1978). Furthermore, the commentators that requested the hearings did not claim any inability to present views through written submissions and a review of the comments received tended to reinforce the agency's belief that hearings would result only in the addition to the record of information which at most would duplicate or corroborate the written comments without providing further elucidation of the issues involved. Accordingly, the agency determined that public hearings, with their concomitant costs and delay, would not be held.

II. Statutory Framework

The Occupational Safety and Health Act of 1970 (the "Act"), 29 U.S.C. 651 *et seq.*, was enacted "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources." In order to carry out these purposes, Section 8(a) of the Act, 29 U.S.C. 657(a), authorizes the Secretary of Labor ("Secretary"), upon presenting appropriate credentials to the owner, operator or agent in charge, to conduct workplace inspections and investigations. Pursuant to the rulemaking authority granted by Section 8(g)(2) of the Act, 29 U.S.C. 657(g)(2), the Secretary, in 1971, promulgated regulations designed "to provide procedures and policies for the inspection [and] investigation provisions of the Act." (36 FR 8376 *et seq.*). Included among these regulations was 29 CFR 1903.7, which authorized Compliance Officers "to take

environmental samples" and "employ other reasonable investigative techniques" during the conduct of OSHA inspections.

Since the adoption of 29 CFR Part 1903, the Secretary has consistently and unambiguously interpreted § 1903.7 to allow and in fact encourage the use of personal sampling devices such as noise dosimeters and air sampling pumps and badges as aids in workplace inspections. The Secretary's Compliance Operations Manual, Field Operations Manual and Industrial Hygiene Field Operations Manual all reflect a longstanding belief that personal sampling generally provides the most accurate measure of an employee's exposure to noise or air contaminants. Consistent with this interpretation of § 1903.7 are the Secretary's policies and practices in monitoring employee exposures, as acknowledged by various administrative and court decisions. Additionally, the Secretary's experience during his years of enforcement activities establishes that the use of personal sampling devices is a safe and efficient method of monitoring employee exposure levels.

Notwithstanding the above, two courts issued decisions which adversely affected the agency's ability to conduct personal sampling. In *Plum Creek Lumber Co. v. Hutton*, 608 F.2d 1283 (9th Cir. 1979), the Ninth Circuit held that, absent a law or regulation specifying their use, a court could not order rescission of a company policy prohibiting employees from wearing personal sampling devices. In *In re Establishment Inspection of Metro-East Mfg. Co.* and *In re Establishment Inspection of Century Casting Corp.*, 655 F.2d 805 (7th Cir. 1981), the Seventh Circuit concluded that the regulation at 29 CFR 1903.7 did not give employers "fair warning" of conduct required or prohibited since the regulation did not specify the use of personal sampling devices as a "reasonable investigative technique." Thus, although both courts concluded that the use of personal samplers is reasonable, the Secretary was unable to conduct personal sampling in either case. During the interim, the Eighth Circuit, in *In re Establishment Inspection of Keokuk Steel Castings, Division of Kast Metals*, 638 F.2d 42 (1981) and several district courts declined to follow the *Plum Creek* decision and concluded that personal sampling is a reasonable technique which the Secretary may employ.

III. Summary of Proposed Amendments

On February 12, 1982, OSHA published in the *Federal Register* an interpretative and procedural rule

together with a notice of proposed rulemaking. The interpretative/procedural rule clarified the regulation at 29 CFR 1903.7 by adding an interpretative note that stated that the term "employ other reasonable investigative techniques" includes the attachment of personal sampling devices to employees in order to monitor their exposures (47 FR 6533). The notice of proposed rulemaking announced the agency's intention to issue a legislative rule expressly authorizing compliance officers to use personal sampling devices and to attach such devices to employees during OSHA inspections (47 FR 6534). The proposed revision would thus codify the February 12, 1982 interpretative/procedural rule.

As previously noted, the agency received forty-five public comments and numerous submissions from OSHA field personnel. Following is a discussion of the major comments received and the relevant issues raised therein.

Statutory Authority

Many commentators stated that the Act contains no statutory authority for the proposed rule. See, e.g., Exhibits 2-2, 2-13, 2-14, 2-18, 2-19, 2-29, 2-34, 2-40, 2-41, 2-44. Additionally, a recent U.S. District Court decision stated that there is no such authority. *Service Foundry Co. v. Donovan*, No. 82-3091 (E.D. La. August 27, 1982). The agency disagrees with this view. Sections 8(a) (1) and (2) authorize the Secretary, upon presentation of appropriate credentials, to enter any workplace and to inspect and investigate within reasonable limits and in a reasonable manner all conditions pertinent to the purposes of this Act. The exposure of employees to toxic substances or harmful physical agents is clearly a condition affecting employee safety and health. Thus, sections 8(a) (1) and (2) clearly authorize the Secretary to determine the identity of substances to which employees are exposed and the qualitative and quantitative nature of their exposure by any reasonable means, such as by the use of personal sampling devices. Furthermore, section 8(g)(2) of the Act, 29 U.S.C. 657(g)(2), authorizes the Secretary to "prescribe such rules and regulations as he may deem necessary to carry out [his] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment." This provision, described by the Supreme Court as a grant of "broad authority" to the Secretary, *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 317 n.12 (1978), clearly authorizes rulemaking for the proposed personal sampler rule. Indeed, the Seventh Circuit suggested that the

Secretary amend § 1903.7 to clarify its meaning. *In re Establishment Inspection of Metro-East Mfg. Co.*, 655 F.2d 805, 812 (1981). Thus, the Secretary plainly is empowered to adopt a rule which authorizes the use of personal sampling devices to monitor noise and air contaminants in a workplace.

Safety

In proposing the amendment to § 1903.7, the agency specifically invited public comment on the issue of whether the placement of the device on an employee may under certain circumstances constitute an inherent hazard which subjects the employee to potential accident and injury. In so doing, OSHA noted that all courts that have considered the issue have concluded that the attachment of a personal sampler to an employee is a reasonable investigative technique that presents minimal risk, if any. Furthermore, the Secretary stated that he was unaware of any accident or injury caused by the use of such devices during more than 10 years of OSHA enforcement activities, and that he considered the use of personal sampling to be at least as safe as alternate sampling techniques of equivalent efficiency.

The record amply corroborates the Secretary's experience. Although some commentators asserted that generally the use of personal samplers creates potential risks to employees, see, e.g., Exhibits 2-15, 2-30, 2-37, 2-44, none of these comments specifies any accident or injury caused by the use of such devices. Indeed, several commentators stated that they had no record or knowledge of any such accident or injury. See Exhibits 2-6, 2-7, 2-17, 2-38. Moreover, the submissions of OSHA field personnel, reflecting years of experience and thousands of inspections, reveal only one incident, which involved a spill from an impinger of approximately 5 ml of toluene reagent and resulted in a small degree of skin irritation. See Exhibits 3-19(1) and 3-19(21). These submissions otherwise state that the OSHA personnel have no record or knowledge of any accident or injury related to the use of personal samplers. Furthermore, the comments demonstrate that, in the professional opinion of the OSHA Industrial Hygienists, the use of personal sampling devices is the safest effective method of obtaining employee exposure data.

In addition to the above, the record establishes that the use of personal sampling devices is widespread among industry. OSHA field personnel submitted the names of hundreds of companies known to use the devices to

monitor exposure levels. See, e.g., Exhibits 3-3, 3-4, 3-5, 3-6(1), 3-6(8), 3-6(11), 3-6(14), 3-6(27), 3-7(1), 3-9(6), 3-13(1), 3-18(2), 3-19(18), 3-20. Also identified were companies that either hire consultants or have insurance companies monitor exposure levels through the use of personal samplers. See, e.g., Exhibits 3-11(1), 3-15(3), 3-16(2), 3-18, 3-19(1). Several companies stated in their comments that they routinely use the devices, see Exhibits 2-7, 2-20, 2-43; other commentators stated that they support and agree with the agency's efforts to utilize personal samplers, see Exhibits 2-1, 2-6, 2-9, 2-11, 2-17, 2-20, 2-35.

Based on the foregoing, the agency finds that the use of personal sampling devices, widespread among industry, is, if not the safest, at least as safe as alternate sampling techniques of equivalent efficiency. Such alternate techniques, e.g., area sampling or having an OSHA compliance officer wear a sampler and follow the employee during a work shift, are almost uniformly described by OSHA Industrial Hygienists as less efficient, less accurate and more dangerous than using personal samplers attached to the employee whose exposure is being monitored. See, e.g., Exhibits 3-4, 3-5(2), 3-6(24), 3-11(2), 3-14, 3-19(21), 3-19(58). In addition, several comments were received from representatives of different types of industries and organizations which rely on the use of personal sampling devices to obtain employee exposure data. These commentators stated that this type of equipment is of paramount importance as the most effective means of determining exposure levels and producing statistically valid data while at the same time being the most accurate means available to measure employee exposure, see Exhibits 2-6, 2-7, 2-17, 2-20, 2-43. These devices have been found to be more effective than area sampling to monitor a worker's individual dose, and are a more efficient means of obtaining a sample than the cumbersome practice of following an employee around during the course of a workshift. In light of the general acceptance of the devices and the above-mentioned factors which contribute to the widespread use of personal samplers, the agency concludes that the authority to use personal sampling devices is necessary for the effective and efficient conduct of OSHA health inspections.

Finally, the need to use personal sampling devices is not obviated in those situations in which the employer has sampled its employees' exposure to

toxic substances or harmful physical agents in its workplace. The quantitative nature of worker exposure to toxic substances can vary greatly depending on a variety of factors which are present in the workplace. These variables include such factors as: the work process(es) undertaken by the employer and the enactment of any process changes which would result in different employee exposures; the work practices followed by individual employees; and, variations in workplace environmental conditions such as temperature and pressure fluctuations, along with ambient air flow changes resulting from seasonal variations, and the effectiveness of ventilation/engineering controls where relied upon to reduce employee exposures. Thus, an employer's samples may not be an accurate indication of employee exposure on any given day. Furthermore, without supervising the employer's sampling and the analysis of that sampling, OSHA has no way of determining the accuracy of an employer's samples, even if the employer is in good faith conducting sampling in a responsible and conscientious fashion. Since such results can be greatly affected by the procedures followed by the persons conducting the sampling and those analyzing the samples, OSHA believes it necessary to take its own samples to accurately determine employee exposure to toxic substances and harmful physical agents. Moreover, OSHA can not ignore the possibility that in rare instances, an employer's sampling may be performed or analyzed in a manner which may purposely understate employee exposure to harmful substances.

General Comments

Several commentors stated that employees who decline to wear personal samplers should not be compelled by OSHA to wear the devices. See Exhibits 2-9, 2-14, 2-16, 2-19, 2-29, 2-34, 2-35, 2-37, 2-38, 2-40, 2-41, 2-44. Initially, the agency notes that in its experience the overwhelming majority of employees readily agree to wear the sampling devices when asked. See, e.g., Exhibits 3-6(9), 3-6(25), 3-11(2), 3-13(2), 3-18, 3-19(1), 3-19(10). With respect to those who decline, it is neither agency practice nor policy to compel an employee to wear a personal sampling device. Rather, when faced with such a refusal, the agency attempts to ascertain and alleviate the employee's concern; if these efforts are unsuccessful, another employee is asked to wear the device.

Some commentors stated that the attachment of personal sampling

devices to employees and the employees' wearing of the devices are disruptive and interfere with ongoing work. See, e.g., Exhibits 2-2, 2-16, 2-18, 2-32, 2-33, 2-39. OSHA has concluded that the interference with an employer's work operations inherent in the investigative and sampling process is generally minimal and that the interruptions occasioned by the use of personal samplers are no greater, and in many instances are less substantial, than with the use of the other sampling techniques. In addition, the agency has taken steps to keep such interruption to a minimum. For example, OSHA Industrial Hygienists usually discuss with the employer at the opening conference that fact that sampling will be conducted and oftentimes seek to arrange with the employer a convenient time to begin sampling. Additionally, the agency attempts whenever practicable to attach the sampling devices to employees before a work shift begins; subsequent calibration and spot checks are usually of short duration. Finally, the agency notes that § 1903.7 requires the sampling to be conducted so as to preclude unreasonable disruptions of the employer's operations. In view of the agency's own practices and the limitations contained in § 1903.7(d), it is unnecessary to add further restrictions regarding the conduct of personal sampling.

Many commentors were concerned that results obtained from personal sampling devices may be inaccurate. Some of these commentors stated that sampling devices are inherently inaccurate, see, e.g., Exhibits 2-15, 2-30, 2-33, or are subject to employee tampering, see, e.g., Exhibits 2-5, 2-21, 2-30, 2-37, 2-45. Other commentors noted that the regulation lacks specific guidelines regarding the placement of the device, calibration techniques and monitoring or spot checking. See, e.g., Exhibits 2-4, 2-8, 2-22. However, these comments raise issues more appropriately addressed in the context of an evidentiary hearing on the merits of a citation and the agency therefore declines to include such guidelines in the regulation itself.

Some commentors expressed the view that the use of personal sampling devices in a particular industry or under certain working conditions is inappropriate or dangerous. See, e.g., Exhibits 2-1, 2-12, 2-13, 2-23, 2-31, 2-42. The agency of course recognizes that personal sampling is not appropriate in some instances and indeed OSHA Industrial Hygienists have refrained from using the devices when in their judgment circumstances require

alternate sampling techniques. See, e.g., Exhibits 3-15(7), 3-19(1). However, the purpose of the instant rulemaking proceeding is not to establish personal sampling as the sole means of monitoring exposure levels; in fact, the regulation is not limited to personal sampling and includes authority to utilize other devices as well, such as area samplers. Rather than focusing on a particular method of sampling for use in all circumstances, this rulemaking is intended to codify the agency's general authority to use sampling devices to the extent judicial decisions have not already recognized this authority. The use of any device or sampling technique remains subject to the professional judgment of the agency's compliance personnel.

One commentor stated that § 1903.7 as written could be interpreted to authorize the performance of unlimited tests upon employees such as blood testing, urinalysis and skin-patch testing. See Exhibit 2-3. However, it is not the agency's intention to authorize such tests of an employee's body. Rather, the agency views the regulation at § 1903.7 as authorizing external monitoring of noise and air contaminants through the use, *inter alia*, of dosimeters and air sampling pumps. Any monitoring involving employees' body fluids or internal testing is beyond the scope of this rulemaking.

Regulatory Impact Analysis

In accordance with Executive Order 12291 (46 FR 13193, February 17, 1981), OSHA has carefully assessed the potential impact of the amendment to 29 CFR 1903.7(b). Based on the guidelines of the Executive Order, OSHA has concluded that the amendment is not a "major" action which would necessitate further economic impact evaluation and preparation of a regulatory impact analysis. This conclusion is predicated on several factors. First, it has always been the Secretary's practice to use personal sampling devices on employees whenever possible. The Secretary's experience and the record indicate that these devices are compact, take minimal time to attach to the employee, and neither hinder nor obstruct in any significant way the employee's performance of his job. Thus, there are no tangible adverse labor productivity effects. Second, since OSHA is required to provide the personal samplers for use by its compliance officers, employers are not required to pay for these devices. Therefore, these factors strongly indicate that this amendment would have virtually no effect on costs

to employers and on the economy as a whole.

Additionally, in accordance with the Regulatory Flexibility Act of 1980 (Pub. L. 96-353, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA has carefully assessed the impact of the amendment upon small entities. Initially, the agency notes that to the extent that any costs occur, they would directly relate to the number of workers sampled. Since proportionately the same number of workers would be sampled in both larger and smaller establishments, the costs of the amendment on each unit produced are expected to be relatively the same for both smaller and larger establishments. Moreover, no additional costs result from the amendment since it has always been and continues to be OSHA practice to use personal sampling devices whenever possible and whenever there is no judicial ruling to the contrary. Accordingly, OSHA hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The Regulatory Impact Assessment has identified several benefits which are realized as a result of the promulgation of the amendment. As has been noted in connection with the interpretative and procedural rule, *see* 47 FR 6530 (Feb. 12, 1982), the use of personal sampling devices attached to employees not only increases the effectiveness of OSHA inspections but also minimizes potential reduction in employee productivity. The use of personal sampling devices attached to employees is therefore the most cost effective means of promoting occupational safety and health.

Authority: This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

List of Subjects in 29 CFR Part 1903

Law enforcement, Occupational safety and health, Health, Administrative practice and procedures.

PART 1903—INSPECTIONS, CITATIONS, AND PROPOSED PENALTIES

Accordingly, pursuant to section 8(a) and 8(g)(2) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657(a) and 657(g)(2), and the Secretary of Labor's Order 8-76, 41 FR 25059, Part 1903 of Title 29 of the Code of Federal Regulations is amended by revising paragraph (b) of § 1903.7 as set forth below.

§ 1903.7 Conduct of inspections.

(b) Compliance Safety and Health Officers shall have authority to take environmental samples and to take or obtain photographs related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See § 1903.9 on trade secrets.) As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges and other similar devices to employees in order to monitor their exposures.

(29 U.S.C. 657(a), 657(g); 5 U.S.C. 553)

Signed at Washington, D.C., December 2, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-33412 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Judicial Action Involving Standby Letters of Credit

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations; (1) to clarify the provision in paragraph (b)(3) of § 535.504 revoking and withdrawing all prior general licenses which may have authorized final judicial action permanently disposing of Iranian interests in standby letters of credit or similar instruments; and (2) to extend for one year the expiration date of that paragraph. The purpose of this amendment is to make clear that the effect of such license revocation and withdrawal is that any such judgments or orders which were entered prior to July 2, 1982, but which had not become final by that date through the conclusion of appellate proceedings or the expiration of the time for appeal, are prohibited.

The extension for another year is needed to facilitate the ongoing implementation of the Iran-U.S. agreements of January 19, 1981 (the "Algiers Accords") and, especially, to allow the resolution before the Iran-U.S.

Claims Tribunal of the many claims and issues pending before it, including jurisdictional questions, involving letters of credit.

EFFECTIVE DATE: December 7, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C., tel. (202) 376-0236.

SUPPLEMENTARY INFORMATION: Section 535.504(b)(3), which was added to the regulations in an amendment issued on July 1, filed with the *Federal Register* on July 2 and published in the *Federal Register* on July 7, 1982 (the "July 2 amendment"), clearly prohibits any final judicial judgment or order permanently disposing of any interest of Iran in any standby letter of credit or similar obligation. That amendment was intended to apply not only to future actions, but also to any judicial judgment or order which was entered before July 2, 1982, but which had not become final by that date through the conclusion of appellate proceedings or the expiration of the time for appeal. That intent was shown by the provision in the July 2 amendment revoking and withdrawing all prior licenses and the accompanying supplementary information which specifically provided that the purpose of the amendment was to "allow U.S. account parties to obtain preliminary injunctions or other temporary relief to prevent payment on standby letters of credit, while prohibiting, for the time being, final judicial action permanently enjoining, nullifying or otherwise permanently disposing of such letters of credit." However, because a question has arisen as to the intended application of the July 2 amendment, the present amendment expressly clarifies that any judgment or court order which finally extinguishes Iran's interest in a standby letter of credit or similar obligation is prohibited, including any such judgment or order which was entered prior to July 2, 1982, but which was subject to appellate proceedings as of that date, such as the judgment in the case of *Itek v. First National Bank of Boston*, U.S.D.C.D. Mass., C.A. No. 80-58-MA, appeal pending Nos. 82-1631, 82-1632, 82-1633. Section 535.402 does not negate the application of this amendment, or the prior amendment that it clarifies, to such judgments.

The reasons for section 535.504(b)(3) were set forth with the July 2 amendment. See 47 FR 29529. These reasons are still applicable and justify the one-year extension of § 535.504(b)(3) effected here.

Iran has filed with the Iran-United States Claims Tribunal 229 claims based on standby letters of credit or similar bank instruments. On December 1, 1982, the United States filed with the Tribunal a request that the Tribunal determine which, if any, of these claims come within the Tribunal's jurisdiction. On October 25, 1982, Iran filed with the Tribunal an allegation that the United States has violated its obligations under the Algiers Accords by failing to transfer to Iran the amounts of these standby letters of credit. The Tribunal may rule both on the United States jurisdictional request and on the Iranian allegation as to United States obligations under the Accords within the next year. The pendency of these proceedings before the Tribunal and the possibility of rulings on either or both issues make advisable the continuation of § 535.504(b)(3) for another year.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date, are inapplicable. Similarly, because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with federal regulations. Since no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable to this regulation.

List of Subjects in 31 CFR Part 535

Iran, Foreign assets control.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

31 CFR Part 535 is amended as follows:

Section 535.504 is amended by revising (b)(3)(i) and (b)(3)(v) to read as follows:

§ 535.504 Certain judicial proceedings with respect to property of Iran or Iranian entities.

* * * * *

(b) This section does not authorize:

* * * * *

(3)(i) Any final judicial judgment or order (A) permanently enjoining, (B) terminating or nullifying, or (C) otherwise permanently disposing of any interest of Iran in any standby letter of credit, performance bond or similar obligation. Any license authorizing such action is hereby revoked and withdrawn. This revocation and withdrawal of prior licenses prohibits

judgments or orders that are within the terms of this subparagraph (3)(i), including any such judgments or orders which may have been previously entered but which had not become final by July 2, 1982, through the conclusion of appellate proceedings or the expiration of the time for appeal.

* * * * *

(v) The provisions of this paragraph (b)(3) shall expire at 11:59 p.m., e.s.t., on December 31, 1983.

(Sec. 201-207, 91 Stat. 1626, 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24099; E.O. No. 12211, 45 FR 26805; E.O. No. 12276, 46 FR 7913, E.O. No. 12278, 46 FR 7917, 46 FR 10695; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7926; and E.O. No. 12294, 46 FR 14111)

Dated: December 7, 1982.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary, Enforcement and Operations.

[FR Doc. 82-33653 Filed 12-7-82; 4:11 pm]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

38 CFR Part 17

Patients' Rights

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration (VA) has amended its "Medical Series" of regulations concerning the "Protection of Patient Rights" to set forth, in part, specific minimum substantive and procedural rights to be uniformly afforded both involuntary and voluntary patients undergoing treatment in a VA medical center. Included are regulations which define and protect patients' rights in the areas of privacy, least restrictive treatment, exercise of legal rights, visitation, communication, restraint, seclusion, medication, dress, fund handling, general medical and psychiatric treatment, social interaction, exercise, and religion.

EFFECTIVE DATE: December 6, 1982.

FOR FURTHER INFORMATION CONTACT:

D. C. Rasinski, M.D., J.D., Special Assistant to the Chief Medical Director for Professional Services, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2221.

SUPPLEMENTARY INFORMATION: The VA proceeded on two paths in the development of patients' rights

regulations. One, set forth herein, concerned only patients' rights while the other, which is undergoing review, concerns rights of committed patients. The latter, when published, will both complement and complete the former. The final patients' rights regulations are being published at 38 CFR 17.34a. Section 17.34b thereof will be reserved for the regulations dealing with rights of committed patients.

Comments from seventeen persons and organizations were received concerning the proposed patients' rights regulations published on pages 3061-3063 of the Federal Register of January 16, 1980. Six comments addressed the issue of providing patients notice of their rights. A provision has been added requiring patients to be given notice of their rights upon admission.

Four comments were received concerning the nature of the privacy right to be afforded patients. The commentators suggested that the right to privacy should include confidentiality of patient records, privacy during treatment consistent with VA resources (including bathing and dressing by staff members of the same sex), smoke-free rooms, adequate private storage space and a further discussion of how the right to privacy will be maintained.

It is believed that existing law adequately addresses patient record confidentiality in statutes set forth at section 552a of title 5, United States Code and sections 3301 and 4132 of title 38, United States Code.

The VA has long advocated patient privacy during treatment in its Code of Patient Concern which provides that "[c]ase discussion, consultation, examination, and treatment are confidential and should be conducted discreetly."

While the VA attempts to provide, upon patient request, a staff member of the same sex to bathe or dress the patient, the VA is unable to assure such a right because its patient population is predominantly male while its Nursing Service staff is predominantly female.

The VA, through local medical center management policies, balances the competing interests of smokers and nonsmokers by generally prohibiting smoking in the rooms of acute patients, providing day rooms or smoking lounges for smokers and by placing ambulatory nonsmoking patients in rooms with other nonsmoking patients whenever possible. In addition, each medical center has been directed to carry out an ongoing education program for patients and staff on the hazards of smoking.

The VA strives to meet patient privacy standards set by the Joint

Commission on Accreditation of Hospitals. New medical centers are designed with patients' rooms accommodating one, two or four persons, while existing facilities, as modernized, are partitioned to meet the same standards. Each patient is furnished a bedside cabinet consisting of a drawer and shelf space and locker/wardrobe containing a shelf, clothing rod, drawer and cylinder lock. In addition, centralized storage space for luggage or other possessions of the patient is furnished.

The right to privacy afforded under this regulation is intended to afford patients maximum privacy consistent with VA resources. It is believed better to broadly define the right while providing a patient complaint and review procedure in commitment and patients' rights regulations to be promulgated rather than to attempt to detail every aspect of patient privacy by regulation.

Seven comments were addressed to the proposed regulation concerning patient visitation and communication. Three commentators believed that standards for imposing restrictions on visitation or communication were not specific enough, thereby affording the medical staff too much discretion.

Two commentators suggested that reasons for any restrictions should be entered in the patients' medical record. Other specific suggestions or criticisms included the following: Patients should have notice of and consent to restrictions in a judicial forum; patients should have unrestricted access to mail; patients' rights concerning visitation and communication should only be restricted where patients or others would suffer actual harm; privacy of communications with courts and a doctor of the patient's choice are not sufficiently protected; the patient's attorney is afforded no right to visit; restrictions should not be based on the fact that communications contain obscenities or prejudice the public credibility of the patient; absolute visitation rights should include recognized veterans' representatives; and disclosure of threats of future crime should be limited to either those involving physical violence to persons or property or disclosures specifically authorized by State and Federal statutes.

The final regulation balances the patient's freedom to visit and communicate with the need for medical staff professional judgment and discretion to restrict those rights only when necessary for the protection of the patient or others, or for the operation of the medical facility. Additional objective criteria have been provided as

a necessary precondition to any restriction together with requirements for documenting the reasons for any restrictions imposed and notifying the patient of those restrictions. The final regulation responds to concerns expressed about the extent of the discretion afforded staff and the vagueness of the standards to be applied in assuring that the rights of patients are safeguarded.

While the final regulation does not provide specific judicial review rights, it is not intended to be in derogation of any such rights which a patient may have under applicable law. The final regulation does not incorporate a concept analogous to "actual harm" as a necessary component of the standard for imposing restrictions while rejecting the concept of a patient's absolute right to have unrestricted access to mail. It also continues to protect the absolute right to communicate with attorneys, law enforcement agencies or Government officials (which is intended to encompass courts) but does not make that right absolute in the case of private physicians of the patient's choice. Adequate procedural safeguards are provided involuntary patients to guard against the provision of improper medical treatment. In addition, the wide use of specialized consultation services within VA medical centers as well as the prevalent use of private attending and consulting physicians assures the patient of the availability, when necessary, of a second opinion. The voluntary patient has the additional option of seeking alternative care.

The final regulation retains the absolute right of the patient to be visited by his or her attorney. However, the right is one to be exercised by the patient rather than the attorney. The right to visitation by recognized service organization representatives is made absolute in those cases where the representative is acting as the veteran's agent in a matter concerning VA benefits.

The final regulation does not base restriction of communications on a standard relating to obscenity or protection of public credibility of the patient per se, however, depending on the specific set of facts, such concerns could be considered in applying a "valid and sufficient reason" standard. This is a stricter standard than that identified in the proposed regulation. The final regulation leaves unchanged the proposed regulation provision concerning confidentiality of information obtained from patient mail except for disclosure of threats of future crime to law enforcement authorities. The provision is not intended to

mandate disclosure to law enforcement authorities but to authorize disclosure if a qualified health professional determines that the threat is real and that the patient has the means and ability to carry it out.

Ten commentators provided suggestions or criticism of the subsection of the proposed regulation concerning restraint and seclusion. Eight were concerned with the frequency of monitoring by both professional and other ward personnel.

Two commentators suggested that psychologists as well as physicians should be able to order restraint or seclusion. Five commentators expressed concern about whether the standard set forth for imposing restraint or seclusion was specific enough. One commentator suggested that the authority of the personnel monitoring the restraint or seclusion to terminate it when it is no longer necessary be set forth in the regulation and that patients in restraint be assured of motion and exercise for at least ten minutes every two hours except at night. One commentator suggested that a physician's order should always be necessary for the imposition of restraint or seclusion and that these measures only be used on an emergency basis. One commentator suggested that chemical restraints be included in the regulation.

The final regulation sets forth a stricter standard for imposing restraints or seclusion. It discards the proposed regulation standard of a reasonable anticipation that the patients could harm themselves or others in favor of a "substantial risk of imminent harm by the patient to himself, herself, or others" standard. Monitoring by ward personnel pursuant to the final regulation is required at least hourly. While an appropriate health professional is only required to see a patient in restraint or seclusion every twelve hours, that limitation is not intended to set the standard of practice but only the outside boundary for such monitoring. It is expected that ordinarily such patients will be seen more frequently.

The final regulation continues to repose authority to impose restraint or seclusion with physicians rather than psychologists. Frequently, the disruptive behavior which necessitates restraint or seclusion is based on medical factors such as a metabolic disturbance, and epileptic seizure prodrome or a drug reaction. Often such a patient requires examination for injuries producing pain. It is believed that such restrictions should, therefore, only be imposed on a physician's order.

It is unnecessary to indicate in the regulation that professional personnel monitoring patients have the authority to terminate restraint or seclusion when no longer required. Physicians clearly have that authority while other ward personnel ought not to have that independent authority. Sound medical practice would dictate that the responsible physician be notified if ward personnel believe that restraint or seclusion is no longer justified. Similarly, the right of the patient to have motion or exercise is properly a matter for professional judgment depending on the severity of the condition which necessitated the imposition of restraint, and should be restricted only in the most unusual clinical situation.

It is the intent of the final regulation to require a physician's order to impose restraints on a patient except in very limited circumstances for a very limited time when common sense would dictate that the patient or others must be immediately protected. The regulation, however, provides for prompt contact with a physician when such emergency restraint or seclusion is used.

Six commentators offered their views concerning provisions of the proposed regulation concerning medication. Two commentators expressed concern about emergency administration of medication by nonphysicians and one commentator wished to expand the category of personnel who are given authority to prescribe and review medication to include other health care professionals. The VA believes that only physicians should ordinarily prescribe medication but allowance must be made for a true emergency situation where time does not permit contact with a physician. Such situations are expected to be rare and it is the intent of the final regulation that personnel other than physicians not administer medication except in a bona fide emergency. Two commentators suggested more frequent review of a patient's drug regimen. The final regulation retains the 30 day review standard which is believed to be a reasonable maximum review period standard and is not intended to set a standard of practice for review.

Four commentators provided their views regarding that part of the proposed regulations dealing with patients' dress and money. One noted that since VA issues fire retardant pajamas, patients who elect to wear their own should be required, for their protection, to wear fire retardant pajamas. Two commentators discussed the standard for restriction of clothing or personal possessions. One thought the standard should relate to immediate

dangerousness and that if a restriction were to be imposed because of inappropriateness it should be made part of the patient's treatment plan and the patient should have the right to contest it. The other thought that only a standard relating to dangerousness was appropriate and that the decision to restrict should be reviewed at least weekly. One commentator thought the standard for restricting patient and fund handling was vague and another thought that funds should only be restricted when the patient was adjudicated incompetent by a court or when a Federal agency was designated a payee for monetary benefits.

The final regulation has been revised to employ the stricter "valid and sufficient reason" standard for restrictions regarding patients' clothing or possessions. This is the same standard used regarding allowable restrictions on visitation and communication. This standard could authorize a requirement that patients, for their protection, wear fire retardant pajamas. The final regulation also mandates review of such restrictions at least once every thirty (30) days.

The final regulations refer to instructions published by the Department of Medicine and Surgery, Veterans Administration, concerning personal funds of patients. These instructions, recently revised, provide extensive detailed guidelines for handling patients' funds. Patients' accounts can be restricted under these guidelines if: (1) The patient is adjudged incompetent by a court; (2) the patient has been rated incompetent by the VA; (3) the patient is a psychiatric patient and a competency rating is pending; or (4) patients are considered by their treatment team to be incapable of handling their own funds. Patients are provided notice of appeal rights and a specific appeal procedure which assures due process. These guidelines specifically prohibit restriction of patients' accounts for punitive reasons or as a means of modifying patient behavior. Review of restrictions is required when the patient's condition warrants a change or at least every 6 months.

Four commentators addressed the provisions of the proposed rule dealing with the right to general medical treatment. One commentator suggested subsuming that right under the general rights described in paragraph (a), and including the right to prompt and appropriate health care for any physical, emotional or behavioral problem. One commentator questioned whether medical management includes treatment

and suggested adding a requirement for a full physical examination upon admission. Another commentator thought that the term "medical management" was too vague and thought the right should include a doctor's prompt attention and treatment. Another commentator thought the right should include prompt life-saving treatment in an emergency without discrimination.

The proposed regulation arose out of traditional concern for the physical well-being of patients. The VA has always offered its patients prompt and appropriate care for any condition for which a patient was legally eligible for treatment including psychiatric care and life-saving treatment in an emergency. The use of the term "management" in the proposed regulation was intended to be broader than, and to encompass, treatment. Medical management includes the services of the entire health care team.

The final regulation has been modified to reflect that VA patients have a right to receive prompt and appropriate medical and/or psychiatric treatment for any physical or emotional ailment for which the patient is eligible by law. We intend for the term treatment to have the broad meaning mentioned above.

Three commentators provided their views concerning the portion of the proposed regulation dealing with rights of patients to social interaction. Two were concerned that the standard used for imposing restrictions, i.e., "detrimental to the welfare of the patient or others," was too vague or too broad. One commentator thought the standard should be actual harm to the patient or others and should be supported by documentation together with weekly review of any restriction. One commentator noted that the regulation did not discuss notice to the patient or the right to protest.

The final regulation adopts the "valid and sufficient reason" standard which is also employed as a standard for restricting visitation, communication, dress or use of personal possessions. It provides notice of the restrictions to the patient, prohibits misuse of such restriction and requires periodic review of such restrictions.

Five commentators submitted comments about the right to exercise set forth in the proposed rule. Three expressed concern over the standard used for imposing restrictions. One commentator thought exercise should only be restricted when it threatened actual medical harm to the patient and that this should be supported by documentation and the restriction

discontinued when no longer necessary. One commentator asked what environmental considerations would override the right to exercise. One believed that the right to exercise should include physical and other therapies when requested, ordered by a health professional and approved by a physician. One commentator was concerned that the proposed regulation would be interpreted to mean that only gymnasium-type equipment was appropriate.

The reference to environmental considerations in the proposed regulation related to a right to be outdoors frequently rather than to exercise. The final regulation, however, has been revised to eliminate overriding medical or environmental considerations per se as standards by which restrictions could be imposed. The final regulation adopts the "valid and sufficient reason" standard which is consistent with the standard adopted with regard to most of the other patients' rights afforded by this regulation. It is intended that medical center management determine what equipment and facilities could be useful to promote patient exercise. Gymnasium-type facilities or equipment are not specifically required. Physical and other therapies need not be specifically mentioned with regard to the right to exercise. Such therapies are continually offered as needed and are encompassed in the patient's right to medical management for any physical ailment.

Five commentators remarked on the provisions of the proposed regulation concerning the right of religious worship. One commentator believed that the right to religious worship should be absolute and never be abridged. Two commentators questioned whether the right to religious worship could be restricted without raising serious constitutional questions. One commentator thought the regulation should contain an affirmative duty to provide religious services for all patients regardless of religion or location. One commentator was concerned that the proposed regulation would affirmatively require the VA to provide religious services for specific denominations or religions. One commentator was concerned about notice to the patient of restrictions and the right to contest such restrictions.

The VA has long had a Chaplain Service in recognition of the positive role that a religious ministry can play in the total care and treatment of hospital patients. The VA is also firmly committed to recognizing patients' basic right to religious worship. The right to

religious worship, however, is not absolute and considerations of health and safety can impinge on it. The final regulation has been revised to adopt the "valid and sufficient reason" standard for placing any restriction on a patient's right to worship. It also imposes the additional safeguards of notice to the patient, the requirement for a written entry in the patient's treatment plan, a written order by a health professional in the patient's medical record, periodic review of applicability of restrictions and a prohibition against misuse of such restrictions. The final regulation is intended to allow the patient to worship as he or she pleases provided no valid and sufficient reason warrants a restriction of such right, but the regulation does not require that any particular kind of religious service be provided or that such services must be provided at any particular place. The VA will continue its practice of making as widely available as possible opportunities for religious worship. The Chaplain Service encourages its chaplains to work with the management of medical centers to make such opportunities available, consistent with available resources, to all patients irrespective of physical condition or location.

Five commentators offered miscellaneous recommendations concerning matters which do not appear to be specifically covered in the proposed regulation. These include the following recommendations or criticisms: No prohibition against corporal punishment; no provision for automatic expiration after three days of restrictions imposed by a physician for psychiatric treatment reasons; no affirmative statement that patients are presumed to be legally competent and have first amendment rights of self-organization and assembly; failure to make any restriction of rights the sole responsibility of the treating physician or medical director; freedom from unnecessary or excessive procedures including surgery, radiation and invasive clinical laboratory tests; a right to have the name and specialty of the attending physician; right to have patient advocates; right to have unannounced checks on medical centers by impartial observers; and assurance of protection for VA employees from discrimination or imposition of penalties for reporting violations of patients' rights, questionable medical treatment or inadequate living conditions.

Existing VA regulations, set forth at 38 CFR 0.735-20(e)(5) (1979), specifically prohibit employees from abusing

patients, including physical and verbal abuse.

It is believed preferable to approach monitoring any restriction of patients' rights which might be imposed for a valid and sufficient reason by means of reference to change in the patient's condition while setting mandatory parameters for review to prevent undue restrictions. When a restriction is imposed for a valid and sufficient reason it does not appear prudent to cause a presumably necessary restriction to automatically lapse, so long as there is provision for regular, systematic review of the restrictions and the reasons therefor.

The regulation identifies four bases, each of which may constitute a "valid and sufficient reason" in an individual case for the imposition of a restriction on certain patient rights. Such a valid and sufficient reason for restricting full exercise of a specific right may exist when a health or mental health professional reasonably believes that unfettered exercise of the right would:

- (1) Adversely affect the patient's physical or mental health;
- (2) Be likely to stigmatize the patient's reputation to a degree that would adversely affect a return to independent living;
- (3) Significantly infringe on the rights of or jeopardize the health or safety of others; or
- (4) Have a significant adverse impact on the operation of the medical facility.

It is not intended, however, that all four of the grounds for a restriction be considered to be available with respect to each of the rights involved. For example, the protection of the patient from stigmatization that would adversely affect the patient's return to independent living would not logically be related to the right to physical exercise nor would the protection of the operation of a medical facility warrant a restriction on the patient's rights to convenient and reasonable opportunities for communication by telephone and sealed mail. Thus, it is intended that the health or mental health professional considering imposition of a restriction determine that a clear and logical relationship exists between the right involved and the basis for the restriction and that the seriousness and likelihood of the specified consequences expected to result from the patient's exercise of the right involved are so compelling as to outweigh the patient's interest in exercising that right.

The final regulation clearly indicates that upon admission to a VA medical center patients retain all legal rights not

circumscribed by law. The specific examples given of the rights retained—right to execute legal instruments, right to enter into contractual relationships, right to register and vote and others—quite clearly support the conclusion that such patients are presumed competent particularly when such rights, by the terms of the final regulation, cannot be limited except when the patient is adjudicated incompetent by a court. It appears unnecessary to further define that presumption or to reiterate verbatim patients' first amendment rights.

The final regulation generally permits restrictions supported by a valid and sufficient reason to be imposed by an appropriate health professional except in specific areas such as restraint, seclusion and medication, where the focus is on the responsibility of a physician. It is believed that, while the physician bears ultimate responsibility for the care and treatment of his or her patients, appropriately trained health professionals under the direction of a physician can and should participate in many aspects of the care and treatment of patients including, where necessary, restriction of their activity.

The extent to which a patient requires surgery, radiation or invasive diagnostic tests is one peculiarly within a physician's judgment—while the ultimate decision is clearly that of the patient. By statute 38 U.S.C. 4131 (1976), and implementing regulations, (codified at 38 CFR 17.34) patients are guaranteed that all treatment, to the maximum extent practicable, is carried out only with the full and informed consent of the patient or, in appropriate cases, the patient's representative. In addition, Chapter 23 of the Department of Medicine and Surgery Manual M-2, Part 1 fully explains the VA policy on informed consent. An open and honest dialogue between physician and patient coupled with the patient's ultimate right to decide whether to undergo surgery, radiation or invasive diagnostic tests provides appropriate protection for the patient.

Congress has not specifically authorized the expenditure of patient care funds to implement a patient advocate program throughout the VA health care system. Some VA medical centers, however, through the use of social workers or other qualified personnel, provide patient relations services. The VA is reviewing and evaluating the effect of these services on patient care. Legislation has been introduced to provide for patient advocacy programs. In view of these conditions and developments, the VA

will defer instituting any systemwide patient advocacy program at this time.

The VA has a variety of audit, review, and quality assurance mechanisms, both internal and external, under the jurisdiction of the Health Services Review Organization, to assure the proper operation of VA health care facilities and the optimum level of care for the patients the VA serves. It would be unnecessary, duplicative and inappropriate to add another regulatory review requirement in these patients' rights regulations.

Federal employees are already afforded so-called "whistle blower" protection under provisions of the Civil Service Reform Act of 1978, set forth at 5 U.S.C. 2302(b)(8), which prohibits certain personnel practices as a reprisal for reasonably disclosing violations of law, rule or regulation, abuse of authority, or a substantial and specific danger to public health or safety. In addition, the Inspector General of the VA maintains a toll-free telephone line on which anyone including employees, may report, anonymously if desired, fraud or abuse. These mechanisms provide adequate assurance that employees will be protected if they report violations of patients' rights.

The Administrator has determined that these regulations are non-major as that term is defined by Executive Order 12291. The regulations will only apply to patients and staff in VA hospitals, nursing homes and domiciliaries. Accordingly, the regulation will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will, almost exclusively, be directed to the provision of care by VA staff in VA facilities. It will, therefore, have no significant impact on small entities (i.e., small business, small

private and non-profit organizations, and small governmental jurisdictions.)

Catalog of Federal Domestic Assistance Numbers: 64.001 through 64.022.

List of Subjects in 38 CFR Part 17

Health care, Health facilities, Mental health programs, Health professions, Nursing homes, Veterans.

Approved: December 8, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—MEDICAL

Section 17.34a is added to read as follows:

§ 17.34a Patients' rights.

(a) *General.* (1) Patients have a right to be treated with dignity in a humane environment that affords them both reasonable protection from harm and appropriate privacy with regard to their personal needs.

(2) Patients have a right to receive, to the extent of eligibility therefor under the law, prompt and appropriate treatment for any physical or emotional disability.

(3) Patients have the right to the least restrictive conditions necessary to achieve treatment purposes.

(4) No patient in the Veterans Administration medical care system, except as otherwise provided by the applicable State law, shall be denied legal rights solely by virtue of being voluntarily admitted or involuntarily committed. Such legal rights include, but are not limited to, the following:

(i) The right to hold and to dispose of property except as may be limited in accordance with paragraph (c)(2) of this section;

(ii) The right to execute legal instruments (e.g., will);

(iii) The right to enter into contractual relationships;

(iv) The right to register and vote;

(v) The right to marry and to obtain a separation, divorce, or annulment;

(vi) The right to hold a professional, occupational, or vehicle operator's license.

(b) *Residents and inpatients.* Subject to paragraph (c) of this section, patients admitted on a residential or inpatient care basis to the Veterans Administration medical care system have the following rights:

(1) *Visitations and communications.* Each patient has the right to communicate freely and privately with persons outside the facility, including government officials, attorneys, and

clergymen. To facilitate these communications each patient shall be provided the opportunity to meet with visitors during regularly scheduled visiting hours, convenient and reasonable access to public telephones for making and receiving phone calls, and the opportunity to send and receive unopened mail.

(i) Communications with attorneys, law enforcement agencies, or government officials and representatives of recognized service organizations when the latter are acting as agents for the patient in a matter concerning Veterans Administration benefits, shall not be reviewed.

(ii) A patient may refuse visitors.

(iii) If a patient's right to receive unopened mail is restricted pursuant to paragraph (c) of this section, the patient shall be required to open the sealed mail while in the presence of an appropriate person for the sole purpose of ascertaining whether the mail contains contraband material, i.e., implements which pose significant risk of bodily harm to the patient or others or any drugs or medication. Any such material will be held for the patient or disposed of in accordance with instructions concerning patients' mail published by the Department of medicine and Surgery, Veterans Administration, and/or the local health care facility.

(iv) Each patient shall be afforded the opportunity to purchase, at the patient's expense, letter writing material including stamps. In the event a patient needs assistance in purchasing writing material, or in writing, reading or sending mail, the medical facility will attempt, at the patient's request, to provide such assistance by means of volunteers, sufficient to mail at least one (1) letter each week.

(v) All information gained by staff personnel of a medical facility during the course of assisting a patient in writing, reading, or sending mail is to be kept strictly confidential except for any disclosure required by law.

(2) *Clothing.* Each patient has the right to wear his or her own clothing.

(3) *Personal Possessions.* Each patient has the right to keep and use his or her own personal possessions consistent with available space, governing fire safety regulations, restrictions on noise, and restrictions on possession of contraband material, drugs and medications.

(4) *Money.* Each patient has the right to keep and spend his or her own money and to have access to funds in his or her account in accordance with instructions concerning personal funds of patients published by the Department of Medicine and Surgery.

(5) *Social Interaction.* Each patient has the right to social interaction with others.

(6) *Exercise.* Each patient has the right to regular physical exercise and to be outdoors at regular and frequent intervals. Facilities and equipment for such exercise shall be provided.

(7) *Worship.* The opportunity for religious worship shall be made available to each patient who desires such opportunity. No patient will be coerced into engaging in any religious activities against his or her desires.

(c) *Restrictions.* (1) A right set forth in paragraph (b) of this section may be restricted within the patient's treatment plan by written order signed by the appropriate health or mental health professional if—

(i) It is determined pursuant to paragraph (c)(2) of this section that a valid and sufficient reason exists for a restriction, and

(ii) The order imposing the restriction and a progress note detailing the indications therefor are both entered into the patient's permanent medical record.

(2) For the purpose of this paragraph, a valid and sufficient reason exists when, after consideration of pertinent facts, including the patient's history, current condition and prognosis, a health or mental health professional reasonably believes that the full exercise of the specific right would—

(i) Adversely affect the patient's physical or mental health,

(ii) Under prevailing community standards, likely stigmatize the patient's reputation to a degree that would adversely affect the patient's return to independent living,

(iii) Significantly infringe upon the rights of or jeopardize the health or safety of others, or

(iv) Have a significant adverse impact on the operation of the medical facility, to such an extent that the patient's exercise of the specific right should be restricted. In determining whether a patient's specific right should be restricted, the health or mental health professional concerned must determine that the likelihood and seriousness of the consequences that are expected to result from the full exercise of the right are so compelling as to warrant the restriction. The Chief of Service or Chief of Staff, as designated by local policy, should concur with the decision to impose such restriction. In this connection, it should be noted that there is no intention to imply that each of the reasons specified in paragraphs (c)(2) (i) through (iv) of this section are logically relevant to each of the rights set forth in paragraph (b)(1) of this section.

(3) If it has been determined under paragraph (c)(2) of this section that a valid and sufficient reason exists for restricting any of the patient's rights set forth in paragraph (c)(1) of this section, the least restrictive method for protecting the interest or interests specified in paragraphs (c)(2) (i) through (iv) of this section that are involved shall be employed.

(4) The patient must be promptly notified of any restriction imposed pursuant to this paragraph and the reasons therefor.

(5) All restricting orders must be reviewed at least once every 30 days by the practitioner and must be concurred in by the Chief of Service or Chief of Staff.

(d) *Restraint and seclusion of patients.* (1) Each patient has the right to be free from physical restraint or seclusion except in situations in which there is a substantial risk of imminent harm by the patient to himself, herself, or others and less restrictive means of preventing such harm have been determined to be inappropriate or insufficient. Patients will be physically restrained or placed in seclusion only on the written order of a physician. The reason for any restraint order will be clearly documented in the progress notes of the patient's medical record. The written order may be entered on the basis of telephonic authority received from a physician, but in such an event the ordering physician must examine the patient and sign the written order within twelve (12) hours of giving the order for restraint or seclusion. In emergency situations, where inability to contact a physician prior to restraint is likely to result in immediate harm to the patient or others, the patient may be temporarily restrained by a member of the staff until appropriate authorization can be received from a physician. Use of restraints or seclusion shall be for no more than twenty-four (24) hours, at which time the physician shall again be consulted to determine if continuance of such restraint or seclusion is required. Restraint or seclusion may not be used as a punishment, for the convenience of staff, or as a substitute for treatment programs.

(2) While in restraint or seclusion, the patient must be seen at least once every twelve (12) hours by an appropriate health professional who will monitor and chart the patient's physical and mental condition and by other ward personnel as frequently as is reasonable under existing circumstances, but no less than once each hour.

(3) Each patient in restraint or seclusion shall have bathroom privileges according to his or her needs.

(4) Each patient in restraint or seclusion shall have the opportunity to bathe at least every twenty-four (24) hours.

(5) Each patient in restraint or seclusion shall be provided nutrition and fluid appropriately.

(e) *Medication.* Patients have a right to be free from unnecessary or excessive medication. Except in an emergency, medication will be administered only on the written order of a physician in that patient's medical record. The written order may be entered on the basis of telephonic authority received from a physician, but in such event a physician must countersign the written order within 24 hours of the ordering of the medication. The attending physician shall be responsible for all medication given or administered to a patient. The attending physician shall review the drug regimen of each patient under his or her care at least every thirty (30) days. It is recognized that administration of certain medications will be reviewed more frequently. Medication shall not be used as punishment, for the convenience of the staff, or in quantities which interfere with the patient's treatment program.

(f) *Confidentiality.* Information gained by staff from the patient or the patient's medical record will be kept confidential and will not be disclosed except in accordance with applicable law.

(g) *Patient grievances.* Each patient has the right to present grievances with respect to perceived infringement of the rights described in this section or concerning any other matter on behalf of himself, herself or others, to staff members at the facility in which the patient is receiving care, other Veterans Administration officials, government officials, members of Congress or any other person without fear or reprisal.

(h) *Notice of patient's rights.* Upon the admission of any patient, the patient or his/her representative shall be informed of the rights described in this section, shall be given a copy of a statement of those rights and shall be informed of the fact that the statement of rights is posted at each nursing station. All staff members assigned to work with patients will be given a copy of the statement of rights and these rights will be discussed with them by their immediate supervisor.

(i) *Other rights.* The rights described in this section are in addition to and not

in derogation of any statutory, constitutional or other legal rights. (38 U.S.C. 210, 621)

[FR Doc. 82-33677 Filed 12-9-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH-FRL 2263-8]

National Oil and Hazardous Substances Contingency Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of Effective Date.

SUMMARY: On July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and Executive Order 12316, the Environmental Protection Agency promulgated revisions to the National Oil and Hazardous Substances Contingency Plan. The regulation was transmitted to Congress for review, as required by section 305 of CERCLA. During the period for congressional review, neither House disapproved the regulation. The revised Plan, therefore, shall be effective as of December 10, 1982.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Sylvia Lowrance, Office of Emergency and Remedial Response (WH-548), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (202) 382-2203.

SUPPLEMENTARY INFORMATION: Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510 ("CERCLA" or "the Act") and Executive Order 12316, the Environmental Protection Agency ("EPA" or "the Agency"), promulgated revisions to the National Oil and Hazardous Substances Contingency Plan ("NCP") on July 16, 1982. (See 47 FR 31180). EPA explained that the revisions could not become effective until the period for congressional review had passed. That period has passed and, by this notice, the Agency is establishing the effective date for the revised NCP to be the date of publication of this notice.

The revised NCP implements the new responsibilities and powers created by CERCLA. CERCLA provides that actions taken in response to releases of hazardous substances shall, to the greatest extent possible, be in

accordance with the revised NCP. Section 311 of the Clean Water Act provides that actions taken to remove oil discharges shall, to the greatest extent possible, be in accordance with the NCP. The revised NCP is applicable to response actions taken pursuant to CERCLA and section 311 of the Clean Water Act.

Section 305(a) of CERCLA provides that the promulgation of a regulation under authority of Title I of CERCLA is subject to congressional review. Section 305(b) provides that a regulation may become effective at the end of 60 calendar days of continuous session of Congress after the date of promulgation if "no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution." The congressional review period has expired. Congress took no action on the revised NCP during the review period. Therefore, the revised NCP shall become effective on December 10, 1982.

Dated: December 3, 1982.

Rita M. Lavelle,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 82-33675 Filed 12-9-82; 8:45 am]

BILLING CODE 6560-50-M

MARINE MAMMAL COMMISSION

50 CFR Part 540

National Security Information

AGENCY: Marine Mammal Commission.

ACTION: Final rule.

SUMMARY: The Marine Mammal Commission is revising its regulation establishing agency national security information policy. This revision amends the current Part 540 so as to conform it to the provisions of Executive Order 12356, National Security Information, as they apply to the Commission.

DATE: Effective January 10, 1983.

ADDRESS: Marine Mammal Commission, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006; (202) 653-6237.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 26, 1979 (44 FR 55381-55382), the MMC published its final rule implementing the

provisions of Executive Order 12065 relating to national security. In the *Federal Register* of April 6, 1982 (47 FR 14874-14884), the Office of the President published Executive Order 12356, National Security Information, which revoked Executive Order 12065. In the *Federal Register* of June 25, 1982 (47 FR 27836-27842), the Information Security Oversight Office published its Directive to assist agencies in implementing the provisions of Executive Order 12356. In the *Federal Register* of August 23, 1982 (47 FR 36678-36679), the MMC issued a Notice of Proposed Rulemaking seeking comments on the revisions to its regulations conforming them to the provisions of Executive Order 12356 and the Directive relating to national security information. No comments were received. The Commission has determined that this final rule does not affect the environment and will not impose reporting or other burdens on the economy or on individuals. The final rule is therefore not significant for purposes of Executive Order 12044 and a regulatory analysis, environmental assessment, and environmental impact statement are not required.

List of Subjects in 50 CFR Part 540

Information security.

PART 540—[AMENDED]

Accordingly, 50 CFR Part 540 is amended as set forth below.

1. All references to "Executive Order 12065" throughout Part 540 are changed to read "Executive Order 12356".

2. Section 540.3 is amended by revising paragraphs (a)(2), (b), (e), and (f) to read as follows:

§ 540.3 Procedures.

(a) * * *

(2) Requests for declassification shall be acted upon promptly providing that the request reasonably describes the information which is the subject of the request for declassification.

* * * * *

(b) Exceptional cases. When an employee or contractor of the Commission originates information that is believed to require classification, the Executive Director shall ensure that it is protected in accordance with Executive Order 12356 and shall promptly transmit it under appropriate safeguards to the agency with appropriate subject matter jurisdiction and classification authority for review and action in accordance

with the Order and that agency's regulations and guidelines.

* * * * *

(e) Reproduction. Reproduction of classified material shall take place only in accordance with Executive Order 12356, its implementing directives, and any limitations imposed by the originator. Should copies be made, they are subject to the same controls as the original document. Records showing the number and distribution of copies shall be maintained, where required by the Executive Order, by the Administrative Officer and the log stored with the original documents. These measures shall not restrict reproduction for the purposes of mandatory review.

(f) Storage. All classified documents shall be stored in the combination safe located in the Commission's offices. The combination shall be changed as required by ISOO Directive No. 1, dated June 23, 1982. The combination shall be known only to the Executive Director and his designees with the appropriate security clearance.

* * * * *

Dated: December 3, 1982.

John R. Twiss, Jr.,
Executive Director.

[FR Doc. 82-33629 Filed 12-9-82; 8:45 am]

BILLING CODE 6820-31-M

Proposed Rules

Federal Register

Vol. 47, No. 238

Friday, December 10, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to continue through April 1983 a suspension of certain provisions of the Oregon-Washington Federal milk order. The provisions relate to how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The continuation of the earlier suspension for October through December 1982 was requested by a cooperative association associated with the market to prevent uneconomic movements of milk. The proposed suspension would be for the period of January through April 1983.

DATE: Comments are due not later than December 17, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

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

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

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes

following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the completion of the required suspension procedures in time to include January 1983 in the requested suspension period if this is found necessary. The initial request for the action was received on November 29, 1982.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered for the months of January 1983 through April 1983:

In the third sentence of paragraph (a) and (b) of § 1124.11, the word "not."

All persons who want to comment on the proposed suspension should send two copies of their views to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the Federal Register. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include January 1983 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would continue through April 1983 a similar suspension that was applicable for October 1982 through December 1982. The proposed suspension would remove this limit on the amount of producer milk that a

cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

A continuation of the suspension was requested by a cooperative association that represents a substantial number of producers on the market. The basis for the request is that the continuing increase in milk supplies relative to demand will require the cooperative to handle an increasing quantity of reserve milk supplies during the January-April 1983 period. The cooperative indicated that this situation will be aggravated by the discontinuance of manufacturing, except on a seasonal basis, at its principal pool plant under the order. This means that excess milk normally going to a pool plant will have to be moved to nonpool manufacturing plants instead. The cooperative states that this change in milk movements will reduce the amount of milk that it may divert to nonpool plants since the order's allowable diversions are based upon the percentage of the cooperative's milk that is received at pool plants.

Consequently, the cooperative expects its reserve milk supplies during January-April 1983 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, the cooperative believes that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically first to pool plants and then to nonpool manufacturing plants in order to still maintain producer status for such milk during the months of January through April 1983.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on December 6, 1982.

William T. Manley.

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-33614 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 34-19291; 40-12866; File No. S7-954]

Facilitating Shareholder Communications

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission today is publishing for comment proposed amendments to its rules relating to the recommendations of the Commission's Advisory Committee on Shareholder Communications. The proposed amendments are intended to improve the process by which issuers communicate with the beneficial owners of securities registered in the name of a broker-dealer, bank or other nominee.

DATE: Comments should be received on or before March 11, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-954. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Eric E. Miller (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today published for comment proposed amendments to its rules relating to the recommendations of the Advisory Committee on Shareholder Communications ("Committee") contained in its report, *Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities* ("Report").¹ These proposals,

if adopted, would: (1) Amend paragraph (d) of Rule 14a-3 [17 CFR 240.14a-3] under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq., as amended] to require that the inquiry currently required by that paragraph be made by first class mail or other equally prompt means at least 20 calendar days (rather than 10 days) prior to the record date of a meeting, and that a copy of this inquiry, which shall contain notification of the record date, be sent to the Commission; (2) add to paragraph (b) of Rule 14a-3 a provision which would excuse issuers from having to send annual reports or proxy statements to a security holder if such materials for two consecutive annual meetings have been mailed to the security holder's address of record and have been returned undeliverable, unless state law requires otherwise; (3) amend Rule 14b-1 [17 CFR 240.14b-1] under the Exchange Act to require that brokers (a) respond to the inquiry made by issuers or persons acting on their behalf pursuant to Rule 14a-3(d) no later than seven business days after receipt of the inquiry; (b) mail proxy material and/or annual reports no later than four business days after the receipt of such material; and (c) provide issuers with the names, addresses and securities positions of consenting beneficial owners upon request; and (4) add to paragraph (a)(9) of Rule 17a-3 [17 CFR 240.17a-3] under the Exchange Act a requirement that a record with respect to each account for which securities are held in nominee name include whether or not the beneficial owner consents to disclosure of his or her identity, address and securities positions to the issuers of those securities so held.

I. The Proxy Review Program

The proposals set forth in this release are part of a major program begun by the Commission to review the rules, forms and schedules relating to the solicitation of proxies. While various aspects of the proxy rules have been the subject of study in recent years, this is the first comprehensive and coordinated review of the entire system of proxy regulation. The Proxy Review Program will encompass a review of existing substantive and procedural provisions with a view toward eliminating duplicative or outmoded requirements as well as simplifying and enhancing the readability of proxy disclosure. The amendments proposed today are the third rulemaking initiative of the Proxy Review Program.²

² The first such initiative was the adoption of a new uniform Regulation S-K item relating to the disclosure of certain relationships and transactions

II. Background and Overview

The proposals that are the subject of this release grew out of the work of the Committee, which was established by the Commission in 1981,³ to advise the Director of the Division of Corporation Finance on various difficult, complex and technical questions relating to the development of better means for issuers to communicate with the beneficial owners of securities registered in the name of a broker-dealer ("street name"), bank or other nominee.⁴ Specifically, the Committee was directed to consider the following issues: (1) Delays in the dissemination of proxy material to beneficial owners within the existing system; (2) practices relating to the voting of street and nominee held securities within the existing system; (3) inconsistent practices relating to the dissemination of interim reports and other shareholder communications to beneficial owners of nominee-held securities; and (4) the feasibility of providing a means for issuers to identify the beneficial owners of street or other nominee name securities.

The Committee was composed of fourteen persons including representatives of issuers, exchanges, banks, broker-dealers and others, as well as staff observers from the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation. The Committee met for twelve days during its nine meetings held between May 1981 and May 1982, solicited public comment on the issues,⁵ and received several oral presentations.⁶ On June 10, 1982, the

involving management (Release No. 33-6441 (December 2, 1982)). The second was the proposal of amendments to the Commission's shareholder proposal rule, Rule 14a-8 (Release No. 34-19135 (October 14, 1982) [47 FR 47420]).

³ Release No. 34-17707 (April 10, 1981) [46 FR 22508].

⁴ Securities and Exchange Commission, *Staff Report on Corporate Accountability* (Comm. Print 1980) (Comm. on Banking, Housing and Urban Affairs of the U.S. Senate). This report concluded that the time was ripe for a thorough rethinking of the process by which issuers communicate with beneficial owners and recommended that the Commission establish an Advisory Committee for this purpose.

⁵ Release No. 34-18195 (October 21, 1981) [46 FR 52470]. Approximately 250 comment letters were submitted for the Committee's review. The comment letters, as well as a Comment Highlight prepared by the Division of Corporation Finance, are available for public inspection in the Commission's Public Reference Room. (See file No. S7-911).

⁶ Minutes of the Committee's meetings and copies of the presentations it received are also available in the Commission's Public Reference Room. (See File No. 4-242).

¹ Copies of the Report can be obtained by sending a self-addressed stamped (\$2.40 postage) envelope (10" by 12") to: Publication Section, Room 3C-38, Securities and Exchange Commission, 450 Fifth St., NW. Washington, D.C. 20549.

Director of the Division of Corporation Finance received the Committee's Report, which contained twenty-nine recommendations directed to the Commission, the New York and American Stock Exchanges ("Exchanges"), the National Association of Securities Dealers, Inc. ("NASD"), the federal bank regulatory agencies, banks and issuers.

The Committee's recommendations were the result of diligent efforts on the part of its members to reflect the different perspectives on these issues. The Commission believes the Committee's recommendations warrant serious consideration. Accordingly, the Commission is proposing those rule amendments, with only minor modifications, which the Committee recommended that the Commission adopt.

III. Committee Recommendations

In addition to making recommendations for Commission action, the Committee made recommendations to the NASD, the Exchanges, issuers and other. While the Commission is proposing for comment rule changes consistent with the recommendations directed to it, it wishes to emphasize the importance of the recommendations directed to other participants in improving the dissemination process. The Committee was confident that if all affected parties take the necessary steps, its recommendations would lead to significant improvement in the process by which issuers communicate with the beneficial owners of their securities. The Commission believes that the Committee's recommendations to the NASD, the Exchanges, issuers and the others to whom it directed recommendations warrant serious consideration.⁷ The following briefly describes these other recommendations.

The Committee made five recommendations to the NASD. It recommended that the NASD: (1) Assume certain responsibilities, similar to those assumed by the Exchanges,

with respect to the voting of shares held in broker names; (2) amend its existing rules to require members to make timely distribution of communications other than proxy materials; (3) adopt a billing procedure which will provide information regarding the date that a broker receives proxy materials from the issuer and mails them to his customers; (4) inform companies participating in its National Association of Securities Dealers Automated Quotation System of applicable proxy processing procedures; and (5) facilitate the preparation of a brochure to be supplied to brokerage customers explaining proxy voting procedures.

The Committee also recommended that the Exchanges codify certain of their interpretive rulings and modify certain of their rules. The Exchanges also were urged to consider changes consistent with the recommendations, summarized in (2)-(5) above, that were directed to the NASD.

In addition, the Committee recommended that issuers take a number of steps designed to remedy the perceived deficiencies in the current procedures for information dissemination and proxy voting and distribution. Specifically, the Committee recommended that issuers: (1) Distribute proxy materials to shareholders at least thirty days prior to the meeting date; (2) forward to nominees their requested sets of proxy materials concurrently with issuers' dissemination of proxy materials to shareholders of record; (3) take appropriate steps to assure that a sufficient quantity of proxy material is printed in a timely manner so that there will not be production shorts in deliveries of requested materials to intermediary record owners; (4) consider revising the date of their annual meeting of security holders so that the meeting is not convened during the proxy season (March, April or May); (5) disseminate interim reports to shareholders; and (6) send the same shareholder communications to beneficial owners that they send to record owners.

Finally, the Committee recommended that the federal regulatory agencies and the American Bankers Association ("ABA") urge banks to revise their internal procedures so that certain records would be maintained with respect to proxy handling.⁸ Also, the

ABA was urged to prepare materials describing voting procedures to bank custody account customers, and banks were urged to get their customers to mark, sign and return their proxies.

The Commission would like to take this opportunity, prior to the commencement of the proxy season, to make a special appeal to issuers. The Commission believes that implementation of the recommendations directed to issuers would significantly improve the current process. Therefore, the Commission reiterates its request that issuers give serious consideration, especially to the first three of the recommendations directed to issuers noted above, which deal with the process of proxy distribution.

IV. Synopsis of Proposals

The following discussion of the proposed amendments is included in order to assist all persons in understanding the proposed improvements to the communication system. Attention is directed to the text of the proposed amendments, however, for a more complete understanding.

A. Timeliness of the Proxy Distribution Process

The existing proxy distribution process with respect to beneficial owners of nominee securities is governed by Rules 14a-3(d) and 14b-1. Rule 14a-3(d) currently provides, among other things, that with respect to shares known by an issuer to be owned of record by a broker, dealer, bank, voting trustee or other nominee, an issuer must inquire of such intermediaries, at least ten days in advance of the record date for a meeting of security holders in order to ascertain the number of sets of proxy material needed to provide each beneficial owner with the proxy material. Pursuant to Rule 14b-1, broker-dealers are required to respond to this inquiry by promptly giving the issuer an estimate of the number of sets of materials needed for the beneficial owners of the stock, and, upon receipt of the requested sets of material from the issuer to forward the material promptly to its customers.

The Committee found that there is considerable non-compliance with the existing requirement to make an inquiry of intermediaries at least ten days in advance of the record date.⁹ It also

⁷The Commission has sent letters to the NASD and the Exchanges requesting their cooperation with respect to the Committee's recommendations directed to them. Also, letters have been sent to the registered securities depositories suggesting that they consider filing proposed rule changes that would require banks to disclose to an issuer, upon its request, the identity of banks for whom they hold in nominee name securities of that issuer. The Committee recommended that the Commission adopt a rule under Section 17A of the Exchange Act providing that registered securities depositories must impose such a requirement on their bank participants. At this time, the Commission believes it is more appropriate to pursue this matter informally with the registered securities depositories.

⁸The Committee also recommended that legislation be enacted which would give the Commission authority to promulgate rules imposing responsibilities on bank nominees comparable to those imposed on broker-dealers pursuant to Section 14 of the Exchange Act. The Commission is pursuing a proposed amendment to Section 14 to provide such authority.

⁹In Release No. 34-17424 (January 7, 1981) [46 FR 3204] the Division of Corporation Finance reminded issuers of their obligation to make the inquiry required by Rule 14a-3(d) and brokers-dealers of their obligation under Rule 14b-1 to respond promptly to the inquiry.

found that the absence of a single centralized source for issuers' record dates makes it more difficult for intermediaries to be able to identify beneficial owners as of the record date and to ready themselves for mailing the proxy materials. Accordingly, the Commission is publishing for comment the Committee's specific recommendations.

First, the Committee recommended revising rule 14a-3(d) to provide that issuers make the inquiry currently required by paragraph (d) by first class mail at least 20 days prior to the record date of a meeting. The existing ten day requirement does not provide adequate advance notice to intermediaries in light of the number of steps that must be taken prior to the actual delivery of proxy material to intermediaries and ultimately to beneficial owners.¹⁰ Therefore, the Commission is proposing to amend Rule 14a-3(d) in the manner recommended by the Committee. It should be noted, however, that the proposed first class mailing requirement is not intended to preclude the use of other means so long as the same degree of timeliness would be achieved.

Second, the Committee recommended that Rule 14a-3(d) be amended further to require that issuers send to the Commission, at the same time it is mailed to nominees, a copy of the inquiry which shall contain notice of the record date of each annual or special meeting of security holders.¹¹ The purpose of the Committee's proposal is to provide intermediaries with a single source of comprehensive information concerning the record date of companies. With such information, intermediaries will be able to plan

better when to commence the process of developing and conveying estimates of the number of sets of companies' proxy material they require. Accordingly, the Commission is proposing to amend Rule 14a-3(d) to require issuers to send to the Commission a copy of the inquiry at the same time such inquiry is mailed to intermediaries. The commission does not believe this new requirement will impose any significant burden on issuers since the cost of mailing one additional copy of the inquiry will be *de minimis*. At the same time, however, the Commission requests comment from intermediaries on whether they would make use of such a list of record dates if it were available from the Commission, or as discussed below, from a private vendor.

The Committee also contemplated that a private vendor would publish a cumulative list of record dates and update it on a daily basis, at least during the proxy season. The Commission therefore solicits specific comment from vendors or others as to their ability and willingness to make such information available.

The Committee also recommended that Rule 14b-1 be amended to require that broker-dealers respond to an issuer's inquiry made pursuant to Rule 14a-3(d) no later than seven business days after receipt. The Committee believed that the existing requirement to respond "promptly" is ambiguous and may not give sufficient notice to companies of the numbers of sets of material that they will need to provide. The Committee asserted that requirement to respond within seven business days could be met by subject broker-dealers and the Commission believes that this requirement is consistent with industry practice. Accordingly, the Commission is proposing an amendment to Rule 14b-1 which will give effect to the Committee's recommendation. Nevertheless, the Commission specifically solicits comment on whether a shorter or longer period would be more appropriate.

The Commission also is proposing, consistent with the Committee's recommendation, to amend Rule 14b-1 to require that proxy materials be forwarded by brokers to beneficial owners no later than four business days after receipt. The Committee believed that replacing the existing reference to "promptly" with specific turnaround time would add significant certainty to the Rule's operation.¹² Further, it

concluded that setting a definite time frame for forwarding materials should assist brokers in scheduling their processing of issuers' materials and put issuers on notice that it may take brokers a certain amount of time to forward those materials. It is contemplated that the four business day period will be triggered by a broker's receipt of substantially all the material from an issuer. It also should be noted that four business days is the maximum period set forth in the proposed amendment and, in many cases, the materials can and should be mailed sooner. Once again, the Commission believes the proposed requirement reflects industry practice, but specifically solicits comments on whether a shorter or longer period would be more appropriate.

Finally, the Committee recommended that Rule 14a-3(b) be amended to excuse an issuer from delivering a proxy statement or annual report to any shareholder of record where at least two consecutive annual meeting solicitations mailed to the shareholder's address of record have been returned undeliverable, unless state law requires otherwise. The Commission agrees with the Committee that such revision would relieve companies of the expense of printing and transmitting proxy material that for reasons beyond the control of the issuer cannot be delivered. Accordingly, the Commission is proposing to amend Rule 14a-3(b) in the manner recommended by the Committee.

If this proposal were adopted, the Commission contemplates that issuers, as a matter of good practice, would resume delivery of the proxy statement and annual report if, at a later date, they learn of a shareholder's new address. Comment is requested, however, on whether it is necessary to specify this practice in the Rule.

B. Identification of Beneficial Owners

One of the most difficult issues the Committee was charged with addressing was the feasibility of providing a system for issuers to identify the beneficial owners of securities held in nominee name. Over the years, the Commission, as well as others, has explored the possibility of beneficial owner identification to the issuer as a means of overcoming the effects of nominee registration on shareholder communication.¹³

"promptly" in order to eliminate any confusion regarding the application of Rules 14a-3 and 14b-1.

¹³ See *Street Name Study*, pp. 39-44; See also Release No. 34-13719 (July 5, 1977) [42 FR 35943].

¹⁰ When paragraph (d) of Rule 14a-3 was first adopted (Release No. 34-11079 (October 31, 1974) [39 FR 40766]) it did not contain the current ten day requirement and in fact did not provide any instruction regarding the appropriate number of days prior to the record date that the inquiry should be made. However, the *Street Name Study* (Securities and Exchange Commission, *Final Report on the Practice of Recording the Ownership of Security in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities* (Comm. Print 1976) (Comm. on Interstate and Foreign Commerce of the U. S. House of Representatives)) concluded that a ten day requirement was necessary to give intermediaries enough time to take the steps necessary to deliver materials to beneficial holders. The Commission therefore amended paragraph (d) of Rule 14a-3 (Releases No. 34-13719 (July 5, 1977) [42 FR 35953]) to give effect to the recommendation of the *Street Name Study*. It was the Committee's conclusion, however, that ten days has not proven adequate.

¹¹ The Exchanges currently require that their listed companies give to them advance notice of their record dates. See *N.Y.S.E. Company Manual at A-131*; *American Stock Exchange Company Guide*, Listing Form L, 12(b). Each Exchange then publishes a list of record and meeting dates in its weekly bulletins.

¹² In connection with this proposed amendment, the Commission proposes to amend Note 3 to paragraph (d) of Rule 14a-3 to delete the term

As mentioned earlier, the Committee solicited comment on a number of matters it was considering, including the feasibility of a direct communication system.¹⁴ Many issuers asserted that corporate-shareholder communications would improve demonstrably if issuers were provided with the identities of beneficial owners for the purpose of directly communicating with them.¹⁵ There was, however, disagreement among commentators over the technical feasibility and cost of implementing a system to provide for such communication. A number of commentators asserted that the two alternatives discussed by the Committee in its Report would be technically feasible.¹⁶ Others, including several transfer agents, banks and broker-dealers, as well as some issuers, indicated, however, that the cost of direct communication in connection with the distribution of proxy material would be prohibitive and could disrupt effective communication.¹⁷

The Committee found that there is substantial interest on the part of issuers and others in creating a means to identify beneficial owners and communicate directly with them. It concluded, however, that there were substantial questions about the workability and cost of direct proxy communication in connection with the distribution of proxy material. Nevertheless, it believed that many of these questions would be avoided by the adoption of a system that would retain the existing procedures for disseminating proxy information, but would provide issuers with access to the names, addresses and securities positions of consenting beneficial share owners whose stock is held by broker-dealers. As the Committee stated, "such a system should neither disrupt the existing system of proxy distribution, nor burden the corporate and financial

communities with additional unnecessary costs." It would be used to augment the proxy distribution process by permitting issuers to contact consenting beneficial holders to determine whether materials are being timely delivered and to urge them to instruct their brokers how they wish to vote their shares, and for other incidental purposes throughout the year. Accordingly, the Committee recommended the adoption of a system that would leave intact the current proxy system and would provide issuers with access to information about consenting beneficial owners.

Specifically, the Committee recommended that the Commission adopt a rule requiring broker-dealers to determine whether customers with securities registered in street or other nominee name consent to disclosure of their identity to issuers, and, upon request and assurance of appropriate reimbursement, to provide issuers promptly with a list of the names, addresses and securities positions of consenting beneficial owners as of the record date of each meeting of security holders.

The Commission believes that the Committee has recommended a reasonable solution to a difficult issue, and, accordingly, is proposing to amend Rule 14b-1 consistent with the Committee's recommendation substantially as set forth in the Report. The amendment, embodied in a new paragraph (c) to Rule 14b-1, would require any broker registered pursuant to Section 15 of the Exchange Act¹⁸ to provide an issuer, upon request and assurance of payment for reasonable expenses (both direct and indirect), with the names, addresses and securities positions, compiled as of the issuer's record date, of consenting beneficial owners of securities held of record by the broker or its nominee. The Commission contemplates that issuers obtaining this information will use it solely for purposes of communicating with their beneficial owners, but believes it may be appropriate to put some limitations in the Rule. Comment is requested on whether limitations on issuer use should be referenced specifically in the Rule.¹⁹

¹⁸ The Committee's recommendation and the proposed amendment are limited to broker-dealers because the Commission does not have authority to impose such requirements on bank nominees. (But see, fn. 8, at p. 7, *supra*, for a discussion of the legislation initiative being considered by the Commission).

¹⁹ See, e.g., paragraph (f)(4)(i) of Rule 14d-5, under the Exchange Act (17 CFR 240.14d-5, which provides limitations on the use of stockholder lists and security position lists furnished to a bidder in a tender offer.

The proposed amendment does not define the term "consenting beneficial owner." The Committee believed that any method of obtaining consent should safeguard the privacy interests of brokerage customers but not be so burdensome as to deter beneficial owners who do not object from responding. With respect to new accounts, the Committee suggested that broker-dealers' account opening forms and procedures be established to permit customers to indicate when the account is open whether they object to disclosure.²⁰ With respect to existing accounts, the Committee stated that procedures should be established to assure that, within a reasonable time, brokers obtain instructions as to whether or not each customer consents to being identified to issuers for this purpose. The Committee was of the view that the most prudent course of action would be for the broker to obtain written instructions from each beneficial owner. The Commission specifically solicits comments, however, as to whether it should specify the manner of consent by rule, and, if so, what it should be, or whether it should leave it to each broker to determine the manner of obtaining consent.

In addition, although the Committee asserted that issuers which obtain lists of beneficial owners should reimburse broker-dealers for their expenses incurred in obtaining consent (which will relate primarily to a one time survey of existing account holders) and preparing lists of beneficial holders, it did not specify how such reimbursement was to be determined. Similarly, the proposed amendment to Rule 14b-1 does not specify how the "reasonable expenses" for providing these services are to be determined. However, paragraph (b) of Rule 14b-1 currently uses the same standard of "reasonable expenses" relating to the forwarding by broker-dealers of the material specified in that paragraph. When Rule 14b-1 was adopted in 1977,²¹ the Commission indicated that the exchanges and other self-regulatory organizations should provide guidance as to what constitutes "reasonable expenses." The Commission believes that the exchanges should continue to act in this area, but solicits comment as to whether it would be appropriate or necessary for it to specify in Rule 14b-1(c) the way in

²⁰ As the Committee points out, customer consent would relate to an entire account so that brokers would not be burdened with segregating the customer's preference on a security by security basis.

²¹ Release No. 34-13719 (July 5, 1977) [42 FR 35953].

¹⁴ Release No. 34-18195 (October 21, 1982) [48 FR 52470].

¹⁵ See Comment Highlights in File No. S7-911.

¹⁶ The first alternative format would have established procedures for an issuer to deliver all shareholder communications directly to beneficial owners who consent to the disclosure of their identity, instead of having all such materials go first to the nominee, as is currently the procedure. The other alternative would retain the current procedure for delivery and voting of proxies through intermediaries, but would require nominees to provide the issuer, at least once a year, with a list of the names of consenting beneficial holders so that it could contact such holders in order to ensure that they have received proxy materials from their brokers and to urge them to inform their brokers of their vote. Under the second alternative, it was contemplated that the list might be used by the issuer to mail directly to beneficial owners interim reports and non-proxy communications.

¹⁷ See Comment Highlights in File No. S7-911.

which "reasonable expenses" should be determined by issuers and broker-dealers. If commentators believe that it is appropriate to codify the way in which such expenses are to be determined, the Commission urges them to provide specific suggestions in that regard.

In order to assure that information concerning lists of consenting beneficial owners is maintained and preserved by broker-dealers, the Commission is proposing to amend Rule 17a-3 (17 CFR 240.17a-3), the general recordkeeping requirement for broker-dealers, to require that the record required to be kept with respect to each account for which securities are held in nominee name pursuant to paragraph (a)(9) includes information concerning whether or not the beneficial owner consents to disclosure of his or her identity and securities positions to issuers.

Finally, while the Commission believes that compliance with proposed Rules 14b-1(c) and 17a-3(a)(9) would not be possible unless broker-dealers inquire of beneficial owners whether or not they consent to disclosure, comment is invited on whether a rule specifically requiring broker-dealers to make such an inquiry of beneficial owners is necessary.

V. Request for Comments

Any interested person wishing to submit comments on the proposed amendments, as well as on other matters related to the process of shareholder communications, is requested to do so. The Commission also solicits comment on whether the proposals if adopted would have an adverse effect on competition or would impose a burden on competition which is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Finally, commentators are invited to submit specific comment on the costs and benefits to the participants in the information dissemination process, including broker-dealers and issuers and their shareholders, attendant to these proposals. Comments on the inquiries should include, to the extent feasible, detailed empirical and evidentiary material in support of any conclusions, opinions or positions.

List of Subjects in 17 CFR Part 240

Reporting requirements and securities.

VI. Text of Proposals

In accordance with the foregoing, it is proposed to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By amending Regulation 14A (§ 240.14a-3 to § 240.14b-1) by revising paragraphs (b) and (d), and note 3 to paragraph (d) of § 240.14a-3 to read as follows:

Regulation 14A: Solicitations of Proxies

§ 240.14a-3 Information to be furnished to security holders.

(b) If the solicitation is made on behalf of the issuer, and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to security holders: *Provided, however,* That, unless state law requires otherwise, the issuer is not required to disseminate an annual report or proxy statement to any security holder where such materials for two consecutive annual meetings mailed to the security holder's address of record have been returned undeliverable. The annual report to security holders shall be prepared as follows:

(d) If the issuer knows that securities of any class entitled to vote at a meeting with respect to which the issuer intends to solicit proxies, consents or authorization are held of record by a broker, dealer, bank or voting trustee, or their nominees, the issuer shall, by first class mail or other equally prompt means, inquire of such record holder at least 20 calendar days prior to the record date of the meeting of security holders (or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown), whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to beneficial owners. The inquiry shall contain notification of the record date of the meeting and a copy of such inquiry shall be mailed to the Commission at the same time it is sent to record holders. The issuer shall supply the record holders of whom the inquiry is made with additional copies of the proxy, other proxy soliciting material, and/or the annual report to security holders, in a timely manner in such quantities, assembled in such form and at such a

place, as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities so held and shall, upon the request of such record holder, pay its reasonable expenses for completing the mailing of such material to security holders to whom the material is sent.

Note 1: * * *

Note 3: The attention of issuers is called to the fact that broker-dealers have an obligation pursuant to § 240.14b-1 and applicable self-regulatory requirements to obtain and forward annual reports and proxy soliciting materials to beneficial owners for whom such broker-dealers hold securities.

2. By revising paragraphs (a) and (b); and adding new paragraph (c) to § 240.14b-1 to read as follows:

§ 240.14b-1 Obligation of registered brokers in connection with the prompt forwarding of certain communications to beneficial owners.

A broker registered under Section 15 of the Act shall:

(a) Respond no later than seven business days after receipt of an inquiry made in accordance with § 240.14a-3(d) by or on behalf of an issuer soliciting proxies, consents or authorization by indicating, by means of a search card or otherwise, the approximate number of its customers who are beneficial owners of the issuer's securities that are held of record by the broker or its nominees;

(b) Upon receipt of the proxy, other proxy soliciting material, and/or annual reports to security holders and of assurances that its reasonable expenses shall be paid by the issuer, forward such materials to such customers no later than four business days after the receipt of the proxy material or annual reports; and

(c) Provide the issuer, upon its request and assurance that it will reimburse the broker's reasonable expenses, with the names, addresses and securities positions, compiled as of the issuer's record date, of consenting beneficial owners of securities held of record by the broker or its nominees.

3. By revising paragraph (a)(9) of § 240.17a-3 to read as follows:

§ 240.17a-3 Records to be made by certain exchange members, brokers and dealers.

(a) * * *

(9) A record in respect of each cash and margin account with such member, broker or dealer indicating (i) the name and address of the beneficial owner of such account, (ii) whether or not the beneficial owner consents to disclosure of his or her identity, address and

securities positions to issuers, and (iii) in the case of a margin account, the signature of such owner; *Provided*, That, in the case of a joint account or an account of a corporation, such records are required only in respect of the person or persons authorized to transact business for such account.

Statutory Authority

These amendments are being proposed pursuant to Sections 12, 14, 17 and 23(a) of the Securities Exchange Act of 1934.

(Secs. 12, 14, 17, 23(a), 48 Stat. 892, 895, 897, 901; secs. 1, 4, 8, 49 Stat. 1375, 1379; sec. 203(a), 49 Stat. 704; sec. 5, 52 Stat. 1076; sec. 202, 68 Stat. 686; secs. 3, 5, 10, 78 Stat. 565-568, 569, 570, 580; secs. 1, 3, 82 Stat. 454, 455; secs. 28(c), 3-5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 14, 18, 89 Stat. 117, 118, 137, 155; 15 U.S.C. 781, 78n, 78q, 78w(a))

By the Commission.

George A. Fitzsimmons,
Secretary.

December 2, 1982.

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to Rules 14a-3, 14b-1 and 17a-3, set forth in Securities Exchange Act Release No. 19291 (December 2, 1982), if promulgated, will not have a significant economic impact on a substantial number of small entities and, in some instances, will reduce the costs for such entities. While the proposed amendments to paragraph (d) of Rule 14a-3 will impose upon issuers the cost of sending by first class mail or other equally prompt means the inquiry already required by the Rule and of mailing one copy of the inquiry to the Commission, both of these costs will be *de minimis*. In addition, the proposed amendment to paragraph (b) of Rule 14a-3 will eliminate an issuer's cost of having to send reports to certain security holders. Also, the proposed amendments to paragraphs (a) and (b) of Rule 14b-1, which will specify the number of days within which broker-dealers must satisfy requirements already imposed upon them by the rule, should impose little additional cost on small broker-dealers subject to the rule. Many small broker-dealers employ third party service organizations to perform the tasks required of them by paragraphs (a) and (b); these brokers should incur almost no additional cost. Others do not maintain many customer accounts and thus can satisfy the requirements of the rule quickly and inexpensively. Moreover, the requirements imposed upon broker-dealers by the proposed amendments are generally consistent with current industry practice. Furthermore, even if small broker-dealers incur additional costs in compliance with the proposed amendment to paragraph (b), they are entitled to reimbursement by issuers pursuant to the Rule. Similarly, although proposed new

paragraph (c) of Rule 14b-1 will require broker-dealers to provide certain information to issuers upon request, issuers that make such requests must reimburse all reasonable expenses (both direct and indirect) incurred by broker-dealers in compiling and transmitting that information. Finally, the amendment to Rule 17a-3 also should have no significant economic impact on small broker-dealers. The costs of acquiring the information that must be maintained by a broker-dealer in compliance with the proposed amendment to Rule 17a-3 are those contemplated by "reasonable expenses" under proposed Rule 14b-1(c) and thus are subject to issuer reimbursement. In addition, the costs associated with the maintenance of this information should be *de minimis*.

Dated: December 2, 1982.

John S.R. Shad,
Chairman.

[FR Doc. 82-33627 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 78P-0429]

Canned Pineapple; Amendment of Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the definition of the style "chunks" in the standard of identity for canned pineapple to excluded the style "large cubes." This action will promote honesty and fair dealing in the interest of consumers.

DATE: Comments by February 8, 1983. The agency proposes that any final rule that is issued based upon this proposal become effective 60 days after publication of the final rule. See Supplementary Information for a full discussion of the proposed effective date.

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

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 24, 1981 (46 FR 57474), FDA published a final regulation amending the U.S. standards of identity and quality for canned

pineapple (21 CFR 145.180 (a) and (b)). The amendment redesignated as "small cubes" or "dice" the style of the pineapple now designated as "cubes" or "dice" and provided for an optional style of canned pineapple designated as "large cubes." The final regulation was based on a petition by the Malaysian Pineapple Industry Board, Ministry of Primary Industries of Malaysia, submitted through the Embassy of Malaysia, 2401 Massachusetts Ave. NW., Washington, DC 20008. In the Federal Register of March 9, 1982 (47 FR 9997), FDA announced a stay of the effective date of the amendment in response to objections and request for a hearing. Elsewhere in this issue of the Federal Register, FDA is ending the stay and confirming the effective date of the November 24, 1981 amendment.

FDA concluded in the November 24, 1981 final regulation that "large cubes," as defined by the Malaysian petition, are not "chunks" and that "large cubes" is an appropriate name for this cube-shaped style of canned pineapple.

The Pineapple Growers Association of Hawaii objected to providing for a separate style "large cubes" because § 145.180(a)(2)(vii) provides that "chunks" may be cut from either thick slices or whole fruit and therefore under the amended standard the identical product could be labeled either "chunks" or "large cubes." FDA agrees that within the existing definition, the style "large cubes" could conform to the dimensional requirements for "chunks." However, the "chunks" style of canned pineapple commonly sold in the United States consists of rectangular-shaped pieces of pineapple cut from slices and with two curved and four planar surfaces, two of the opposing planar surfaces being nonparallel, while a style designated as "cubes" would be expected to have six planar surfaces with relatively parallel opposing planar surfaces. Therefore, in order to make the definitions for these two styles mutually exclusive, FDA proposes to amend the standard of identity for canned pineapple by revising the definition for "chunks" in § 145.180(a)(2)(vii) to state that the "chunks" style does not include "large cubes."

The agency proposes that any final rule that is issued based upon this proposal effective 60 days after publication of the final rule other than any provisions that are stayed by the filing of proper objections. The agency believes that this effective date provides adequate time for compliance because the amendment that would be established by the final rule is merely a

clarifying one and does not involve any label changes.

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354 [5 U.S.C. 601]), FDA has considered the effect this proposed rule would have on small entities including small businesses. The proposed regulation clarifies the U.S. standard of identity for canned pineapple in response to an objection to a final regulation. The agency believes that the proposed regulation will not impose an additional burden on the industry. FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

The agency has determined under 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 145

Canned fruits, Food standards, Fruits. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 145 be amended in § 145.180 by revising paragraph (a)(2)(vii) to read as follows:

PART 145—CANNED FRUITS

§ 145.180 Canned pineapple.

- (a) * * *
- (2) * * *
- (vii) *Chunks*—consisting of short, thick pieces cut from thick slices and/or from peeled cored pineapple and predominantly more than 13 millimeters (0.51 inch) in both thickness and width, and less than 38 millimeters (1.5 inches) in length and does not include large cubes.

Interested persons may, on or before February 8, 1983 submit to the Docket Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 6, 1982
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 82-33662 Filed 12-9-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 310

[Docket No. 80N-0419]

Aphrodisiac Drug Products for Over-the-Counter Human Use

Correction

In FR Doc. 82-27055, beginning on page 43572, on Friday, October 1, 1982, on page 43574, in the first column, in the second paragraph, in the twelfth line, "deficiency, specific" should read "deficiency, the administration of androgens is a highly effective specific".
BILLING CODE 1505-01-M

21 CFR Part 357

[Docket No. 82N-0166]

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 82-27054, beginning on page 43540, on Friday, October 1, 1982, make the following corrections:

- On page 43549, in the second column, in the first line, "625 families" should read "626 families".
- On page 43552, in the third column, in the second line "served," should read "severed."
- On page 43553, in the first column, in the second paragraph, in the fourteenth line, "July 8, 1977" should read "July 8, 1977".

BILLING CODE 1505-01-M

21 CFR Part 886

[Docket No. 82N-0180]

Proposed Reclassification of Daily Wear Spherical Contact Lenses Consisting of Rigid Gas Permeable Plastic Materials; Extension of Time for Comment

AGENCY: Food and Drug Administration.
ACTION: Proposed rule; Extension of time for comment.

SUMMARY: The Food and Drug Administration (FDA) is extending the time within which interested persons may submit written comments on its

proposal to reclassify marketed daily wear spherical contact lenses consisting of certain rigid gas permeable plastic materials from class III (premarket approval) into class I (general controls).

DATE: Comments by January 26, 1983.

ADDRESS: Written comments on the reclassification proposal may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Maria E. Donawa, National Center for Devices and Radiological Health (HFK-300), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7175.

SUPPLEMENTARY INFORMATION: FDA published the proposed rule in the *Federal Register* of November 26, 1982 (47 FR 53402), and gave 30 days for interested persons to submit written comments on the document to the agency. In accordance with section 520(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)(2)), which requires the agency to provide at least 60 days for interested persons to comment on any proposed rulemaking under section 513 of the act (21 U.S.C. 360c), FDA is extending the period of time for submission of comments to January 26, 1983.

Interested persons may, on or before January 26, 1983 submit to the Dockets Management Branch (address above), written comments regarding the reclassification proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 3, 1982.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-33659 Filed 12-9-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 886

[Docket No. 82N-0179]

Proposed Reclassification of Daily Wear Optically Spherical Hydrogel (Soft) Contact Lenses; Extension of Time for Comments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; Extension of time for comment.

SUMMARY: The Food and Drug Administration (FDA) is extending the time within which interested persons may submit written comments on its proposal to reclassify certain marketed daily wear optically spherical hydrogel (soft) contact lenses from class III (premarket approval) into class I (general controls).

DATE: Comments by January 26, 1983.

ADDRESS: Written comments on the reclassification proposal may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Maria E. Donawa, National Center for Devices and Radiological Health (HFK-300), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7175.

SUPPLEMENTARY INFORMATION: FDA published the proposed rule in the *Federal Register* of November 26, 1982 (47 FR 53411), and provided 30 days for interested persons to submit written comments on the document to the agency. In accordance with section 520(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)(2)), which requires the agency to provide at least 60 days for interested persons to comment on any proposed rulemaking under section 513 of the act (21 U.S.C. 360c), FDA is extending the period of time for submission of comments to January 26, 1983.

Interested persons may, on or before January 26, 1983 submit to the Dockets Management Branch (address above), written comments regarding the reclassification proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 3, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-33658 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 438; Re: Notice No. 416]

Public Hearing; Temecula, Murrieta, and Rancho California Viticultural Areas

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

ACTION: Notice of hearing.

SUMMARY: This notice announces the time and location the Bureau of Alcohol, Tobacco and Firearms (ATF) will hold a public hearing to gather additional information and testimony on the proposed Temecula, Murrieta, and Rancho California viticultural areas. Notice No. 416 was published in the *Federal Register* on July 27, 1982 (47 FR 32450) in which ATF proposed the establishment of viticultural areas in Riverside County, California to be known as "Temecula," "Murrieta," and "Rancho California." The proposal was issued as a result of two opposing petitions submitted by the Rancho California/Temecula Winegrowers Association and Callaway Vineyard and Winery.

DATES: The hearing will be held on January 20, 1983, at 9:00 a.m. (an evening session will be held if necessary at 7:00 p.m.).

Requests to testify must be received on or before January 12, 1983.

ADDRESSES: The hearing will be held at the Rancho California Water District Building, Community Room, 28061 Diaz Road, Temecula, California. Requests to testify or written testimony submitted in lieu of a personal appearance must be submitted to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385. (Attn: Notice No. 438).

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202-566-7602).

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1982, ATF published a notice of proposed rulemaking, No. 416, in the *Federal Register* (47 FR 32450) proposing the "Temecula," and "Rancho California" viticultural areas. ATF reprinted Notice No. 416 and mailed it to 65 interested parties whose names

appeared on mailing lists provided by the petitioners.

The 45-day comment period ended on September 10, 1982. However, written comments and supplementing comments submitted after this date were accepted since final consideration on the notice has not been initiated. In addition, ATF received 6 comments from interested parties before the notice of proposed rulemaking was published in the *Federal Register*. These comments have been entered into the public record and will also be considered in making the final rule.

In response to Notice No. 416, ATF received 19 written comments during the comment period, totaling 217 pages. In addition, ATF received 8 comments from interested parties after the close of the comment period. These comments have been entered into the public record and will also be considered in making the final rule.

In most of the comments, it is clear that the disparity between the two opposing petitioners has spread throughout the grape-growing community in Riverside County. The commenters' preferences for the proposed boundaries are as follows: 6 in favor of the Association's proposal, 5 in favor of Callaway's proposal, and 6 in favor of "Temecula" as proposed by Callaway and "Murrieta" as proposed by ATF based on data contained in both petitions. The remaining commenters did not express an opinion relating to the proposed boundaries.

In addition to exploring the disagreement between the two petitioners, ATF is interested in receiving testimony on the boundaries in the southeast corners of the two proposed Temecula areas and the proposed Rancho California area. Apparently, all three boundaries pass through properties on which vineyards are located.

Public Hearing and Requests To Testify

ATF believes that a public hearing on the proposed Temecula, Murrieta, and Rancho California viticultural areas is essential in order to obtain and evaluate additional information and allow all interested parties an opportunity to give oral testimony. Persons desiring to testify should submit a written request containing the name, address, and telephone number of the individual who will testify. The request should also contain the time of day which would be most convenient to testify. To the extent possible, ATF will honor preferences. Persons asking to testify should include an outline of the topics on which they will speak. Oral comment will be limited

to 10 minutes per speaker, but additional time may be granted for answering questions. Persons asking to comment should be prepared to respond to questions concerning their comments, their topic outlines, or any matter relating to written comments they may have submitted.

Persons not scheduled to comment may be allowed to comment at the conclusion of the hearing, if time permits.

ATF will notify all persons asking to comment and will confirm their scheduled time of presentation. An agenda listing the speakers will be available at the hearing.

If individuals are unable to appear and present oral testimony, they may submit written testimony which will be read and entered into the hearing record.

Copies of the petitions and all written comments will be available at the hearing for public inspection. This public hearing is open to the public and will be conducted under the procedural rules contained in 27 CFR 71.41(a)(3).

Specific Questions

ATF specifically requests comments on the following questions:

1. What are the boundaries of the areas known by the names "Temecula," "Murrieta," "Rancho California," and "La Cresta?"
2. Is there sufficient evidence to support the overlapping of these proposed areas?
3. How should the boundaries of the proposed viticultural areas be modified to eliminate overlapping in the absence of sufficient historical or current evidence?
4. Should the boundaries be modified to exclude areas where grapes are not grown?
5. Are any parts of the Santa Rosa land grant commonly known by other names?
6. Are the Santa Rosa Plateau and the Temecula Basin geographically similar enough to be included in one approved viticultural area?
7. Although both petitions contain evidence that the name "Temecula" has appeared on wine labels, is there any historical or current evidence associating the names "Murrieta" or "Rancho California" with winemaking?
8. Are there any significant geographic features in southwestern Riverside County, California which have not been given adequate consideration in the notice of proposed rulemaking?
9. What name should be given to the viticultural area proposed by ATF?

10. To what extent have grapes grown on the Santa Rosa Plateau been marketed as "Temecula" grapes?

11. Have grapes from the proposed areas been referred to under any local appellation other than "Temecula?"

Evidence obtained at the hearing along with all written comments previously submitted will be used to determine whether final regulations should be issued approving the petition as proposed, or as amended.

Drafting Information

The author of this document is John A. Linthicum, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority: This notice of hearing is issued under the authority of 27 U.S.C. 205.

Signed: November 19, 1982.

Stephen E. Higgins,

Acting Director.

Approved: November 29, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 82-33603 Filed 12-9-82; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, 75, and 77

Wire Rope Standards; Correction

In FR Doc. 82-31130 beginning on page 51684 in the issue of Tuesday, November 16, 1982, make the following corrections:

1. On page 51684, first column, eleventh line from the bottom "57" should appear between "56" and "75."
2. On page 51685, first column, last line, "of" should read "or".
3. On page 51686, middle column, tenth line, the word "appear" should be removed.
4. On page 51687, third column, the eighteenth line should read "proposed the revocation of existing provisions that".
5. On page 51688, first column, second line from the bottom, "300" should read "3000."
6. On page 51688, middle column, third line, "400" should read "4000."
7. On page 51689, third column, fourteenth line, "x" should read "=".
8. On page 51691, first column, second paragraph from the bottom should be designated "(b)".
9. On page 51691, middle column, nineteenth line from the bottom, "55.19-25" should read "57.19-25."
10. On page 51691, middle column, seventeenth line from the bottom, "55.19-25" should read "57.19-25."

11. On page 51691, middle column, seventeenth line from the bottom, "Loan End Attachments." should read "Load End Attachments."

12. On page 51691, third column, second line in the paragraph designated *Note*, the word "long" should read "lang"

13. On page 51693, middle column, eighteenth line, "form" should read "from."

14. On page 51695, middle column, twelfth line, "climbs" should read "clips".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Proposed Modifications to the North Dakota Surface Coal Mining and Reclamation Program

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

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on modified portions of the North Dakota permanent regulatory program. On September 10, 1982 (47 FR 39868-39871), OSM scheduled a hearing and comment period on the substantive adequacy of proposed amendments to the North Dakota permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by the State for the Secretary's consideration on July 30, 1982. The amendments submitted by North Dakota for the Secretary's approval include modifications intended to satisfy some of the Secretary's conditions of approval of the North Dakota permanent program, as well as State-generated revisions which do not relate to any of the conditions. OSM is reopening the comment period to allow the public an opportunity to comment on supplemental material submitted by North Dakota on November 22, 1982.

DATE: Written comments must be received on or before 4:00 p.m. on December 16, 1982.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William Thomas, Field Office Director, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Mills, Wyoming 82644.

Copies of the supplemental materials submitted by North Dakota and other relevant documents will be available for review at the OSM Headquarters Office, the Wyoming Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Field Office, Freden Building, P.O. Box 1420, Mills, Wyoming 82644, Telephone: (307) 328-5830

Public Service Commission, Reclamation Division, Capitol Building, Bismarck, North Dakota 58505, Telephone: (701) 224-2400

FOR FURTHER INFORMATION CONTACT:

Mr. William Thomas, Field Office Director, Office of Surface Mining, P.O. Box 1420, Mills, Wyoming 82644.

SUPPLEMENTARY INFORMATION: The North Dakota program was conditionally approved by the Secretary on December 15, 1980 (45 FR 82241-82248). The approval was conditioned on the State's correction of 13 minor deficiencies in its program.

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the North Dakota program can be found in the December 15, 1980 Federal Register (45 FR 82241-82248).

On July 30, 1982, North Dakota submitted for the Secretary's approval an amendment to its approved permanent program containing both statutory and regulatory revisions. On August 12, 1982, the State also sent a minor correction to this amendment package. The amendment includes modifications intended to satisfy conditions of the Secretary's approval of North Dakota's program as well as numerous State-generated revisions not related to conditions. A more detailed description of the amendment is contained in the September 10, 1982 Federal Register (47 FR 39868-71), which announced receipt of the modifications by OSM. In that same notice, OSM scheduled a public hearing and comment period on the proposed modifications to the North Dakota program. The hearing was subsequently cancelled as no one expressed an interest in presenting testimony at the hearing. The comment period closed on October 12, 1982.

On November 3, 1982, OSM sent North Dakota a tentative list of issues raised during OSM's review of the amendment with a request that following the State's review of the issues, it submit to OSM any additional clarifying information that would address OSM's concerns. Copies of OSM's November 3, 1982 letter to North Dakota and the accompanying list of issues are included in the OSM Administrative Record under number ND 207; copies are available for review at the locations listed above under "ADDRESSES."

On November 22, 1982, North Dakota submitted a response to OSM's letter addressing each of the issues raised by OSM. A copy of the State's response is filed under number ND 208 in the OSM Administrative Record. OSM is reopening the comment period on the proposed modifications to the North Dakota program in order to allow the public an opportunity to review and comment on the modifications as clarified by the information submitted to OSM by the State on November 22, 1982.

Specifically, OSM is seeking comment on whether the statutory and regulatory revisions submitted by North Dakota on July 30, 1982, as clarified by the supplemental material submitted November 22, 1982, satisfy conditions "a"-"d", and "f"-"i" and whether the amendments submitted by North Dakota which do not relate to conditions of approval satisfy the criteria for approval of State program amendments at 30 CFR 732.17 and 732.15.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* With respect to State actions to approve, or conditionally approve State regulatory programs or amendments, OSM has been granted a categorical exemption from the requirement to prepare a Regulatory Impact Analysis pursuant to Executive Order No. 12291, by a letter from the Office of Management and Budget dated August 28, 1981.

List of Subjects in 30 CFR Part 934

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

Dated: December 6, 1982.

J. Steven Griles,
Acting Director, Office of Surface Mining.

[FR Doc. 82-33682 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 2202-5]

Plan for Monsanto Chemical Intermediates Company, Chocolate Bayou, Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On January 6, 1982, the State of Texas submitted a revision to the Texas State Implementation Plan (SIP) for an Alternative Emission Reduction Plan ("Bubble") for the Monsanto Chemical Intermediates Company Facility in Chocolate Bayou, Texas. EPA is proposing to approve the revision.

DATE: Comments must be received by January 10, 1983.

ADDRESSES: Copies of the State's submittals are available for review during normal business hours at the following locations:

Texas Air Control Board, 6330 Highway, 290 East, Austin, Texas 78723

Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT:

John R. Hepola, Chief, State Implementation Plan Section, Air Branch, Air and Waste Management Division, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767-1518.

SUPPLEMENTARY INFORMATION: On January 6, 1982, the State of Texas submitted a revision to the Texas SIP for an Alternative Emissions Reduction Plan ("Bubble") for the Monsanto Chemical Intermediates Company Facility in Chocolate Bayou, Texas.

On June 23, 1982, EPA announced the availability of, and took final action to approve, this bubble for Monsanto's Chocolate Bayou plant and a separate bubble for Monsanto's Texas City plant (47 FR 27071). In that notice, EPA advised the public that it was deferring the effective date of its approval for 60 days (until August 23, 1982) to provide

an opportunity to submit comments on the revisions. EPA announced that, if within 30 days of the publication of the approval notice it received notice that someone wished to submit adverse or critical comment, it would withdraw the approval and begin a new rulemaking by proposing the action and establishing a 30-day comment period.

EPA published the general notice announcing this special procedure on September 4, 1981 (46 FR 44476).

EPA has received notice that someone wishes to submit an adverse or critical comment. Therefore, in accordance with the procedure described above, EPA withdrew its June 23, 1982 approval of these two bubble revisions to the Texas SIP on October 25, 1982 (47 FR 47247). In this notice, EPA is proposing to approve one of the revisions. The revision for the Monsanto plant in Texas City will be addressed in a separate rulemaking. Interested persons are invited to submit comments on this proposed approval of the bubble for Monsanto's Chocolate Bayou plant. EPA will consider all comments received within 30 days of the publication of this notice.

Background

In 1972 Monsanto obtained a Texas Air Control Board exemption from controls for certain Synthetic Organic Compounds (SOC's) on the basis of relatively low reactivity in the formation of photochemical oxidants; now listed as ozone. The 1979 revision to the Texas SIP cancelled the exemptions, thereby requiring Monsanto to control the release of these compounds to the atmosphere. These compounds are stored in eight tanks at Monsanto's plant in Chocolate Bayou, Texas.

EPA concurrently reviewed the proposed bubble with the State and developed an evaluation report which analyzes in detail the acceptability of the Monsanto bubble proposal. This evaluation report was revised in May 1982 in order to follow the interim guidance established in the new proposed Emissions Trading Policy published in the *Federal Register* on April 7, 1982 (47 FR 15077). This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other address listed above.

At the Chocolate Bayou Plant, Monsanto is proposing to trade the emissions reductions resulting from adding controls (an incinerator) on the formalin vent (a reduction in emissions of 200 tons of SOC's per year) for controls on eight tanks (163.6 tons of SOC's per year of control required, before the bubble).

The revised limits for the Monsanto Chocolate Bayou Plant are as follows:

Source	Previous RACT limits for SOC emissions (tons of SOC/year)	New emission limits under the bubble	Net change in emissions
Tanks:			
T-771.....	1.2	23.2	+22.0
T-773.....	1.1	8.1	+7.0
T-776.....	1.1	8.2	+7.1
T-831.....	1.9	16.0	+14.1
T-111-1.....	13.2	50.1	+36.9
T-111-2.....	13.2	50.1	+36.9
T-291-1.....	7.1	26.9	+19.8
T-291-2.....	7.1	26.9	+19.8
Total.....	45.9	209.5	+163.6
Texas Air Control Board Source 93:			
Formalin unit.....	200.0	(1) (2)	-200.0
Total.....	245.9	209.5	-36.4

¹Trace.

²Note: Under the "net change" column, "+" indicates an increase in allowable emissions, "-" indicates a reduction in allowable emissions.

Review

The reductions in emissions used as part of the bubble trade for Monsanto's Chocolate Bayou plant are surplus, enforceable, permanent, and quantifiable.

First, the reductions are surplus because the sources have met Texas requirements for Reasonable Available Control Technology (RACT) and have been granted credit, as part of the bubble, only for the amount of reductions achieved beyond RACT. The credits for emissions reductions were achieved by adding controls.

Second, the provisions of the bubble are enforceable because TACB, through Executive Order, attached documents to the Monsanto proposal which specified the enforceable emission limits for the emission points at which alternative controls are to be implemented. Since these documents will be a part of the SIP revision, the alternative emission controls are enforceable.

Third, the reductions in emissions are permanent. Once this proposal is approved, the new emission limits on the formalin unit and the tanks will become a part of the federally enforceable SIP.

Fourth, EPA has determined that the emissions involved in bubble are quantifiable in the creation of emission reduction credits.

The bubble also meets the criteria outlined in the Emissions Trading Technical Issues Document published in the April 7, 1982 *Federal Register* (47 FR 15076). The issues documents specifies

the following requirements for using emission reduction credits.

1. Emissions trades must involve the same pollutant. The Monsanto Chocolate Bayou bubble trades a reduction in SOC emissions from the formalin unit for an increase in SOC emissions at eight storage tanks. Thus, the Monsanto bubble meets the first requirement of trading the same pollutant.

2. All uses of Emission Reduction Credits must satisfy ambient tests. For SOC's "pound for pound" trades may be treated as equal in ambient effect. Thus, the ambient test is satisfied because the "pound for pound" requirement has been exceeded. Further, at the Chocolate Bayou Plant, the bubble will result in an emission trade benefit of 36 tons per year.

3. Trades should not increase net baseline emissions in nonattainment areas. Monsanto's Chocolate Bayou Plant is located in Brazoria County, Texas. Brazoria County is listed as a rural ozone nonattainment area; the March 3, 1978 *Federal Register* (43 FR 8962) contains a discussion of this designation. EPA's policy toward rural ozone nonattainment areas is discussed in the General Preamble for "Approval of State Implementation Plan Revisions for Nonattainment Areas" of the April 4, 1979 *Federal Register* (44 FR 20372). Demonstrations of attainment and Reasonable Further Progress for rural ozone nonattainment areas are not required. This policy requires States to implement RACT for sources located in such areas. These requirements are based on the assumption that the nonattainment status for rural counties is caused by sources in nearby urban counties.

In the March 25, 1980 *Federal Register* (45 FR 19209) EPA determined that Texas had implemented the RACT requirements in the 1979 SIP. Thus, the bubble satisfies the third requirement.

4. Emissions trades should not increase hazardous pollutants. The review of the Monsanto bubble indicates that none of the emission points involved in the proposal are covered under the requirements of Section 112, NESHAPS. Thus, this requirement has been met by the bubble under consideration.

5. Emissions trades cannot be used to meet technology based requirements. Monsanto's Chocolate Bayou plant is an existing source and there are no emission increases at any emission points involved in this bubble. BACT, LAER and NSPS requirements are not applicable; thus, the bubble satisfies this criterion.

Summarizing, the Monsanto bubble meets the criteria set forth in the April 7, 1982 **Federal Register** that incorporates the Bubble Policy into a comprehensive Emissions Trading Policy. Therefore, EPA is proposing to approve the Monsanto Bubble.

Interested persons are invited to submit comments on this proposed approval. EPA will consider all comments received within thirty days of the publication of this notice.

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

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

(Sec. 110, of the Clean Air Act, as amended, 42 U.S.C. 7410)

List of Subjects in 40 CFR Part 52

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

Dated: August 27, 1982.

Frances E. Phillips,
Acting Regional Administrator.

[FR Doc. 82-33673 Filed 12-9-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 461, 464, and 468

[WH—FRL 2263-3]

Battery Manufacturing, Copper Forming, Metal Molding and Casting Point Source Categories

AGENCY: Environmental Protection Agency.

ACTION: Public Hearing.

SUMMARY: Notice is hereby given of hearings open to the public to discuss and receive comments on pretreatment standards recently proposed in the **Federal Register**. These hearings will be to elicit additional comments on the regulations. These comments will be used to further assist the Agency in finalizing technically sound and cost effective final regulations.

The proposals to be discussed are as follows:

Proposal Date and Category

November 10, 1982 (47 FR 51052),

Battery Manufacturing

November 12, 1982 (47 FR 51278), Copper Forming

November 15, 1982 (47 FR 51512), Metal Molding and Casting (Foundries)

DATES: The public hearings have been scheduled for January 10, 1983.

ADDRESS: The public hearings will be held at the following address: Skyline

Inn, South Capitol and I Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold Coughlin, Project Officer for Public Participation, Effluent Guidelines Division (WH-552), (202) 382-7115, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: This public hearing is being held in accordance with Section 307(b) of the Clean Water Act, 33 U.S.C. 1317(b). Registration for the hearing will be held from 8:00 to 8:30 a.m. Oral testimony will be presented as follows: 9:00 to 11:00 a.m.—Battery Manufacturing; 11:00 a.m. to 1:00 p.m.—Copper Forming; 2:00 to 4:00 p.m.—Metal Molding and Casting. Following the registration period there will be a brief presentation by an EPA official on the development of these pretreatment standards. Also, opportunity will be given throughout the day for audience participants to submit written questions to the Presiding Officer. These questions will be addressed during the question and answer session which will conclude the presentations of oral testimony for each category. A court recorder will be present at the public hearing. Official transcripts will be available upon request.

Dated: December 2, 1982.

Rebecca Wittammer,
Acting Assistant Administrator for Water.

[FR Doc. 82-33683 Filed 12-9-82; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register

Vol. 47, No. 238

Friday, December 10, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Marketing Quotas for Fire-Cured (Type 21, Virginia Sun-Cured (Type 37), Cigar-Binder (Types 51-52), and Cigar-Filler and Cigar-Binder (Types 42-44; 53-55) Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Proposed Determinations.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to determine and announce by February 1, 1983 the national marketing quotas for Virginia sun-cured tobacco for the 1983-84, 1984-85, and 1985-86 marketing years and the amounts of the national marketing quotas for fire-cured (type 21), Virginia sun-cured (type 37), cigar-binder (types 51-52), and cigar-filler and cigar-binder (types 42-44; 53-55) kinds of tobacco for the 1983-84 marketing year. The public is invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, the conduct of the referendum, and other related matters which are discussed in this notice.

DATE: Comments must be received on or before January 10, 1983 in order to be assured of consideration.

ADDRESSES: Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741 South Building, 14th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." It has been determined that the implementation of these determinations will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

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

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires that, with respect to Virginia sun-cured (type 37) tobacco, the Secretary of Agriculture must proclaim by February 1, 1983, national marketing quotas for the 1983-84, 1984-85, and 1985-86 marketing years. In addition, the Secretary is required to conduct, within 30 days after proclamation of such national marketing quotas, a referendum of farmers engaged in the 1982 production of such kind of tobacco to determine whether they favor or oppose marketing quotas for such years. The 1982-83 marketing year is the last year of the three consecutive years

for which marketing quotas previously proclaimed will be in effect for this kind of tobacco.

The Secretary is also required: (1) To determine and announce the amounts of the national marketing quotas with respect to fire-cured (type 21), Virginia sun-cured, cigar-binder (types 51-52), and cigar-filler and cigar-binder (types 42-44; 53-55) tobaccos, for the 1983-84 marketing year; (2) to convert such marketing quotas into national acreage allotments and announce the allotments; (3) to apportion such allotments, less reserves of not to exceed 1 percent of each respectively, through county ASC committees among old farms; and (4) to apportion the reserves for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments. The four kinds of tobacco discussed in this notice account for approximately 2 percent of total U.S. tobacco production.

Section 312(a) of the Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year with respect to these kinds of tobacco, a national marketing quota for each of the next three succeeding marketing years whenever he determines with respect to such kinds of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect; (3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum: *Provided*, That if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed in accordance with section 312(a) which would be in effect for any marketing year within the three-year period for which national marketing quotas

previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition of Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Quotas were previously proclaimed, referenda conducted, and quotas approved by growers as follows: Fire-cure (type 21) tobacco for the 1982-83, 1983-84, and 1984-85 marketing years (47 FR 20167); Virginia sun-cured tobacco for the 1980-81, 1981-82, and 1982-83 marketing years (45 FR 9578) and cigar-binder tobacco (types 51-52) and cigar-filler and cigar-binder tobacco (types 42-44; 53-55) for the 1981-82, 1982-83, and 1983-84 marketing years (46 FR 51945). Producers of such kinds of tobacco will be entitled to participate in the tobacco price support program.

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Number 118 (7 CFR Part 30) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 & 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, & 24;
Dark air-cured tobacco, comprising types 35 & 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54 & 55; and
Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) of the Act also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has issued a determination (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support.

Also pursuant to such authority, the Secretary has issued a determination (22 FR 367) that beginning with the 1957-58 marketing year, cigar-binder (types 51-52) shall be treated as a separate kind of tobacco for purposes of marketing quotas and price support. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1983, with respect to kinds of tobacco specified in this notice of proposed determination, the amount of the national marketing quota which will be in effect for the 1983-84 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of such 1983-84 national marketing quota may, not later than March 1, 1983, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The aggregate reserve supply level for the 1982-83 marketing year for the 4 kinds of tobacco discussed in this notice was determined to be 105 million pounds. This was based on a normal year's domestic consumption of 34.1 million pounds and a normal year's exports of 3.9 million pounds (47 FR 5916). The proposed reserve supply level for the 1983-84 marketing year will range between 95 million and 115 million pounds. The aggregate total supply for the 1982-83 marketing year is 115 million pounds based on carryover of 82 million and production of 33 million pounds.

Section 312(c) of the Act (7 U.S.C. 1312(c)) requires that within 30 days after a national marketing quota is proclaimed in accordance with section 312(a) of the Act for kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kinds of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so

proclaimed shall not be in effect, but the results shall in no way affect or limit the subsequent proclamation and submission to a referendum of a national marketing quota as otherwise authorized in section 312.

Section 313(g) of the Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed and to apportion through county committees the national acreage allotment to tobacco producing farms (less a reserve not to exceed 1 percent thereof for new farms, and for making corrections and adjusting inequities in old farm allotments) among old farms.

Proposed Determinations

Accordingly, the Secretary proposes to make the following determinations for the kinds of tobacco listed for the 1983-84 marketing year:

1. With respect to fire-cured (type 21), Virginia sun-cured, cigar-binder (types 51 and 52) and cigar-filler and binder (types 42-44; 53-55) tobaccos:

a. The amount of the reserve supply level, within the aggregate range of 95 and 115 million pounds;

b. The amount of the national marketing quota for each kind of tobacco for the 1983-84 marketing year, within the aggregate range of 40 and 50 million pounds; and

c. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments, within the aggregate range of 100 and 200 acres.

2. With respect to Virginia sun-cured tobacco:

a. The date or period of the referendum for determining whether quotas will be in effect for the 1983-84, 1984-85, and 1985-86 marketing years for such kind of tobacco; and

b. Whether the referendum should be conducted at polling places rather than by mail ballot (See 7 CFR Part 717).

Signed at Washington, D.C., on December 8, 1982.

C. Hoke Leggett,
Acting Administrator, Agricultural
Stabilization and Conservation Service.

[FR Doc. 82-33710 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-05-M

Other Tobacco; National Marketing Quotas for Maryland (Type 32) Tobacco and Cigar-Filler (Type 41) Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed determination.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to proclaim by February 1, 1983 national marketing quotas for Maryland (type 32) and cigar-filler (type 41) tobaccos for the 1983-84, 1984-85, and 1985-86 marketing years and the amounts of the quotas for such kinds of tobacco for the 1983-84 marketing year. The public is invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas, the conduct of referenda, and other related matters which are discussed in this notice.

DATE: Comments must be received on or before January 10, 1983 to be assured of consideration.

ADDRESS: Send comments to the Director, Analysis Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-3391. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741, USDA South Building, 14th and Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, Agricultural Economist, Analysis Division, ASCS, USDA, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187. Maryland tobacco growers have not had marketing quotas since 1965 and cigar-filler tobacco growers have never approved marketing quotas.

Since neither Maryland nor cigar-filler tobacco growers are expected to approve quotas for the next three marketing years, a Preliminary Regulatory Analysis Statement has not been prepared. If growers of either kind of tobacco should approve quotas, a Final Regulatory Impact Statement describing the options considered in developing the final notice and the impact of implementing each option would be made available on request from Robert Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." This action has been classified "not major"

since implementation of these determinations will not result in: (1) An annual effect on the economy of \$100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases, Number: 10.051, as set forth in the Catalog of Federal Domestic Assistance.

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

The Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), requires that, with respect to Maryland tobacco and cigar-filler tobacco, the Secretary of Agriculture must, by February 1, 1983, proclaim national marketing quotas for the 1983-84, 1984-85, and 1985-86 marketing years and determine and announce the amount of the national marketing quota in effect for the 1983-84 marketing year.

In addition, the Secretary is required to conduct, within 30 days after the proclamation of such national marketing quotas, referenda of farmers engaged in the 1982 production of each of such kinds of tobacco in order to determine whether they favor or oppose marketing quotas for such years. Section 204 of the No Net Cost Tobacco Program Act of 1982 amended section 320(b) of the Agricultural Act of 1938 to provide that producers of nonquota tobacco in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than 20 acres shall not be eligible to vote in the first referendum for such nonquota tobacco. While this provision makes producers of Maryland tobacco whose farms are located within the State of Pennsylvania ineligible to vote in this referendum, they will be eligible to vote in future referendums.

Section 312(a) of the Act (7 U.S.C. 1312(a)) provides that the Secretary shall, not later than February 1 of any marketing year with respect to these kinds of tobacco, proclaim a national marketing quota for each of the next

three succeeding marketing years whenever he determines with respect to such kinds of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum: *Provided*, That if such producers have disapproved national marketing quotas for three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed in accordance with section 312(a) which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as may be prescribed, to proclaim a national marketing quota for each of the next three succeeding marketing years.

Producers of both Maryland (type 32) and cigar-filler (type 41) tobaccos have disapproved national marketing quotas for three successive years subsequent to 1952. Quotas for these kinds of tobacco were last proclaimed for the 1980-81, 1981-82, and 1982-83 marketing years (45 FR 8570). Producers of both Maryland (type 32) and cigar-filler (type 41) tobaccos disapproved marketing quotas in separate referendums held during the period February 25-29, 1980 (45 FR 40095).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (7 CFR Part 30) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 and 14;

Fire-cured tobacco, comprising type 21;

Fire-cured tobacco, comprising types 22, 23, and 24;
 Dark air-cured tobacco, comprising type 35 and 36;
 Virginia sun-cured tobacco, comprising type 37;
 Burley tobacco, comprising type 31;
 Maryland tobacco, comprising type 32;
 Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54 and 55; and
 Cigar-filler tobacco, comprising type 41.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1983, with respect to the kinds of tobacco specified in this notice of proposed determination, the amount of the national marketing quota which will be in effect for the 1983-84 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of such 1983-84 national marketing quota may, not later than March 1, 1983, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Section 312(c) of the Act (7 U.S.C. 1312(c)) requires that within 30 days after national marketing quotas are proclaimed in accordance with section 312(a) for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but the results shall in no way affect or limit the subsequent proclamation and submission to a referendum of national marketing quotas as otherwise authorized by section 312.

Section 313(g) of the Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the

national acreage allotment, less a reserve not to exceed 1 percent thereof for new farms and for making corrections and adjusting inequities in old farm allotments.

Proposed Determination

Accordingly, the Secretary proposes to make the following determinations with respect to Maryland (type 32) tobacco and cigar-filler (type 41) tobacco:

1. The amount of the national marketing quota for each kind of tobacco for the 1983-84 marketing year.

2. The conversion of the national marketing quotas into national acreage allotments and apportionment the national acreage allotments, less a reserve of not to exceed 1 percent, among old farms.

3. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

4. The date(s) or period(s) of the referenda on quotas for determining whether marketing quotas will be in effect for the 1983-84, 1984-85, and 1985-86 marketing years for Maryland (type 32) and cigar-filler (type 41) tobacco, and whether the referenda should be conducted at polling places rather than by mail ballot (See 7 CFR, Part 717).

Signed at Washington, D.C. on December 8, 1982.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR. Doc. 82-33711 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-05-M

Food and Nutrition Service

Level of Donated—Food Assistance or Cash in Lieu Thereof for Nutrition Programs for the Elderly Fiscal Year 1983

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or cash in lieu thereof which is authorized to be provided by the Secretary during the period October 1, 1982 through September 30, 1983, for nutrition services under the Older Americans Act of 1965, as amended.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S.

Department of Agriculture, Alexandria, Virginia 22303, (703) 756-3660.

SUPPLEMENTARY INFORMATION: This action, which implements a mandatory provision of section 311 of the Older Americans Act of 1965, has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "nonmajor" because it does not meet any of three criteria in the definition of "major rule" in the Executive Order. It will not have an annual effect on the economy of \$100 million or more, will not cause a major increase in costs or prices, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act of 1980. Samuel J. Cornelius, Administrator, Food and Nutrition Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The purpose of this action is to notify States of the level of donated-food assistance to be provided for nutrition services under the Older Americans Act during Fiscal Year 1983.

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review.

Notice is hereby given that pursuant to section 311(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), the level of assistance in food commodities or, where applicable, cash in lieu thereof, to be provided by the Secretary of Agriculture to recipients of grants or contracts for the operation of nutrition services under Titles III and VI of the Act for the period October 1, 1982 through September 30, 1983 will be 54.25 cents per meal. However, in accordance with section 311(d)(2) of the Act, this amount is subject to reduction by the Secretary if the sum appropriated for this purpose for Fiscal Year 1983 is insufficient. Section 311(a)(4) requires the Secretary, in donating foods or providing cash in lieu thereof to nutrition programs for the elderly funded under the Act, to maintain a minimum level of assistance during each fiscal year after Fiscal Year 1978 of not less than 30 cents per meal. That amount shall be adjusted on an annual basis for each fiscal year to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics (BLS) of the Department of Labor. The minimum level of assistance at 54.25 cents per meal includes such an adjustment and

reflects an increase in that series of 5.3 percent as reported by BLS for the period September 1981 through August 1982.

Section 311(d)(1) of the Act authorizes appropriations of \$100,000,000 for Fiscal Year 1983, to carry out the provisions of section 311(a)(4). Section 311(d)(2) of the Act requires the Secretary to reduce the level of assistance per meal in any fiscal year in which compliance with section 311(a)(4) costs more than the amount appropriated. In accordance with this provision, if it appears that insufficient funds will be available in Fiscal Year 1983 to provide the level of assistance announced in this Notice, the level will be reduced uniformly for each meal served in nutrition programs for the elderly. The Secretary will disburse any funds remaining after this reduced level of assistance has been provided so that each State will receive an amount which bears the same ratio to the total remaining funds as the number of meals reported as served in nutrition programs for the elderly in the State bears to the total number of such meals reported by all the States. Notice of the Department's intent to reduce the level of assistance will be given in the *Federal Register* as soon as such action has been determined necessary.

(Catalog of Federal Domestic Assistance No. 10.550)

Dated: December 7, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-33666 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Allegheny Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20-21: 320-21, Environmental Policies and Procedures has made a Finding of No Significant Impact with respect to proposed additional financing assistance to Allegheny Electric Cooperative, Inc., (Allegheny) of Harrisburg, Pennsylvania, for the completion of the Susquehanna Steam Electric Nuclear Station, Units 1 and 2, in Luzerne County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and Allegheny's Borrower's Environmental Report (BER) may be reviewed or obtained in the office of the Director, Northeast Area-Electric, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1397, or at the office of Allegheny Electric Cooperative, Inc., (William F. Matson, Executive Vice President and General Manager) 212 Locust Street, P.O. Box 1266, Harrisburg, Pennsylvania 17108, telephone (717) 233-5704, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for additional financing from Allegheny, has reviewed the BER submitted by Allegheny and has determined that it represents an accurate assessment of the environmental impact of the project now under construction. Allegheny has a 10 percent ownership participation in the project. The remaining 90 percent is owned by Pennsylvania Power and Light Company of Allentown, Pennsylvania. The project consists of two 1085 MW boiling water nuclear reactors and associated facilities. As of September 27, 1982, Unit 1 was 98 percent complete and undergoing testing prior to commercial operation and Unit 2 was approximately 74 percent complete. The three 500 kV transmission lines associated with the project have been completed. Based upon information contained in the BER and the Final Environmental Statement (FES) issued by the Nuclear Regulatory Commission in June 1981 concerning the project and its impacts, REA concluded that the proposed additional financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and FES adequately consider impacts of the project on resources, including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains.

Alternatives examined include reduced participation in the project (no action) and continued participation with a 10 percent ownership. After reviewing these alternatives, REA determined that a continued 10 percent ownership participation in the project is an acceptable alternative because it best meets the needs of Allegheny with a minimum of adverse impacts.

(This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: December 3, 1982.

Harold V. Hunter,
Administrator.

[FR Doc. 82-33617 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-15-M

Intent To Prepare a Draft Environmental Impact Statement and Conduct Public Scoping Meetings for Proposed Project in Knox, Pike, and Scioto Counties, Ohio.

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of intent to prepare a draft environmental impact statement and conduct public scoping meetings.

SUMMARY: The Rural Electrification Administration (REA) intends to prepare a Draft Environmental Impact Statement (DEIS) and conduct public scoping meetings in connection with possible financing assistance for Cooperative Power, Inc., (Cooperative), P.O. Box 29149, 6677 Busch Boulevard, Columbus, Ohio 43229. The financing is for the construction of a 1500 MW coal-fired steam electric generating facility. Cooperative tentatively proposes that the project be located in the State of Ohio, and is currently investigating possible sites in Knox, Pike and Scioto Counties.

DATES: REA will conduct public scoping meetings as follows:

January 11, 1983, at the Danville High School, State Route 62 (Market Street) at Rambo Street, Danville, Ohio, at 7:30 p.m.;

January 13, 1983, at the Vern Riffe Vocational School, State Route 124 (½ mile east of State Route 23), Piketon, Ohio, at 7:30 p.m.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meetings, in order for the comments to be part of the formal record. Comments should be sent to Mr. Joe S. Zoller, Assistant Administrator—Electric, REA, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Martin G. Seipel, Director, Northeast Area—Electric, Room 0243, South Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1420.

SUPPLEMENTARY INFORMATION: REA, in order to meet its requirements under the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500) and REA Bulletin 20-21: 320-21, Environmental Policies and Procedures,

hereby gives notice that it intends to prepare a draft EIS and conduct public scoping meetings in connection with its possible financing assistance to Cooperative for the construction of a steam electric generating station. Cooperative tentatively proposes that the project be located in the State of Ohio, and is investigating possible sites in Knox, Pike and Scioto Counties.

The sites are being investigated for a possible 1500 MW, two unit, coal-fired steam electric generating station and related transmission facilities. REA has reached no conclusion or determination relative to the need or financial assistance for the proposed project.

Alternatives to be considered by REA are described in REA Bulletin 20-21: 320-21 and may include among other options: (1) No project; (2) load management; (3) purchase power from other utilities; and (4) alternative sites for the proposed plant.

The public scoping meetings, conducted by a representative of REA, will be held to solicit public input and comments including, but not limited to, the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the draft EIS. Requests for additional information concerning the scoping meetings may be directed to Cooperative at the above address.

REA's financing assistance to Cooperative will be subject to and contingent upon reaching satisfactory conclusions with respect to the environmental effects of the project, and final action will be taken only after compliance with EIS procedures required by NEPA of 1969 have been satisfied.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: December 6, 1982.

Harold V. Hunter,
Administrator.

[FR Doc. 82-33616 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-15-M

Southwest Louisiana Electric Membership Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the

Council on Environmental Quality Guidelines (40 CFR Parts 1500-1508), and REA Bulletin 20-21:320-21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to proposed financing assistance to Southwest Louisiana Electric Membership Corporation (SLEMCO) of Lafayette, Louisiana, for construction of 33.5 km (21 mi) of 138 kV transmission line, three substations and related facilities in Lafayette and St. Martin Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) along with SLEMCO's Borrower's Environmental Report (BER) and other related materials can be reviewed in or requested from the Office of the Director, Southwest Area, South Agriculture Building, REA, Washington, D.C. 20250, telephone (202) 382-1940, or the office of SLEMCO (Mr. Herman J. Kesel, Manager), 3420 Highway 167 North, Lafayette, Louisiana 70507, telephone (318) 237-5112.

SUPPLEMENTARY INFORMATION: REA reviewed the BER submitted by SLEMCO and determined that it represents an accurate evaluation of the environmental impacts of the project. Based upon the BER, USGS maps, and other related material, REA prepared an EA concerning the transmission line, substations, and associated facilities. It is REA's view that the proposed financing assistance will not be a major Federal action that will significantly affect the quality of the human environment.

Project alternatives were considered, including no action, alternative routes and alternative sites. REA has determined that the proposed project is not likely to affect any listed or proposed for listing threatened or endangered species or critical habitats. No cultural resources will be affected. The transmission line will cross important farmland, floodplains and wetlands. Alternatives were considered, however, no practicable alternatives exist to fully avoid these impacts. All reasonable mitigation efforts will be taken to minimize any adverse effects to these areas. The no action alternative would avoid impacts to floodplains, wetlands and important farmland, but was not found to be practicable if SLEMCO is to continue to provide reliable service to the Lafayette area. REA finds that the proposed alternative is environmentally acceptable.

This Program is listed in the Catalog of Federal Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: December 2, 1982.

Howard V. Hunter,
Administrator.

[FR Doc. 82-33456 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

Dietary Guidelines Advisory Committee; Establishment

A dietary Guidelines Advisory Committee will be established to review comments received on the Dietary Guidelines pamphlet and make any recommendations the Committee deems appropriate. The Advisory Committee shall be composed of nine members. Three will represent the Department of Agriculture, three will represent the Department of Health and Human Services, and three will be selected from a list of nominees recommended by the national Academy of Sciences. A chairman will be designated by the Secretary of Agriculture. The Advisory Committee will meet initially at the call of the Secretary and thereafter on call by the chairman as necessary. The Committee will report to the Secretaries of the Department of Agriculture and the Department of Health and Human Services. Information input will be provided by the Human Nutrition Information Service which will also be responsible for processing, publishing and distributing reports.

It has been determined that the establishment of the Committee is in the public interest in connection with the work of the U. S. Department of Agriculture and the Department of Health and Human Services.

Interested persons may send comments to Dr. Esther Winterfeldt, Administrator, Human Nutrition Information Service, Presidential Building, Room 522, 6525 Belcrest Road, Hyattsville, Maryland 20782 on or before December 27, 1982.

John J. Franke, Jr.,
Deputy Assistant Secretary for Administration.

Done at Washington, D.C., this 7th day of December, 1982.

[FR Doc. 82-33615 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Tepee Creek Roadside Erosion Control CAT RC&D Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Teepee Creek Roadside Erosion Control Critical Area Treatment (CAT) RC&D Measure, Kiowa County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland Willis, State Conservationist, Soil Conservation Service, State Office, Agricultural Center Building, Stillwater,

Oklahoma, 74074, telephone 405-624-4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns critical area treatment for roadside erosion control. The planned works of improvement include constructing a grassed waterway, pipe drop and concrete lined outlet to stabilize the grade and protect the borrow ditch from erosion.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: November 30, 1982.

Billy R. Littlefield,
Assistant State Conservationist.

[FR Doc. 82-33361 Filed 12-9-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended: December 3, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 1, 1982.....	41120	Bowman Aviation, Inc., d/b/a Bo-S-Aire Airlines, Inc., c/o Thom G. Field, Neale, Newman, Bradshaw & Freeman, One Corporate Square, P.O. Box 4203 G.S., Springfield, Missouri 65808. Application of Bowman Aviation, Inc., d/b/a Bo-S-Aire Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign charter air transportation of cargo and mail as follows: (a) Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnston Island, the Marshall Islands, Okinawa, Wake Island, and points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand; (g) In foreign air transportation, pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 29, 1982.
Dec. 1, 1982.....	41122	Powell Air Ltd., c/o David Nelson, 4440 Cowley Crescent, Richmond, B.C. V7B 1B4. Application of Powell Air Ltd. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit authorizing large and small aircraft charter operations between Canada and the United States of America pursuant to the nonscheduled air service agreement. Answers may be filed by December 29, 1982.
Dec. 2, 1982.....	41125	Action Air Cargo Corporation, c/o Stephen A. Alterman, 1050 Seventeenth St., NW., Washington, D.C. 20036. Application of Action Air Cargo Corporation 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 provide scheduled, large aircraft service between the following points: Miami, Florida, on the one hand, and Kingston, Jamaica on the other hand. Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 30, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-33648 Filed 12-9-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40813]**Firstair Corp. Fitness Investigation; Hearing**

Notice is hereby given that a hearing in the above-entitled matter is assigned

to commence on December 16, 1982, at 10:00 a.m. (local time) in Court Room 2, Lower Level, 2120 L Street, N.W., Washington, D. C., before the undersigned administrative law judge.

Dated at Washington, D.C., December 6, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-33649 Filed 12-9-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Perchloroethylene From Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On October 22, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on perchloroethylene from Italy. The review covers the two known exporters of this merchandise to the United States and the period May 1, 1981 through April 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On May 18, 1979, The Treasury Department published in the *Federal Register* an antidumping finding with respect to perchloroethylene from Italy (T.D. 79-151, 44 FR 29046). On October 22, 1982, the Department of Commerce ("the Department") published in the *Federal Register* (47 FR 47053) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of perchloroethylene from Italy, including technical grade and purified grade perchloroethylene. Perchloroethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is completely capable of

being mixed with most organic liquids. It is a chlorinated solvent used mainly for dry cleaning of clothing, but is also used in other applications such as vapor degreasing of metals. Perchloroethylene is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated.

The review covers the two known exporters of Italian perchloroethylene to the United States, Rumianca, S.p.A. and Montedison, S.p.A., and the period May 1, 1981 through April 30, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 37.8 percent and 29 percent for Rumianca and Montedison, respectively, based on the most recent margin calculated for each firm, shall be required on all shipments of Italian perchloroethylene entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit of 37.8 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of May 1984. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 6, 1982.

[FR Doc. 82-33652 Filed 12-9-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Comments on Foreign Fishing Applications

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Opportunity for Public Comments on Foreign Fishing Applications Received by the Mid-Atlantic Fishery Management Council.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265). As required by the Act, Section 204(b)(5), the Council announces that the public may comment on any and all foreign fishing applications received by the Council on or before January 3, 1983.

The Council's staff will be available between 9 a.m. and noon on January 3, 1983, to receive comments, which may be made in person at the Council's Headquarters Office, Federal Building, Room 2115, 300 South New Street, Dover, Delaware, between the above-stated hour. In addition, written comments must be mailed in time to be received and reviewed by the Council, on January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: December 7, 1982.

Joe P. Clem,

Acting Program Manager, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 82-33667 Filed 12-9-82; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the Surf Clam/Ocean Quahog and the Atlantic Mackerel, Squid and Butterfish Fishery Management Plans (FMP's); status of other FMP's; joint ventures, as well as the status of other fishery management and administrative matters.

DATES: The public meetings will convene on Wednesday, January 5, 1983, at approximately noon and will adjourn on Thursday, January 6, 1983, at approximately 5 p.m. The meetings may be lengthened or shortened depending upon progress on the agenda items.

ADDRESS: The public meetings will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: December 7, 1982.

Joe P. Clem,

Acting Program Manager, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 82-33668 Filed 12-9-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Levels for Certain Cotton Apparel Products From Macau

December 7, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing and carryforward, the levels of restraint established for men's and boys' cotton shirts in Category 340 and cotton trousers in Categories 347/348, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1982. The level for women's, girls', and infants' cotton knit shirts and blouses in Category 339 is also being adjusted for swing and for carryforward used in 1981.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), May 13, 1982 (47 FR 20654), and November 24, 1982 (47 FR 53091).)

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau, concerning textile and apparel products produced or manufactured in Macau, provides, among other things, for percentage increases in certain specific ceilings during an agreement year

(swing) and for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. Pursuant to the terms of the bilateral agreement, the levels of restraint for Categories 339, 340, and 347/348 are being adjusted for the twelve-month period which began on January 1, 1982.

EFFECTIVE DATE: December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 14, 1981, there was published in the *Federal Register* (46 FR 60872) a letter dated December 9, 1981, from the Chairman of the Committee for Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Categories 339, 340, and 347/348, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint previously established for cotton textile products in these three categories to the designated amounts.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 7, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: On December 9, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.¹

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau, which provide, in

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 13, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 339, 340, 347/348, produced or manufactured in Macau, in excess of the following levels of restraint:

Category	Amended 12-Mo level of restraint ¹
339.....	562,848 dozen.
340.....	140,324 dozen.
347/348.....	317,520 dozen.

¹ The levels of restraint have not been adjusted to reflect any imports after December 31, 1981.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-33651 Filed 12-9-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing a New Procedure for Issuance of Visa Waivers for Certain Carpets and Rugs From China, Effective on January 1, 1983

Effective on January 1, 1983, the Office of Textiles and Apparel, U.S. Department of Commerce, will no longer issue automatic visa waivers for hand-knotted carpets and rugs, produced or manufactured in China. Effective from January 1, 1983, such waivers will be issued by the Office of the Commercial

part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Counsellor, Embassy of the People's Republic of China, 2300 Connecticut Avenue, NW., Washington, D.C. 20008.

The purpose of this notice is to advise interested persons to direct requests for visa waivers for handknotted carpets and rugs of Chinese origin directly to the Chinese Embassy from January 1, 1983 and until further notice.

Walter C. Lenahan

Chairman, Committee for the Implementation of Textile Agreements.

December 7, 1982.

[FR Doc. 82-33650 Filed 12-9-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1983 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: December 10, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 9, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (47 FR 15403) of proposed addition to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on the current contractor for the service listed.

c. The action will result in authorizing a small entity to provide a service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1983:

SIC 7349

Janitorial Service
Hiram M. Chittenden Locks
Seattle, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 82-33656 Filed 12-9-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983, Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 12, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 7510

Binder, Looseleaf
7510-00-965-2443

Class 7530

Paper, Teletypewriter Roll
7530-00-919-6674
7530-00-919-6931
7530-00-919-7267
7530-00-919-7463

Class 7530

Paper Set, Manifold and Carbon
7530-00-401-6910

7530-01-072-2536
7530-01-072-2537
7530-01-072-2538
7530-01-072-2539
(GSA Regions 4 and 9)

SIC 7349

Janitorial Services, U.S. Customs House,
220 N.E. 8th Avenue, Portland, Oregon
Janitorial Services, Federal Warehouse,
2760 NW Yeon Avenue, Portland,
Oregon

Janitorial Services, U.S. Post Office and
Courthouse, 600 Granby Mall, Norfolk,
Virginia

Janitorial Services, Federal Archives
and Records Center, 6125 Sandpoint
Way, Seattle, Washington

Janitorial Services, Border Patrol Sector
Headquarters, 10710 N. State Highway
#6, Spokane, Washington

Janitorial Services, Federal Building, 500
W. 12th, Vancouver, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 82-33657 Filed 12-9-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) With the Port of Los Angeles for a Department of the Army Permit Application No. 81-159-HB (Los Angeles Harbor Coal Terminal)

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a joint draft environmental impact statement/environmental impact report (DEIS/EIR).

SUMMARY:

1. Proposed Action

The Port of Los Angeles has applied to the Department of the Army for permits under Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act in order to construct a coal export terminal within San Pedro Bay, Los Angeles, California. Approximately 37 million cubic yards of material will be dredged to produce a 1200-foot wide, 65-foot deep channel, a turning basin, and a berthing slip. The area to be dredged totals approximately 640 acres. The dredged material from the channel will be used to create two landfills. A 339-acre site will replace the present Seaplane Anchorage and shallow water habitat (this shallow water habitat was

created as mitigation for the ongoing Federal Los Angeles Harbor Deepening Project). In addition, a 280-acre site will be filled south of the shallow water habitat area. Placement of approximately 20,000 linear feet of retention diking will be required for the two landfills. Two 50-foot wide, 680-foot long concrete wharves will also be constructed.

Final design plans for the coal export terminal will be consistent with the Los Angeles-Long Beach Harbors Landfill Development EIR/EIS and the Los Angeles-Long Beach Harbors Channel Improvements EIS/EIR to be prepared jointly by the Corps of Engineers, the Port of Los Angeles, and the Port of Long Beach.

2. Alternatives

Several alternative actions will be considered, including a no-action alternative, i.e., denial of the permit application. Other alternatives include: (a) Ocean disposal of all or a fraction of the dredged materials; (b) upland disposal of all or a fraction of the dredged materials; (c) different landfill configurations; (d) use of shallow draft ocean going barges or topping off of barges; and (e) using existing terminals for on-loading with complete storage at another port area.

3. Scoping Process

a. *Public Involvement.* A public notice requesting comments on the appropriate scope for the DEIS/EIR will be circulated to affected Federal, State, and local agencies, and other interested private organizations and individuals. During the DEIS/EIR review period, a public meeting will be held in order to receive comments on the document.

b. *Significant Issues.* Significant issues to be analyzed in depth in the DEIS/EIR will include: The need for the project, alternatives to the project, impacts to air quality, water quality and circulation, habitats and biota (including endangered species), land and water use, noise, light and glare, aesthetics, safety, socio-economics, transportation and circulation, public services, energy use, utilities, recreation, and cultural resources.

c. *Input Assignments.* The Port of Los Angeles' staff and/or its consultant(s) will prepare most of the DEIS/EIR for review by the Corps of Engineers. However, the Corps of Engineers will be responsible for preparing text regarding Cultural Resources and Section 404(b)(1) Water Quality Evaluation.

4. Scoping Meetings

The Corps of Engineers will circulate a public notice soliciting comments regarding the scope of the DEIS/EIR rather than holding a scoping meeting.

5. Publication of the DEIS/EIR

The Draft Environmental Impact Statement/Report is expected to be available to concerned agencies and the interested public for review and comment in August 1983.

ADDRESS: Questions about the proposed action and DEIS/EIR can be answered by Mr. Robert Wood, Chief, Environmental Quality Section, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053.

Dated: December 2, 1982.

Paul W. Taylor,

Colonel, CE, District Engineer.

[FR Doc. 82-33584 Filed 12-9-82; 8:45 am]

BILLING CODE 3710-KF-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of the Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/EU(SW)-69, from Sweden to the Federal Republic of Germany, 8,000 kilograms of uranium enriched to 3.5% in U-235. This material is in the form of unirradiated scrap, and is to be purified for subsequent return to Sweden.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this

retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 7, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-33654 Filed 12-9-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of the Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/SD(EU)-42, from the Federal Republic of Germany to Switzerland, 5 irradiated fuel rods, containing 600 grams of uranium enriched to 93.2% in U-235, 220 grams of plutonium, and 100 grams of depleted uranium, for post-irradiation examination. It is planned to return the material to the Federal Republic of Germany after conclusion of the work.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 7, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-33655 Filed 12-9-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83-1-12-000]

Distrigas Corp. and Distrigas of Massachusetts Corp.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

December 7, 1982.

Take notice that Distrigas Corporation (Distrigas) on November 22, 1982 tendered for filing Twelfth Revised Sheet No. 1 to its FERC Gas Tariff and Distrigas of Massachusetts Corporation (DOMAC) on the above date tendered for filing Twelfth Revised Sheet No. 3A.

Twelfth Revised Sheet No. 1 and Twelfth Revised Sheet No. 3A are being filed pursuant to Distrigas' and DOMAC's purchased LNG cost adjustment provision set forth in their respective tariffs. The Distrigas rate change is being filed to reflect in its sales rate to DOMAC a redetermination (decrease) of the price paid for the purchase of LNG from its supplier SONATRACH in accordance with the Distrigas-SONATRACH Agreement for Sale and Purchase of Liquefied Natural Gas, together with demurrage and amortization over the six-month period, January 1, 1983 through July 31, 1983, of the balance of the unrecovered purchased LNG cost account.

The DOMAC rate change is being filed to reflect the Distrigas rate change in DOMAC's rates for resale to its distribution customer companies and the amortization over the six-month period, January 1, 1983 through June 30, 1983, of the balance in DOMAC's unrecovered purchased LNG cost account and the GRI Surcharge.

Distrigas and DOMAC request that the proposed tariff sheets become effective January 1, 1983, to coincide with the change in LNG costs from SONATRACH.

A copy of this filing is being served on all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33636 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-46-001]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

December 7, 1982.

Take notice that on November 24, 1982, Kentucky West Virginia Gas Company ("Kentucky West") tendered for filing its Substitute Twenty-Fifth Revised Sheet No. 27 and its Sixth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1982.

Kentucky West states that its tariff sheets are in compliance with the Commission's order of October 29, 1982 and moves that the tariff sheets be permitted to go into effect as of November 1, 1982, subject to possible refund of any portion of the increase which may not be approved by final and non-appealable order of the Commission.

Kentucky West also states that it has filed a motion to place the suspended sheets into effect together with the requisite corporate agreement and undertaking.

Copies of the filing were served upon the Company's jurisdictional customers or interested state commissions.

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 petitions or protest should be filed on or before December 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33637 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-46-002]

Kentucky West Virginia Gas Co.; Proposed Change in Tariff Sheets

December 7, 1982.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on November 24, 1982, tendered for filing with the Commission the following revised tariff sheets to Kentucky West's FERC Gas Tariff, First Revised Volume No. 1, to become effective January 1, 1983.

Sixth Revised Sheet No. 8

Sixth Revised Sheet No. 10

The revised tariff sheets amend Kentucky West's Gas Research Institute (GRI) Funding charge to place in effect the new GRI funding unit of 7.2 mills per dth as approved by FERC in Opinion No. 149, issued September 30, 1982, under Docket No. RP82-102-000.

Kentucky West states that copy of its filing has been served upon Kentucky West's jurisdictional customers and the Kentucky Energy Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Dec. 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33638 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-14-001 (PGA 83-1(a))]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

December 7, 1982.

Take notice that on November 26, 1982 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) substitute revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on November 23, 1982 proposed to become effective November 1, 1982, and identified as follows:

Substitute Twenty-ninth Revised Sheet No. 4

Substitute Twenty-sixth Revised Sheet No. 18

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment Provision (PGA), and in substitution for a special filing that was approved effective November 1, 1982 by Commission order issued November 1, 1982. Subsequent to the Commission's order, Lawrenceburg was advised by its pipeline supplier that the rates Lawrenceburg proposed to track in its special November 1, 1982 PGA had been adjusted downward, thus prompting the filing of the subject substitute tariff sheets.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-33639 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-54-001]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

December 7, 1982.

Take notice that Louisiana-Nevada Transit Company on November 19, 1982, tendered for filing proposed changes in its FERC Gas Tariff Volume I. The proposed changes are to reflect changes in purchased gas cost as provided in the Company's Purchase Gas Adjustment Clause applicable to its Rate Schedule No. G-1 and X-2. The change provides for a total adjustment of 29.57 cents per Mcf including a deferred gas cost adjustment of 05.45 cents per Mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 24.12 cents per Mcf.

Copies of this filing were served upon the company's jurisdictional customer

and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-33640 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP73-14-013, et al.]

Michigan Wisconsin Pipe Line Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

December 7, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 21, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
10/12/82	Michigan Wisconsin Pipe Line Co.	RP73-14-013	Petition and plan.
10/12/82	do	RP73-14-0147	Do.
11/19/82	Natural Fuel Gas Supply Corp.	RP80-135-023	Report.
11/22/82	Colorado Interstate Gas Co.	RP78-20-021	Do.
11/23/82	do	RP81-117-008	LFUT report.

APPENDIX—Continued

Filing date	Company	Docket No.	Type filing
11/24/82	Tennessee Gas Pipeline Co.	RP81-38-006	Report.
11/24/82	do	RP81-44-006	Do.
11/24/82	Texas Eastern Transmission Corp.	RP81-121-004	LFUT report.
12/1/82	Midwestern Gas Transmission Co.	RP82-23-003	Do.
12/1/82	Tennessee Gas Pipeline Co.	RP81-99-004	Do.

[FR Doc. 82-33641 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-23-000]

Mid Louisiana Gas Co.; Proposed Change in FERC Gas Tariff

December 7, 1982.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on November 26, 1982, tendered for filing, as part of First Revised Volume No. 1 of its FERC Gas Tariff, Fourth Revised Sheet No. 26c Superseding Substitute Third Revised Sheet No. 26c. Mid Louisiana states a proposed effective date for the new sheet of January 1, 1983.

Mid Louisiana states that the purpose and effect of the filing is to correct an inadvertent omission of language in § 19.7 of the PGA computation provisions of its said FERC tariff. The amendment to § 19.7, Mid Louisiana states, would conform the language of that section to a parallel provision of Mid Louisiana's said tariff at section 19.5. Mid Louisiana states that the computation of its PGA charges, which is the subject of §§ 19.7 and 19.5, has in practice been governed by and followed the language of section 19.5 where the two provisions are inconsistent. Hence, Mid Louisiana represents that acceptance of the instant filing will conform § 19.7 to the full and correct PGA computation procedures set forth in § 19.5, and not affect Mid Louisiana's rates, charges, terms or conditions of service.

Copies of the filing have been served on all sale-for-resale customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All

such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-33642 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-16-000]

**National Fuel Gas Supply Corp.;
Proposed GRI Rate Adjustment**

December 7, 1982.

Take notice that on November 26, 1982, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fortieth Revised Sheet No. 4 proposed to be effective January 1, 1983.

National states that the purpose of this revised tariff sheet is to reflect National's rates pursuant to Article 18 (GRI) of the General Terms and Conditions. National further states that Fortieth Revised Sheet No. 4 reflects the GRI surcharge for 1983 at the existing 1982 rate of .72¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20462, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-33643 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP81-4-004 and CP81-291-006]

**Texas Eastern Transmission Corp.,
Proposed Changes in FERC Gas Tariff**

December 7, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 17, 1982, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet: Revised Sixty-Second Revised Sheet No. 14.

By Commission orders issued March 20, 1981 and July 24, 1981 in Docket Nos. CP81-4 and CP81-291, respectively, Texas Eastern was granted authorization to render a firm daily withdrawal service under its Rate Schedule SS-II designated as Phase I and II Firm Expansions. The facilities needed to operate such firm daily withdrawal service was constructed. By Commission order issued May 10, 1982 in Docket No. CP82-2, Texas Eastern was granted further authorization to render additional firm daily withdrawal service under its Rate Schedule SS-II and to construct and operate pipeline facilities designated as Phase III Firm Expansion. The above tariff sheet is being filed pursuant to Section 4.H of Rate Schedule SS-II and the Commission's authorization in the May 10, 1982 order for the sole purpose of incorporating in Texas Eastern's tariff the Firm Demand Charge of \$11.579 per dekatherm of firm service for the Composite facilities (Phase I, II, and III).

Utilizing the methodology approved by the Commission, Texas Eastern estimated in its application in Docket No. CP82-2 (Phase III) that the applicable Firm Demand Charge would be \$12.24/dth based upon the estimated costs for Phase I, II and III. Since Texas Eastern filed its application in Docket No. CP82-2, certain of the costs used in the calculation of the Firm Demand Charge have changed. These changes are as follow:

(1) Texas Eastern has by Motion Placed rates into effect in Docket No. RP81-109 which reflect a revised cost of service associated with the Phase I and II Firm Expansions; and

(2) The construction costs for the Phase I and II Firm Expansions have been determined as of October 31, 1982.

Therefore utilizing the methodology approved by the Commission and subject to the Commission's May 10, 1982 order, Texas Eastern now proposes to revise the \$12.24/dth estimate to reflect the referenced change. The calculation of the resulting Firm Demand Charge of \$11.579/dth is reflected on Schedule A attached to the filing.

The proposed effective date of this tariff sheet is November 16, 1982, to coincide with the commencement of the firm daily withdrawal service in Phase III.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-33644 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-84-000]

Trunkline Gas Co.; Application

December 6, 1982.

Take notice that on November 12, 1982, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-84-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests

filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-33645 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4063-001]

Yolo County Flood Control & Water Conservation District; Exemption From Licensing

December 7, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Clear Lake Hydroelectric, Project No. 4063, was filed on October 29, 1982, by the Yolo County Flood Control and Water Conservation District. The proposed hydroelectric project would have an installed capacity of 1,750 kW and would be located on Sacramento River in Lake County, California.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this

notification that the above project is exempted from licensing as of November 29, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-33646 Filed 12-9-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59110; TSH-FRL 2263-5]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemption, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by December 27, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59110]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

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 Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential

document is available in the Public Reading Room E-107.

TME 83-11

Close of Review Period. January 9, 1983.

Manufacturer. Owens-Corning Fiberglass Corporation.

Chemical. (G) Polyester resin.
Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 1 hr/da; processing: dermal and inhalation, incidental during 8 hr. shift.

Environmental Release/Disposal. No release. Disposal via Resource Conservation and Recovery Act (RCRA)—approved facilities.

TME 83-12

Close of Review Period. January 13, 1983.

Manufacturer. Confidential.

Chemical. (G) Aromatic Polyimide.

Use. (G) Specialty coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

TME 83-13

Close of Review Period. January 13, 1983.

Manufacturer. Confidential.

Chemical. (G) Aromatic polyimide.

Use. (G) Specialty coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

December 3, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-33512 Filed 12-9-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-56]

Snyder General Corp. v. South African Marine Corp., Ltd., Springbok Line, Ltd., and Springbok Shipping Co., Ltd., Filing of Complaint and Assignment

Notice is given that a complaint filed Snyder General Corporation against South African Marine Corporation, Ltd., et al. was served December 3, 1982. Complainant alleges that respondents have subjected it to an overcharge or

rates for ocean transportation in violation of section 18(b) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 82-33626 Filed 12-9-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b) (2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Paul and Lydia Kalmanovitz' proposed acquisition of certain voting securities of Olympia Brewing Co.	Nov. 18, 1982.
(2) MacAndrews and Forbes Group, Inc.'s	Do.

Transaction	Waiting period terminated effective
proposed acquisition of voting securities of Technicolor, Inc.	
(3) Western Financial Corp.'s proposed acquisition of certain voting securities of Del E. Webb Corp.	Do.
(4) Michael C. U. de Guzman's proposed acquisition of certain voting securities of Kay Corp.	Do.
(5) NVF Co.'s proposed acquisition of certain voting securities of Johnson Controls, Inc.	Do.
(6) The Limited, Inc.'s proposed acquisition of all voting securities of Roanoke's, Inc.	Do.
(7) F. Hoffman La Roche & Company, Limited's proposed acquisition of all voting securities of Consolidated Biomedical Laboratories, Inc.	Do.
(8) Dana Corp.'s proposed acquisition of certain assets of International Harvester Co.	Do.
(9) Western Financial Corp.'s proposed acquisition of certain securities of Newell Companies, Inc.	Nov. 19, 1982.
(10) Koch Industries, Inc.'s proposed acquisition of certain assets of the Corpus Christi Texas Refinery of Gulf States Oil and Refining Co.	Do.
(11) Koch Industries, Inc.'s proposed acquisition of all voting securities of Clayco, Inc.	Do.
(12) Beatrice Foods Co.'s proposed acquisition of all voting securities of Ter-micold Co.	Do.
(13) CBS, Inc.'s proposed acquisition of certain assets of Kirk Kerkorian.	Do.
(14) G. Heileman Brewing Co., Inc.'s proposed acquisition of certain voting securities of Olympia Brewing Co.	Nov. 23, 1982.
(15) Richardson-Vicks Inc.'s proposed acquisition of certain assets of Hoffman-La Roche Inc.	Do.

Transaction	Waiting period terminated effective
(1) Pacific Oasis' proposed acquisition of certain assets of Oasis Petroleum.	Nov. 24, 1982.
(2) The St. Paul Companies, Inc.'s proposed acquisition of all voting securities of Barrel Springs Development Corp.	Do.
(3) Health Group, Inc.'s proposed acquisition of certain assets of Manor Care, Inc. and all voting securities of Hyattsville Nursing Home, Inc., Miller-Rutledge Corp. and River Hills Nursing Homes, Inc.	Do.
(4) Consolidated Investment Trust's proposed acquisition of certain voting securities of The George Putnam Trust of Boston and all of the assets of Consolidated Investment Trust.	Do.
(5) Pacific Oasis' proposed acquisition of certain assets of Pacific Resources, Inc.	Do.
(6) The St. Paul Companies, Inc.'s proposed acquisition of substantially all of the assets of Barrel Springs II.	Do.
(7) Hart Schaffner & Marx' proposed acquisition of all voting securities of Kuppenheimer Manufacturing Company, Inc.	Do.
(8) Transportation Maritime Mexicana, S.A.'s proposed acquisition of voting securities and assets of Texas-Mexican Railway Co.	Do.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 82-33647 Filed 12-9-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: St. Louis Station, chaired by Ronald M. Johnson, Chief.

DATE: Wednesday, December 15, 1982, 1:30 to 3:30 p.m.

ADDRESS: FDA Conference Room, St. Louis Station, Laclede's Landing, 808 North Collins St., St. Louis, MO 63102.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 808 North Collins St., St. Louis, MO 63102, 314-425-5021.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-33346 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 78N-0124]

Depo-Provera Sterile Aqueous Suspension; Time and Place of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the time and location of the first hearing of the Public Board of Inquiry in the proceeding involving the agency's proposal to refuse approval of a supplemental new drug application (NDA) of the Upjohn Co. The NDA was submitted for the general marketing of Depo-Provera (medroxyprogesterone acetate) Sterile Aqueous Suspension as a contraceptive agent in humans.

DATE: The hearing will begin on January 10, 1983, at 9 a.m.

ADDRESS: The hearing will be held in Rm. 703-A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 27, 1979 (44 FR 44274), FDA ordered that a hearing before a Public Board of Inquiry (PBOI) be held to determine whether the supplemental NDA for Depo-Provera (NDA 12-541/S-004) contains reports of investigations that were adequate to show that the drug is safe for use under the conditions prescribed, recommended, or suggested in the labeling as required by section 505(d)(1), (2), and (4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(d)(1), (2), and (4)), and whether that information, combined with other information about the drug, provides a sufficient basis from which FDA can determine that Depo-Provera is safe for general marketing in the United States under such conditions.

In the Federal Register of August 20, 1982 (47 FR 36470), FDA announced that a prehearing conference in the proceeding would be held on September 23, 1982, in part to set the date, time, and place of the hearing in the matter. The first hearing of the Board will begin on January 10, 1983, at 9 a.m. in Rm. 703-A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC. The hearing will be transcribed and open to the public in accordance with 21 CFR 13.30(g).

The findings and conclusions of the Board, based on the record of the hearing, will have the legal status of, and be handled as, an initial decision issued in accordance with § 12.120 (21 CFR 12.120).

Dated: December 2, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-33478 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0367]

Richards Manufacturing Co., Inc.;
Premarket Approval of Osteo Ceramic Hip

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Osteo Ceramic Hip sponsored by Richards Manufacturing Co., Inc., Memphis, TN. After reviewing the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 10, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On December 18, 1981, Richards Manufacturing Co., Inc., submitted to FDA an application for premarket approval of the Osteo Ceramic Hip. The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended approval of the application. The device consists of two systems, the Osteo Xenophor Ceramic Total Hip Replacement System, indicated for use with bone cement and consisting of three components: a cobalt-chrome alloy femoral stem (Xenophor Stem), a ceramic head, and a ceramic acetabular cup (Xenophor Cup); and the Osteo Autophor Ceramic Total Hip Replacement System, indicated for use without bone cement and consisting of three components: a cobalt-chrome alloy femoral stem (Autophor II Stem), a ceramic head, and a ceramic acetabular cup (Autophor Cup). The device is indicated for the replacement of the natural femoral-pelvic (hip) joint in patients who have reached skeletal maturity, when the natural joint can no longer function adequately due to pain, decreased range of motion, or destruction or abnormality of the joint structures. These symptoms can be caused by several conditions, including osteoarthritis, trauma, osteomyelitis, fracture-dislocation and unsuccessful prior hip arthroplasties or other

alternative surgical procedures. The safety and effectiveness of the device in patients who have not reached full skeletal maturity have not been established. On November 5, 1982, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices; contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 10, 1983, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be

seen in the office above between 9 a.m. and 4 p.m., Monday through Friday

Dated: November 30, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-33374 Filed 12-9-82; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 82M-0354]

**Seiquor Theta™
Model 233D Pulse Generator and
Models 222C, 255A, and 256A
Programmers**

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Sequor Theta™ Model 233D Pulse Generator and Models 222C, 255A, and 256A Programmers sponsored by Cordis Corp., Miami, FL. After reviewing the recommendation of the Circulatory System Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by January 10, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On March 2, 1982, Cordis Corp., Miami, FL, submitted to FDA an application for premarket approval of the Sequor Theta™ Model 233D Pulse Generator and Models 222C, 255A, and 256A Programmers. The application was reviewed by the Circulatory System Devices Panel, an FDA advisory committee, which recommended approval of the application for use of the Model 233D Pulse Generator with either Model 222C, 255A, or 256A Programmer as a cardiac pacemaker system. Use of the device in the ventricular overdrive mode, however, continues to be investigational. On November 4, 1982, FDA approved the application by a

letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from the office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)), a petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 10, 1983, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 30, 1982.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 82-33348 Filed 12-9-82; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 82N-0331]

**Monooctanoin for Dissolution of
Cholesterol Gallstones Retained After
Cholecystectomy**

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has established an Orphan Products Development Office to identify and facilitate the availability of products useful in treating or diagnosing uncommon diseases. This office will also promote availability of products for common diseases where commercial sponsorship of the products is either lacking or is not totally committed to obtaining marketing approval. By this notice, the Orphan Products Development Office invites submission of a new drug application (NDA) for use of monooctanoin in dissolving residual cholesterol gallstones after a cholecystectomy (excision of the gallbladder).

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: Monooctanoin is a monodiglyceride of medium chain fatty acids. Its trade name is Capmul 8210. Stokeley-VanCamp holds a use patent for this product for dissolution of cholesterol gallstones.

Approximately 500,000 cholecystectomies are performed each year in the U.S. For those cases in which gallstones are present, it is estimated that in 2 to 6 percent of such cases (up to 14 percent by some accounts) gallstones will be retained in the bile duct postoperatively. For stones that are too large to pass spontaneously, mechanical extraction through a T-tube or by retrograde endoscopic sphincterotomy is performed. If these methods are not successful, abdominal surgery is required. The mortality rate for surgery for missed bile duct stones is approximately 5 percent, and stones may again be missed in 5 to 12 percent of cases. The mortality rate for endoscopic sphincterotomy and gallstone removal is estimated as 0.8 to 1.5 percent. retrograde endoscopic sphincterotomy is contraindicated or may fail in 10 to 20 percent of cases

because of pyloric or duodenal stenosis, large diverticula or stones, common bile duct stenosis, and abnormal clotting factors. Mechanical basket extraction may not be feasible or may be unsuccessful for various technical reasons.

Sodium cholate can dissolve cholesterol gallstones, but its capacity to do so is low, and in clinical trials it has often been associated with bile acid diarrhea. Infusions of heparin into the common duct have been used in an attempt to remove retained stones, but heparin does not dissolve cholesterol and any effectiveness can most likely be attributed to a flushing action on stones which were small enough to pass through the sphincter of Oddi. In vitro studies have shown that monooctanoin solubilizes 2.5 times more cholesterol from gallstones than does sodium cholate. Monooctanoin will not solubilize bilirubinates stones.

A significant number of clinical reports have been published on the safety and effectiveness of continuous infusion of monooctanoin into the common bile duct directly through a T-tube or through a nasobiliary tube inserted by means of endoscopy. In addition, Mack et al. (*Surgery* 90:584, 1981) reported on administration of monooctanoin into the common bile duct through a percutaneously placed transhepatic catheter.

The published reports and a progress report in an investigational new drug application on studies performed in over 300 patients (many of whom are also reported in the literature) provide evidence that monooctanoin is an effective agent and is relatively safe when precautions are taken to control perfusion pressure.

The data reveal that about 65 to 80 percent of patients with stones that are predominantly cholesterol will benefit from monooctanoin perfusion with either complete dissolution of stones or decrease in size of stones so that they can pass spontaneously or be readily extracted by the basket method. Stone disappearance occurs, generally, after a few days to 2 weeks of perfusion, although occasionally up to 3 weeks may be required. In some patients, continuous perfusion (except for mealtimes) is not possible for mechanical reasons, and instillation of measured amounts of monooctanoin every 1 to 2 hours is required.

Although most patients have been treated as inpatients, Jarrett et al. (*Lancet* 1:68, 1981) permitted a number of their patients to receive treatment as outpatients (after a 2-to-3-day period of inpatient treatment) by means of battery-operated portable pumps.

Adverse reactions were generally mild to moderate. Among 345 patients reported in a progress report to an investigational new drug application, nausea was observed in 11 percent of cases, abdominal pain in 6 percent, diarrhea in 5.5 percent, and vomiting in 3 percent. Mild anorexia has been reported in the literature. The pain and upper gastrointestinal symptoms have been attributed to increased pressure in the biliary tract induced by the perfusion rather than to a drug effect per se, but recently it has been suggested that in some cases pain may be due to (reversible) irritation of the bile duct by the drug (personal communication to FDA). The pain is generally relieved by decreasing the rate of administration or aspirating the biliary tract. Diarrhea or increase in frequency of stools appears to be drug related.

In some patients, reversible elevations of hepatic enzymes were seen, but in at least some cases it is likely that the enzyme elevations were secondary to ductal obstruction by the stones rather than to a drug effect. Some patients with elevated enzymes before receiving monooctanoin had a return to normal levels after stone dissolution.

Schenk et al. (*Deutsche Medizinische Wochenschrift* 105:917, 1980) noted peripapillary hyperemia and erosions of the duodenal mucosa in two of five patients who received perfusion by means of nasobiliary tube inserted via endoscopy. These changes disappeared within 2 days after discontinuing therapy. FDA has been informed that duodenitis has been observed by a U.S. investigator who administered monooctanoin by the same route, but in the cases repeat examination was not performed after the perfusion was concluded.

FDA is aware of the following preclinical studies bearing on the safety of monooctanoin when infused into the common bile duct.

Mack et al. (*Surgical Forum* 29:438, 1978) infused monooctanoin through a T-tube in 5 monkeys for up to 1½ months. In four of the monkeys mild-to-moderate inflammation of the bile duct was noted. These findings were in contrast to a previous study with sodium cholate in monkeys in which severe inflammation and deaths occurred.

Schenk et al. (*Gastroenterology* 76:1237, 1979) found that following infusion of monooctanoin through a tube inserted into the gallbladder of cats, inflammatory changes of the biliary and papillary mucosa were noted after 4 to 8 hours of infusion, and submucous infiltration of inflammatory cells and occasionally acute pancreatitis were

noted after 4 days of infusion for 4 hours per day.

Sharp et al. (*Surgical Forum* 32:176, 1981) injected monooctanoin into the hepatic parenchyma of rats and found that 9 of 10 rats died of hemorrhagic peritonitis within a half hour of injection; in addition, 6 of the rats had hepatic infarction. This study was considered by the investigators as an appropriate model for predicting the potential deleterious hepatic effects of failure to control perfusion pressure when treating patients with retained gallstones.

Lillemoe et al. (*Surgery, Gynecology and Obstetrics* 155:13, 1982) found an increase in hydrogen ion flux across the gastric mucosa following monooctanoin infusion in the Heidenhain pouch of dogs for six 10-minute periods. The investigators associate this phenomenon with a potential for gastric mucosal injury in cases where reflux into the stomach may occur during common bile duct perfusion. To place this finding in perspective, in similar studies the authors have observed increase in hydrogen ion flux with various bile acids. It is well-known that many patients experience gastric symptoms from bile acid reflux. The U.S. investigator who noted duodenitis in his patients (see above) also noted evidence of gastritis.

After reviewing the published literature and available unpublished data, FDA concludes that there are sufficient data to invite submission of an NDA for use of monooctanoin to dissolve cholesterol gallstones retained after cholecystectomy.

Examples of published data that would help support approval of an NDA are as follows: Mack, E. A. et al., *Surgical Forum* 29:438, 1978; Sharp, K. W. et al., *Surgical Forum* 32:176, 1981; Schenk, J. et al., *Gastroenterology* 76:1237, 1979; Lillemoe, K. D. et al., *Surgery, Gynecology and Obstetrics* 155:13, 1982; Jarrett, L. N. et al., *Lancet* 1:68, 1981; Uribe, M. et al., *Digestive Diseases and Sciences* 26:638, 1981; Velasco, N. and Csendes, A., *Rev. Med. Chile* 106:1021, 1980; Gadacz, T. R., *Journal of Surgical Research* 26:378, 1979; Schenk, J. et al., *Deutsche Medizinische Wochenschrift* 105:917, 1980; Mack, E. et al., *Archives of Surgery* 116:341, 1981; Witzel, L. et al., *Gastrointestinal Endoscopy* 27:63, 1981; Gadacz, T. R., *Surgery* 89:527, 1981; Mack, E. et al., *Surgery* 90:584, 1981; Cotton, P. B. et al., *Lancet* 1:436, 1981.

Copies of references cited above are on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers

Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

A number of clinical investigators of monooctanoin have agreed to make their data available to a sponsor of an NDA.

FDA would require the following information to be submitted in an NDA:

1. Manufacturing controls information.
2. The results of a 4-week common bile duct perfusion study in dogs, including gross and histologic examination of the duodenum and stomach. The reversibility of the expected irritation should also be defined.
3. Published reports on in vitro, animal, and clinical studies of monooctanoin bearing on the intended use.
4. Case report data from several major investigators, including results of serial cholangiograms. (Names of investigators who have agreed to make their data available will be furnished on request to potential NDA sponsors.)

5. Data on duodenal and gastric endoscopy in patients before and after monooctanoin perfusion. If adequate data are already available, then new studies would not be required. If they are not, then FDA will discuss with potential sponsors the scope of the study required to elucidate whether duodenal and gastric changes are associated with use of monooctanoin.

FDA will be pleased to meet with potential sponsors to discuss the data and requirements. Manufacturers interested in submitting an NDA should contact Roger Gregorio at the address above.

Dated: November 22, 1982.

Marion J. Finkel,

Associate Director for New Drug Evaluation.

[FR Doc. 82-33585 Filed 12-9-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the list was last published on December 3,

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Drug Abuse Warning Network (0930-0078)—Extension

Respondents: Hospital emergency rooms and medical examiners/coroners
OMB Desk Officer: Richard Eisinger

National Institutes of Health

Subject: Cancer Research Project Registration Form (0925-0021)—Extension

Respondents: Cancer researchers
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Quarterly Report of Recoveries of AFDC Overpayments (SSA-4972 (7-82))—New

Respondents: State or local governments
Subject: Supplemental Security Income Referral Notice to Organizations (SSA-L8050-U3)—New

Respondents: State or local governments and businesses or other institutions
Subject: Health Insurance Information Request (SSA-8019)—New
Respondents: Individuals applying or receiving Supplemental Security Income

OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Home Health Agency Report and Billing Form (HCFA-1487)—Revision

Respondents: Home health agencies
Subject: Claims Data Collected from Physicians and Other Health Care Providers—Home Blood Glucose (HCFA-9023)—Revision

Respondents: Physicians
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)

Dated: December 3, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-33541 Filed 12-9-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Resolution No. 336-80 Amending Ordinance No. 63]

Standing Rock Indian Reservation, North Dakota and South Dakota

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. 336-80 was adopted on December 4, 1980 by the Standing Rock Sioux Tribal Council to amend Ordinance No. 63 which was published in the *Federal Register* as FR Doc. 74-22673 appearing at pages 35189 and 35190 on September 30, 1974. Ordinance No. 63 provides for the application of the Federal Indian Liquor Laws which allow for introduction, sale, distribution, and use of liquor on the Standing Rock Sioux Reservation, North Dakota and South Dakota. Resolution No. 336-80 will apply to the areas of Indian country under the jurisdiction of the Standing Rock Sioux Tribal Council included in Ordinance No. 63, reading as follows:

Kenneth Smith,

Assistant Secretary, Indian Affairs.

Resolution No. 336-80

[Amending Liquor Ordinance No. 63]

Be it resolved, That Ordinance No. 63, and the same is hereby amended in the following respects.

Amendment No. 1. Amend Section 3 to read as follows:

"Section 3. *Tribal License or permit required.* No person shall engage in the sale of intoxicating beverages within the Indian country under the jurisdiction of the Tribe, unless duly licensed or permitted to do so by the Tribe in accordance with the terms of this Ordinance and in the case of non-Indians, by the Tribe and the State in which the licensee sells intoxicating beverages, provided that the Tribe, in the discretion of the Council, may require Indians to obtain licenses from the appropriate State."

Amendment No. 2. Amend section 4(d) by putting a period after "license" and removing the following words:

"and a complete detailed, itemized inventory of all intoxicating beverages on and in the premises where the intoxicating beverages are to be sold."

Amendment No. 3. Amend Section 4(g) to read as follows:

"Satisfactory proof that neither the applicant nor the applicant's spouse has ever been convicted of a felony."

Amendment No. 4. Amend Section 4(h) to read as follows:

"Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Council and has been published at least twice in a tribal newspaper, or if a tribal paper is not in publication, in such other local newspaper serving the community that may be affected by the license as the Tribal Chairman or Secretary may authorize. The notice shall state the date, time and place when the application shall be considered by the Council pursuant to Section 5."

Amendment No. 5. After Section 4, add a new Section 5 to read:

"Section 5. *Hearing on application for tribal liquor license.* All applications for a tribal liquor license shall be considered by the Council in open session at which the applicant, his attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Council, by secret ballot, shall determine whether to grant or deny the application. (In the event that the applicant is a member of the Tribal Council, or a member of the immediate family of a Council member, such member shall not vote on the application or participate in the hearing as a Council member.)"

Amendment No. 6. Add a new Section 6 to read as follows:

"Section 6. *Temporary permits for sale of beer.* The Council may grant a temporary permit for the sale of intoxicating beverages for a period not to exceed three (3) days to any person applying for the same in connection with a tribal or community activity, provided that the conditions prescribed in Section 7(b), 7(c), 7(d), 7(h), and 7(i) of this ordinance shall be observed by the permittee. Each permit issued shall specify the types of intoxicating beverages to be sold."

Amendment No. 7. Renumber Section 5 as "Section 7," and alter Section 7(d) to read as follows:

"d. The licensed premises shall be open to inspection by duly authorized

tribal officials at all times during the regular business hours."

Amendment No. 8. Renumber Sections 6, 7, 8 and 9 as Sections 8, 9, 10 and 11 respectively.

Certification

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribal Council of the Standing Rock Reservation, hereby certify that the Tribal Council is composed of 15 members, of whom 15, constituting a quorum, were present at a meeting thereof duly and regularly called, notified and convened, and held on the 4th day of December 1980, that the foregoing resolution was duly adopted by the affirmative vote of 13 members, with 0 opposing, and with 2 not voting.

Dated this 27th day of February 1981.

Frank A. Lawrence,
Chairman, Standing Rock Sioux Tribal Council.

Attest:
Duane Vermillion,
Secretary, Standing Rock Sioux Tribal Council.

[FR Doc. 82-33569 Filed 12-9-82; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Initial Land Classifications

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Initial Land Classifications.

SUMMARY: The Bureau of Land Management is proposing the classification of 9,330.39 acres of public land as suitable and 4,735.59 acres of public land as unsuitable for agricultural development under provisions of the Desert Land Act or Carey Act. Soils, critical resource values, and availability of the land were used to determine suitability. When classification becomes final, applications on suitable lands may be processed. Before an application may be approved, economic feasibility and availability of water must be determined.

DATES: Comment period ends February 10, 1983.

ADDRESSES: Send comments, suggestions, or protests to: District Manager, Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Delores L. Blom, 3948 Development Avenue, Boise, Idaho 83705, telephone number (208) 334-1582.

SUPPLEMENTARY INFORMATION: The classification is split into two decisions.

One for suitable and one for unsuitable; the legal descriptions are shown in Attachments I, II, III and IV.

There are two Carey Act project applications and 14 Desert Land applications within this block.

The following criteria were used in determining whether the subject lands are suitable or unsuitable for agricultural development.

1. Any 40 acre tract that contains a majority (75-100 percent) of Class 6 soils would be classified unsuitable for disposal under Desert Land Entry or Carey Act.

This is based on the agricultural capability criteria used for classifying soils that is explained in the Environmental Statement.

2. Any public lands containing known archeological or historical values determined to be unique or possibly significant would be classified unsuitable for disposal pending further analysis.

3. Any public lands where rare, endangered, or sensitive species of plants or animals are known to live (or nest) would be classified unsuitable for disposal, unless mitigation is possible.

4. Certain tracts of land identified for community needs such as landfills, gravel pits, sewage plants, schools, etc. would be classified unsuitable for disposal.

5. Certain tracts of land identified as valuable for wildlife habitat would be classified unsuitable for disposal. The guidelines and analysis contained in the Environmental Statement, Appendix 1-1 were used to select the proposed wildlife leave areas.

6. Public land that does not qualify for agricultural use or disposal under Desert Land Act or Carey Act because of other existing uses will be classified unsuitable for disposal under these laws.

Once the lands are classified, applications may be processed. Applications on land classified unsuitable will be rejected. Applications on lands classified suitable will be subject to engineering and economic feasibility analysis. If farming the land appears to be too difficult or not economically sound, an application will be rejected. Further background information is contained in the Agricultural Environmental Statement.

All future authorized agricultural use and title transfer of these lands will be subject to valid existing rights and authorized use in most instances. Some easements may be reserved for future needs.

One comment was submitted on the proposed decision by the Soil

Conservation Service. They provided some very good comments on the characteristics of the lands being classified.

You may comment on, or protest this Initial Decision until February 10, 1983. Comments should be in writing and mailed to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Support documents and more detailed information and maps are on file at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, and are available for public review at the above address or information may be obtained and questions answered by telephoning Delores Blom at 334-1582.

Classification Decision

(Initial)

(Suitable)

The lands described in Attachments I and II have been examined and found suitable for use for agricultural purposes.

These lands are hereby classified for disposal under the provisions of the Carey Act, as amended (28 Stat. 422, 43 U.S.C. 641 et. seq.) and the Desert Land Act, as amended (19 Stat. 377, 43 U.S.C. 321-323), and the regulations thereunder (43 CFR Parts 2520 and 2610).

These lands contain soils considered capable of producing irrigated crops, and, pursuant to the State Director's decision of July 1980 to allow up to 176,000 acres to be developed for agricultural use, they are being classified.

These lands are valuable for agricultural purposes under the criteria in 43 CFR 2430.5(a) and (c), and 2520.0-8, and they meet the classification criteria of 43 CFR 2410.1(a)-(d).

This decision relates only to land classification. Adjudicative action by the appropriate land office will determine at a later date the merits of the application as well as the qualifications of the applicant.

This classification does not segregate the subject lands from disposition or appropriation under any other applicable public land laws. In the event the lands are transferred out of Federal ownership, they will no longer be available to licensed livestock. However, the current demand for livestock forage can be met elsewhere in

the Saylor Creek Planning Unit.

The lands described in Attachment I under "Bureau Motion", while physically suitable for agricultural use, are also habitat for the long-billed curlew. The Idaho Department of Fish and Game and the Bureau of Land Management regard the long-billed curlew as a "sensitive" species. By agreement between these two agencies, if curlew habitat is to be destroyed, it must be mitigated or compensated for. The Idaho Department of Water Resources is promoting the development of these lands for Carey Act, and they are currently working on a plan with the Department of Fish and Game and the Bureau of Land Management for compensation or mitigation. The development of the mitigation/compensation plan for these lands will be reviewed in September 1983 to determine progress. If needed, more time will be allowed for an agreement to be made. However, until a plan is mutually agreed upon, no development will be allowed on these lands.

The Carey Act applications as shown on Attachment I are approved in whole or in part as to classification. The petitions for classification under the Desert Land Act shown on Attachment II conflicting with the above Carey Act applications are denied.

Classification Decision

(Initial)

(Suitable)

The lands described in Attachments III and IV have been examined and found unsuitable for use for agricultural purposes.

These lands are hereby classified unsuitable for disposal under the provisions of the Carey Act, as amended (28 Stat. 422; 43 U.S.C. 641, et. seq.) and the Desert Land Act, as amended (19 Stat. 377; 43 U.S.C. 321-323).

This Initial Decision is in accordance with the Endangered Species Act of 1973 (Pub. L. 93-205, 87 Stat. 884, 16 U.S.C. 1531), Antiquities Act of 1906 (Pub. L. 59-209, 34 Stat. 225; 16 U.S.C. 432, 433), National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852; 42 U.S.C. 4321), Federal Land Policy and

Management Act of October 21, 1976 (Pub. L. 94-579, 90 Stat. 2743 Section 102 (8)), and Section 7 of the Taylor Grazing Act (43 U.S.C. 315, 315a-315r).

These lands do not meet the general criteria for all land classifications required under 43 CFR 2410.1(a)-(d), or the criteria under 43 CFR 2430.5(e) and 2520.0-8.

This classification does not segregate the subject lands from disposition or appropriation under any other applicable public land laws.

The Carey Act applications and petitions for classification under the Desert Land Act, as shown on Attachments III and IV are denied in whole or in part.

ATTACHMENT I

(Suitable)

Carey Act application No.	Acres
I-8654	
T. 6 S., R. 8 E., Boise Meridian Idaho:	
Sec. 12: E ₁ SW ₁ , SE ₁ SW ₁ , NE ₁ SE ₁ , S ₁ SE ₁	240
Sec. 13: NE ₁ NE ₁ , SW ₁ NE ₁ , SE ₁ NW ₁ , W ₁ SW ₁ , SE ₁	360
Sec. 14: SE ₁ NE ₁ , N ₁ SE ₁ , SE ₁ SE ₁ W ₁	160
Sec. 23: NE ₁ NE ₁	40
Sec. 24: NE ₁ NE ₁ , SW ₁ NE ₁ , NW ₁ NW ₁ , SE ₁ NW ₁ , NE ₁ SW ₁ , N ₁ SW ₁ , SE ₁ SE ₁	320
Sec. 25: E ₁ NE ₁	80
T. 6 S., R. 9 E., Boise Meridian Idaho:	
Sec. 7: Lots 1, 2, 3, 4, SE ₁ NE ₁ , SE ₁ NW ₁ , E ₁ SW ₁ , NE ₁ SE ₁ , S ₁ SE ₁	421.2
Sec. 8: S ₁ NW ₁	80
Sec. 18: Lots 1, 4, E ₁ NW ₁ , E ₁ SW ₁	230.2
Sec. 19: Lots 1, 3, 4, NE ₁ NW ₁ , SE ₁ SW ₁	185.76
Sec. 29: N ₁ SW ₁	80
Sec. 30: Lots 1, 2, NE ₁ , E ₁ NW ₁ , NE ₁ SW ₁ , N ₁ SE ₁	430.75
Sec. 31: Lots 1, 2, 3, 4, E ₁ NW ₁ , E ₁ SW ₁ , W ₁ SE ₁ , SE ₁ SE ₁	422.48
Sec. 32: SW ₁ SW ₁	80
Subtotal.....	3130.39
I-11838	
T. 6 S., R. 8 E., Boise Meridian Idaho:	
Sec. 25: NW ₁ , N ₁ SW ₁ , SW ₁ SW ₁ , NW ₁ SE ₁	320
Sec. 26: N ₁ NE ₁	80
Sec. 27: W ₁	320
Sec. 28: E ₁	320
Sec. 33: All.....	640
Sec. 34: All.....	640
Sec. 35: SW ₁ , W ₁ SE ₁	240
Subtotal.....	2,560
Bureau Motion	
T. 6 S., R. 9 E., Boise Meridian Idaho:	
Sec. 17: All.....	640
Sec. 18: E ₁	320
Sec. 19: N ₁ NE ₁ , SE ₁ NE ₁ , SW ₁ SE ₁	160
Sec. 20: W ₁ NE ₁ , NW ₁ , E ₁ SW ₁ , SE ₁	480
Sec. 21: N ₁ , SW ₁ , W ₁ SE ₁	560
Sec. 22: W ₁ NE ₁ , W ₁ , W ₁ , W ₁ SE ₁	480
Sec. 27: SW ₁ NE ₁ , NW ₁ , N ₁ SW ₁ , NW ₁ SE ₁	320
Sec. 28: N ₁ SW ₁ , N ₁ SE ₁	480
Sec. 29: NE ₁ , SW ₁ NW ₁	200
Subtotal.....	3,640

ATTACHMENT II

[Suitable]

Desert land application No.	Acres
I-015237, James McCurley	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 12: E½NE½	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 7: Lots 1, 2, SE½NW½	190.9
I-8922, Orval Hymas	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 28: E½	320
I-8919, LaPriel Hymas	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 27: NW¼	160
I-8923, Lynette Allred	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 27: W½SW½	
Sec. 34: NW¼, W½SW½	320
I-8924, Donald Allred	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 27: E½SW½	
Sec. 34: NE¼	240
I-8921, Forrest Hymas	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 33: N½	320
I-8920, Cheryl Hymas	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 33: S½	320
I-6783, Robert Perry	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 25: NW¼, N½SW½, NW½SE½	280
I-8925, Holly Meaker	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 25: NW¼, N½SW½, SW½SW½	280
I-013823, Margaret Neeley	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 12: E½SE½, SW½SE½	
Sec. 13: NE½NE½, SW½NE½	200
I-013824, Charlotte Skyles	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 7: Lots 3, 4, E½SW½, S½SE½	
Sec. 18: Lot 1, NE½NW½	230.3
I-013821, Robert Skyles	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 18: Lot 4, SE½NW½, NE½SW½, SE½SW½	
Sec. 19: NE½NW½	195.18
I-6784, Joanne Anderson	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 29: N½SW½	
Sec. 30: S½NE½, NE½SE½	200

ATTACHMENT III

[Unsuitable]

Carey Act application No.	Acres
I-8654	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 1: S½SE½	80
Sec. 11: SW½NE½, SE½SW½, W½SE½	160
Sec. 12: NE½SW½, NW½SE½	80
Sec. 13: NW½NE½, SE½NE½, N½NW½, SW½NW½, E½SW½	280
Sec. 14: N½NE½, SW½NE½	120
Sec. 23: SE½NE½	40
Sec. 24: NW½NE½, SE½NE½, NE½NW½, SW½NW½, NW½SW½, SE½SW½, SW½SE½	280
Sec. 25: W½NE½	80
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 6: Lot 10	39.10
Sec. 7: N½NE½, SW½NE½, NE½NW½, NW½SE½	200
Sec. 8: N½NW½	80
Sec. 18: Lots 2, 3	70.2
Sec. 19: Lot 2, SE½NW½, NE½SW½	115.24
Sec. 29: S½SW½, SE½	240
Sec. 30: Lots 3, 4, SE½SW½, S½SE½	191.05
Sec. 31: NE½, NE½SE½	200

ATTACHMENT III—Continued

[Unsuitable]

Carey Act application No.	Acres
Sec. 32: N½, N½SW½, SE½SW½, SE½	600
Subtotal	2,855.59
I-11838	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 23: E½SE½	80
Sec. 24: SW½SW½	40
Sec. 25: SE½SW½, NE½SE½, S½SE½	160
Sec. 26: SE½NE½, SW½NW½, N½SW½, SE½SW½, NE½SE½, S½SE½	320
Sec. 35: N½, E½SE½	400
Subtotal	1,000
51-CA-31	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 19: SW½NE½	40
Sec. 20: E½NE½, W½SW½	160
Sec. 21: E½SE½	80
Sec. 27: NW½NE½	40
Sec. 29: E½NW½	80
Subtotal	400
Bureau Motion	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 19: SW½NE½, N½SE½, SE½SE½	160
Sec. 20: E½NE½, W½SW½	160
Sec. 21: E½SE½	80
Sec. 27: NW½NE½	40
Sec. 29: N½NW½, SE½NW½	120
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 11: N½NE½, SE½NE½, E½SE½	200
Sec. 12: SW½NW½, W½SW½	120
Subtotal	880

ATTACHMENT IV

[Unsuitable]

Desert Land application No.	Acres
I-015237, James McCurley	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 1: S½SE½	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 8: Lot 10	115.69
I-6783, Robert Perry	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 24: SW½SW½	40
I-8925, Holly Meaker	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 25: SE½SW½	40
I-013823, Margaret Neeley	
T. 6 S., R. 8 E., Boise Meridian, Idaho:	
Sec. 12: SW½SE½	
Sec. 13: NW½NE½, SE½NE½	120
I-013821, Robert Skyles	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 18: Lots 2 and 3	
Sec. 19: SE½NW½	110.2
I-6784, Joanne Anderson	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 29: N½SE½	
Sec. 30: SE½SE½	120
I-7073, Richard Nelson	
T. 6 S., R. 9 E., Boise Meridian, Idaho:	
Sec. 32: W½NE½, SE½NE½	120

Martin J. Zimmer,
District Manager.

November 30, 1982.

[FR Doc. 82-33491 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Elimination of Bureau of Reclamation Withdrawal Lands From Wilderness Study Areas

The purpose of this notice is to inform the public of the elimination of certain incorrectly inventoried public lands from four Wilderness Study Areas (WSAs) in Clark County within the Las Vegas District in Nevada. The lands being removed from these WSAs were withdrawn by the Bureau of Reclamation through Secretarial Orders between 1903 and 1933, under the authority of the Reclamation Act of June 17, 1902, for the Colorado River Storage Project. A request was made in 1972 by the Bureau of Reclamation to the Bureau of Land Management to relinquish these withdrawals, but this action was later suspended at the Bureau of Reclamation's request, while additional withdrawals were identified. No action has been taken on relinquishment of the original withdrawals, and these lands were incorrectly inventoried and designated as parts of four WSAs in the Gold Butte area in Clark County. These four WSAs were inventoried in the Overthrust Belt Accelerated Inventory, and designated on July 23, 1980, 30 days after signature of an unappealed decision on a protest. The following amendments are therefore made to correct the WSA acreage or status of those four areas:

1. NV-050-0233, Million Hills WSA. This WSA was designated as 11,523 acres. Of this total, 1,924 acres are still under withdrawal to the Bureau of Reclamation (Secretarial Order of January 31, 1903) and are not under the administration of the Bureau of Land Management. The correct acreage of the Million Hills WSA is 9,599.

2. NV-050-0235, Garrett Buttes WSA. This WSA was designated as 11,684 acres. Of this total, 584 acres are still under withdrawal to the Bureau of Reclamation (Secretarial Order of January 31, 1903) and are not under the administration of the Bureau of Land Management. The correct acreage of the Garrett Buttes WSA is 11,100.

3. NV-050-0236, Jumbo Springs WSA. This WSA was designated as 3,811 acres. Of this total, 603 acres are still under withdrawal to the Bureau of Reclamation (Secretarial Orders of May 8, 1919 and March 3, 1933) and are not under the administration of the Bureau of Land Management. The correct

acreage of the Jumbo Springs WSA is 3,208.

4. NV-050-0238, Bonelli Peak WSA. This WSA, along with the three listed above, was designated primarily because it is contiguous to a National Park Service wilderness proposal for public lands within the Lake Mead National Recreation Area. Because of its contiguous status, the Bonelli Peak unit was considered to share the wilderness qualities already identified by the National Park Service on the adjacent proposal, and was designated as a WSA on that basis. The Bureau of Reclamation withdrawal (Secretarial Orders of January 31, 1903 and March 22, 1933) within this WSA completely separates the Bureau of Land Management lands from the Lake Mead National Recreation Area. The Bonelli Peak WSA (7,278 acres) was identified as unqualified for study status without the contiguous wilderness proposal and therefore is removed from WSA status.

Persons wishing to protest any of the decisions announced herein must file a written protest with the State Director, Edward F. Spang, Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520 within 30 days of the publication date of this notice.

Dated: December 2, 1982.

Edward R. Evatz,

Acting State Director, Nevada.

[FR Doc. 82-33582 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Elimination of Eldorado Valley Act Lands From Wilderness Study Areas

The purpose of this notice is to inform the public of the elimination of certain incorrectly inventoried public lands from three Wilderness Study Areas (WSAs) in Clark County within the Las Vegas District in Nevada. The acreage being removed from these WSAs is public land identified in the Eldorado Valley Act of March 6, 1958, Pub. L. 85-339. The Eldorado Valley Act lands are set aside for eventual conveyance to the Colorado River Commission for the State of Nevada. These lands were incorrectly inventoried and designated as parts of three WSAs in Clark County. The following amendments are therefore made to correct the WSA acreage of those three areas:

1. NV-050-0423, Eldorado WSA. This WSA was inventoried in the Overthrust Belt Accelerated Inventory and was designated on July 23, 1980, 30 days after signature of an unappealed decision on a protest. It was designated as 12,596 acres. Of this total, 1,527 acres are set

aside by the Eldorado Valley Act. The correct Eldorado WSA acreage is 11,069.

2. NV-050-0425, North McCullough Mountains WSA. This WSA was inventoried in the Overthrust Belt Accelerated Inventory and was designated March 18, 1980, following a Federal Register notice of February 8, 1980 (p. 8731). It was designated as 52,258 acres. Of this total, 5,092 acres are set aside by the Eldorado Valley Act. The correct North McCullough Mountains WSA acreage is 47,166.

3. NV-050-0435, South McCullough Mountains WSA. This WSA was inventoried in the Intermountain Power Project Accelerated Inventory and was designated on June 25, 1979, following a Federal Register notice of April 5, 1979 (p. 20509) that was not protested. The designated acreage of this WSA was incorrectly printed in a Federal Register notice of March 3, 1981 (p. 15095) as 62,000 acres. A more precise recalculation indicates that the correct acreage is 59,307 acres. Of this total, 2,684 acres are set aside by the Eldorado Valley Act. The correct South McCullough Mountains WSA acreage is 56,623.

Persons wishing to protest any of the decisions announced herein must file a written protest with the State Director, Edward F. Spang, Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520 within 30 days of the publication date of this notice.

Dated: December 2, 1982.

Edward R. Evatz,

Acting State Director, Nevada.

[FR Doc. 82-33583 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-84-M

Renewal of Oil Shale Environmental Advisory Panel

December 3, 1982.

AGENCY: Assistant Secretary, Land and Water Resources, Interior.

ACTION: Notice of renewal of oil shale environmental advisory panel.

SUMMARY: This notice is published in accordance with provisions of section 7(a) of the Office of Management and Budget Circular A-63 (revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the Oil Shale Environmental Advisory Panel is necessary and in the public interest.

The purpose of the Panel is to assist the Department of the Interior in attaining the objectives of the Prototype Oil Shale Program primarily through

public review and advice on the environmental aspects of the development of oil shale resources on Federal lease tracts.

The General Services Administration has concurred in the renewal of this committee.

FOR FURTHER INFORMATION CONTACT: Henry O. Ash, P.O. Box 25007, Federal Center, Denver, Colorado 80225; (303) 234-3275.

Dated: December 3, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-33571 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Alaska Outer Continental Shelf; Date and Location of a Public Hearing Concerning the Draft Environmental Impact Statement for a Proposed Offshore Sand and Gravel Sale in the Diapir Field Region of the Beaufort Sea

In accordance with 43 CFR 3314.1, a public hearing will be held in order to receive comments and suggestions relating to the draft environmental impact statement (EIS) prepared for a proposed Outer Continental Shelf (OCS) Sand and Gravel Sale in the Diapir Field region of the Beaufort Sea.

The hearing will begin at 9:00 a.m. on Thursday, December 16, 1982, in the Main Courtroom, Old Federal Building, 605 W. 4th Avenue, Anchorage, Alaska.

The hearing will provide the Secretary of the Interior with information from government agencies and the public which will help in the evaluation of the potential effects of the proposed lease sale.

The availability of this draft EIS was announced in the Federal Register on Wednesday, November 17, 1982 (47FR 51804). Copies of this EIS can be obtained from the Minerals Management Service (MMS) Alaska OCS Region, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276-2955. Copies of the draft EIS are also available for review in public libraries throughout Alaska.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are asked to contact Laura Yoesting, at the address and telephone number above, by 4:00 p.m. (Alaska Standard Time), Friday, December 10, 1982. Time limitations make it necessary to limit the length of oral statements to 10 minutes unless advance arrangements are made for longer presentations. An oral

statement may be supplemented by a more complete written statement which may be submitted to a hearing official at the time of oral presentations, or by mail until January 7, 1983. This will allow those unable to testify at a public hearing an opportunity to make their views known and for those presenting oral testimony to submit supplemental information and comments. Written comments should be addressed to the Manager, Alaska OCS region, P.O. Box 1159, Anchorage, Alaska 99510.

The MMS recognizes the distances involved, and the travel difficulties faced, by those in the more remote areas affected by this proposal who may wish to participate in the public hearing process. Accordingly, a telephone tie-in between the villages of Barrow, Nuiqsut, and Kaktovik, and the public hearing site has been arranged. This telephone tie-in will take place between the hours of 3:00 p.m. and 6:00 p.m., on December 16, 1982. This mechanism will enable many of those interested in the proposal to provide oral comments to the hearing panel. All comments, whether provided at the public hearing, through telephone tie-in, or in writing, are given equal weight in preparation of the final EIS.

David C. Russell,

Deputy Director, Minerals Management Service.

December 7, 1982.

[FR Doc. 82-33625 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-MR-M

Gateway National Recreational Area; Meeting

National Park Service

AGENCY: National Park Service; Gateway Advisory Commission.

ACTION: Notice of Meeting

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: January 18, 1983, 2 p.m.

ADDRESS: Federal Hall, 26 Wall Street, Lower Level, New York, New York.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630-0353.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Public Law 92-592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway

National Recreation Area. The agenda for the meeting will include; (1) Sandy Hook Beach Nourishment, Parking Fees; (2) Status and Planning Process, Requests for Proposals, Floyd Bennett Field Development; (3) Other Items as may come before the board.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services are requested by deaf or hearing impaired individuals to this agency within five working days before the meeting, it will be provided. Facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: November 29, 1982.

Robert W. McIntosh, Jr.,
Superintendent, Gateway National Recreation Area.

[FR Doc. 82-33621 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-70-M

Greenbelt Park, Maryland; Availability of Record of Decision and Finding of No Significant Impact for the General Management Plan/Development Concept Plan

The National Park Service has prepared the Record of Decision and FONSI for the Greenbelt Park General Management Plan/Development Concept Plan. This record documents the selected course of action for the management and use of Greenbelt Park.

Written comments will be accepted for a period of 30-days following the publication of this notice and should be addressed to the Superintendent, Catocin Mountain Park, Thurmont, Maryland 21788.

Copies of the Record of Decision are available from:

Catocin Mountain Park, Thurmont, Maryland 21788
National Capital Region, 1100 Ohio Drive SW., Washington, D.C. 20242

Dated: December 1, 1982.

Robert Stanton,
Acting Regional Director, National Capital Region.

[FR Doc. 82-33620 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River

AGENCY: National Park Service, Upper Delaware Citizens Advisory Council.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: January 14, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT:

John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159; (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1½ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: December 2, 1982.

James W. Coleman, Jr.,
Regional Director, Mid-Atlantic Region.

[FR Doc. 82-33622 Filed 12-9-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the *Federal Register*. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of \$10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302,

11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the applicant involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Heber P. Hardy,
Director, Office of Proceedings.

Dated: December 6, 1982.

Agatha L. Mergenovich,
Secretary.

MC 14935, decided September 3, 1982 filed August 19, 1982 CARROL BALL TRANSPORT, INC. (BALL) (P.O. Box 53, Centerville, KS 66014)—PUR (P)—ECKLEY TRUCKING, INC. (ECKLEY) (P.O. Box 156, Mead, NE 68041). Representatives: A. J. Swanson, P.O. Box 156, Sioux Falls, SD 57101-1103; Clyde N. Christley, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Ball seeks to purchase a portion of the interstate operating rights of Eckley. Carrol Ball and Barbara Ball control Ball, and seek authority to control the operating rights, through the transaction. The authority to be purchased is item 8 of Certificate No. MC-5227 (Sub-89)X which authorizes, the transportation of construction materials between points in AR, TX, and OK, on the one hand, and, on the other, points in KS, NE, SD, CO, IA, IL, IN, WI, MN, and MO. Ball is presently authorized to operate as a common carrier under Certificate No. MC-9291 and subnumbers thereunder and as a contract carrier under Permit No. MC-9291 (Sub-18).

MC-F-14986, filed October 29, 1982. NOAH ENTERP INC. (Noah) (Route 1, Box 748, Yutan, NE 68073)—Purchase Portion—ECKLEY TRUCKING, INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Noah seeks authority to purchase a portion of the interstate operating rights of Eckley. George E. Noah 50% stockholder of Noah, seeks authority to acquire control of said rights through the transaction. Noah is purchasing a portion of the operating authority set forth in Certificate No. MC-5227 (Sub-87), paragraph 3 (a), (b) and (c). This authority authorizes the transportation of malt beverages, (a) between Portland, OR, on the one hand, and, on the other, points in CO, AZ, and UT, (b) between Milwaukee, WI, Peoria, IL and points in Houston County, GA, on the one hand, and, on the other, points in WY, SD, and ND, and (c) between points in Houston County, GA, on the one hand, and, on the other, points in KS, MN, NE, IA, CO, MO, OK, and AR. Noah holds motor common carrier authority pursuant to Certificate issued in Docket No. MC-160242. Representatives: James F. Crosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114; A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103. Condition: Final approval and authorization of the transaction will be withheld pending receipt by the Commission of an affidavit signed by Steven C. Noah, stating that he is a person in control of the transferee through 50% stock ownership and that he joins in the application.

Note.—TA has been filed.

[FR Doc. 82-33604 Filed 12-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following application filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of the publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding.

Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices with 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,
Secretary.

Volume No. OP5-FC-274

Decided: December 1, 1982.

By The Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Please direct status inquiries to Team 5 at 202-275-7289.

MC-FC-81015 By decision of December 1, 1982 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181 Subpart A, Review Board Number 3 approved the transfer to MITCHELL WILLIAMS, d/b/a. J. D. TRANSPORTATION of Worcester, MA, of Certificate No. MC 5819 (Subs 2 and 3) issued to FLEMING TRANS. INC., of North Grafton, MA, authorizing the transportation of (1) *liquid petroleum products*, in bulk, form Providence, East Providence, and Riverton, RI, and Fall River, MA to Worcester, MA, and points in MA within 25 miles of Worcester, MA; (2) *petroleum products*, between points in Norfolk, Barnstable, Suffolk, Middlesex, Bristol and Essex Counties, MA, Cumberland County, ME, Rockingham County, NH, Providence and Newport Counties, RI, Hartford and New Haven Counties, CT, on the one hand, and, on the other, points in MA, RI, CT, ME, NH, and VT, and (3) *sand, gravel and stone*, between points in Providence County, RI, on the one hand, and, on the other, points in MA, CT, NH, VT, and ME.

Note.—Transferee is not a carrier.

Volume No. OP4-FC-055

Decided: December 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. (Member Dowell not participating.)

Please direct status inquiries to Team 4 at 202-275-7669.

MC-FC-81001. By decision of December 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to MERCHANTS ASSEMBLY CORP., Secaucus, NJ, of Certificates Nos. MC-78276 and (Sub-1,3,4,8,9,11, and 12) issued to MAZZEO & SONS EXPRESS, a corporation (Debtors-in-Possession), Hackensack, NJ, authorizing the transportation of (1) general commodities (with exceptions), between specified points in NY and NJ; (2) wearing apparel, (a) between Baltimore, MD, Philadelphia, PA, Wilmington, DE, named points in NY, and points in NJ, on the one hand, and, on the other, points in GA, NC, and SC, (b) between Atlanta, GA, Charlotte, NC, Hialeah and Orlando, FL, Memphis, TN, and Spartanburg, SC, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, MS, NC, SC, and TN, (c) between described points in NY and NJ, and (d) from points in Dade County, FL, to specified points in NY and NJ; and (3) such commodities as are used in the manufacture and sale of wearing apparel, from specified points in NY and NJ, to points in Dade County, FL, and damaged or returned shipments on return as described immediately above. Transferee is not a carrier. Representative: George A. Olsen, Registered Practitioner, P.O. Box 357, Old Chester Rd., Gladstone, NJ 07934.

[FR Doc. 82-33606 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-35]

Motor Carrier; Permanent Authority Decisions; Decision-Notice

Decided: December 3, 1982.

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.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.
Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 3, (202) 275-5223.

MC 97275 (Sub-47), filed November 18, 1982. Applicant: ESTES EXPRESS LINES, 1405 Gordon Ave., Richmond, VA 23224. Representative: J. W. Sherrill, P.O. Box 25612, Richmond, VA 23260; (804) 232-6793. Transporting *general commodities* (except classes A and B explosives), between points in DE, GA, MD, NC, SC, TN, VA, WV, and DC, and those in Nassau and Duval Counties, FL.

MC 134884 (Sub-13), filed November 15, 1982. Applicant: FARWEST FURNITURE TRANSPORT, INC., 4108 Jones Ave., N.E., Renton, WA 98055. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., Suite 520, Atlanta, GA 30326; (404) 262-7855. Transporting *furniture and fixtures, appliances, plastic and plastic articles, and insulation*, between points in the U.S. (except AK and HI).

MC 149244 (Sub-9), filed November 18, 1982. Applicant: PEAKE, INC., 2022 Ave., "A", Kearney, NE 68847. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304; (515) 245-2725. 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 contracts with U.S. Gypsum Co., and A.P. Green Refractories Co., of Mexico, MO, The E.J. Bartells Company, of Renton, WA, Bigelow-Liptak Corporation, of Southfield, MI, Bigelow-Liptak of Canada Limited, of Mississauga, Ontario, Canada, Bigelow-Liptak Export Corporation, of Houston, TX, A.P. Green Refractories (Canada) LTD, of Weston, Ontario, Canada, A. Lynn Thomas Company Incorporated, of Richmond, VA, Canadian Gypsum Company Limited/ La Compagnie Du Gypse Du Canada, Limitee, of Toronto, Ontario, Canada, G.N.G. Distribution Limited, of Toronto, Ontario, Canada, Fundy Gypsum Company Limited, of Windsor, Nova Scotia, Canada, Little Narrows Gypsum Company Limited, of Toronto, Ontario, Canada, Peeters Carpets LTD./Tapis Peeters, LTEE, of Toronto, Ontario, Canada, Durabond Products Company, of Rosemont, IL, Permalastic Products, Inc., of Rosemont, IL, Castlegate Industries, Inc., of Downers Grove, IL, Arch Partitions, Inc., of Downers Grove, IL L & W Supply Corporation, of Chicago, IL, Columbia Building Materials Corporation, of Chicago, IL, C-S-W Drywall; Supply Company, of Chicago, IL, Gypsum Services Corporation, of Chicago, IL, North Bay Building Materials Co., Inc., of Vallejo, CA, Stocking Specialists, Inc., of Chicago, IL, Sequoyah Carpet

Corporation, of Anadarko, OK, Hollytex Carpet Mills, Inc., of City of Industry, CA, United States Gypsum Export Company, of Chicago, IL, USG Insulation Company, of Chicago, IL, and Wiss, Janney, Elstner and Associates, Inc., of Northbrook, IL.

MC 164725, filed November 11, 1982. Applicant: ROLLON TRANSPORTATION SERVICES, INC., P.O. Box 913, Skokie, IL 60077. Representative: Edna J. Ponto, 7827 Niles Center, Rd., Skokie, IL 60076; (312) 673-7827. Transporting *general commodities* (except classes A and B explosives), between points in WI, IL, IN, and MI.

MC 164744, filed November 16, 1982. Applicant: PETER CHRISTIANSEN d.b.a. P. K. CARTAGE, Route 1, Ragan Rd., Monkena, IL 60448. Representative: Irwin Rozner, 134 North LaSalle, Chicago, IL 60602; (312) 782-6937. Transporting *carpeting, padding, and related products*, between points in IL, on the one hand, and, on the other, points in IN, KY, TN, NC, SC, AL, and GA.

[FR Doc. 82-33805 Filed 12-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the *Federal Register* on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the *Federal Register* on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the *Federal Register* on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in

interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OPI-218

Decided: December 3, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 37640 (Sub-13), filed November 19, 1982. Applicant: TRANSPORTATION ENTERPRISES, INC., 805 E. Fourth St., Belton, TX 76513. Representative: Scott Keller (same address as applicant), (817) 939-3704. (1) Privately-funded motor common carrier of passengers charter transportation. (2) Privately-funded motor common carrier of passengers special transportation. Transporting passengers in special and charter operations, between points in the U.S.

MC 44770 (Sub-23), filed November 22, 1982. Applicant: MIDLAND LINES, INC., 1206 Currie Avenue, Minneapolis, MN 55403. Representative: Elvin S. Douglas, Jr., P.O. Box 280, Harrisonville, MO 64701, (816) 884-3238. (1) Privately-funded motor common carrier of passengers charter transportation. (2) Privately-funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343, or an appropriate petition for exemption, or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) or exemption for common control to team 1, Room 2379.

MC 119961 (Sub-11), filed November 22, 1982. Applicant: MARSHALL MOTOR COACH, INC., 1400 East Anson, P.O. Box 428, Marshalltown, IA 50158. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309, (515) 283-2076. (1) Privately-funded motor common carrier of passengers charter transportation. (2) Privately-funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S.

MC 120461 (Sub-2), filed November 19, 1982. Applicant: SOUTHWESTERN TRANSIT COMPANY, INC., P.O. Box 058, Killeen, TX 76541. Representative: Paul D. Angenend, P.O. Box 2207 Austin,

TX 78768, (512) 476-6391. (1) Privately-funded motor common carrier of passengers charter transportation. (2) Privately-funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, beginning and ending at points in Bell and Coryell Counties, TX, and extending to points in the U.S. (except AK and HI).

MC 161381 (Sub-1), filed November 23, 1982. Applicant: PRIVATE TRAIL CORP., 1414 39th Street, Brooklyn, NY 11218. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022, (212) 838-0600. (1) Privately-funded motor common carrier of passengers charter transportation. (2) Privately-funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S. (except AK and HI).

MC 162040 (Sub-1), filed November 22, 1982. Applicant: LIVERY LIMITED, Box 997, Old Lyme, CT 06371. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781-8205. (1) Privately-funded motor common carrier of passengers charter transportation. (2) Privately-funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S.

MC 164800, filed November 19, 1982. Applicant: HERRERA COACHES, INC., 1430 Gatewood S.W., Albuquerque, NM 87105. Representative: Carson E. Payne (same address as applicant), (505) 242-1108. (1) Privately funded motor common carrier of passengers charter transportation. (2) Privately funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S. (except HI).

MC 164821, filed November 19, 1982. Applicant: MILLS TRANSPORTATION SERVICES, INC., Montgomery, NY 12549. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781-8205. (1) Privately funded motor common carrier of passengers charter transportation. (2) Privately funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S.

MC 164841, filed November 23, 1982. Applicant: JOHN MARTINKO, d.b.a. TOWN & COUNTRY LIMOUSINE, 74 Euclid Avenue, Stamford, CT 06902. Representative: Dennis Dean Kirk, Suite 929, Pennsylvania Bldg., 425 13th St.,

N.W., Washington, DC 20004, (202) 347-2857. (1) Privately funded motor common carrier of passengers charter transportation. (2) Privately funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in CT, NY, NJ, and MA.

MC 164850, filed November 19, 1982. Applicant: HUDSON GENERAL CORPORATION, 111 Great Neck Road, P.O. Box 355, Great Neck, NY 11022. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. (1) Privately funded motor common carrier of passengers charter transportation. (2) Privately funded motor common carrier of passengers special transportation. Transporting passengers, in special and charter operations, between points in the U.S. (except HI).

MC 164861, filed November 23, 1982. Applicant: JOHN ELMORE AND LOUIS R. HAUSMANN a partnership, d.b.a. BRANIX, P.O. Box 156, Brawley, CA 92227. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872-1106. 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 calls to Team 4 (202) 275-7669.

Volume No. OP4-054

Decided: December 6, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 39416 (Sub-7), filed November 22, 1982. Applicant: THE GRAY LINE COMPANY, P.O. Box 17306, Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3755. Privately funded motor common carrier of passengers in charter and special transportation. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting passengers, in charter and special operations, between points in the U.S. (except HI).

MC 45626 (Sub-77), filed November 23, 1982. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul St., Burlington, VT 05401. Representative: L.C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Privately-funded motor common carrier of passengers charter and special transportation. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

MC 61016 (Sub-62), filed November 22, 1982. Applicant: PETER PAN BUS LINES, INC., 1776 Main St., Springfield, MA 01103. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466-3892. Privately funded motor common carrier of passengers in charter and special transportation. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S.

MC 163387 (Sub-1), filed November 23, 1982. Applicant: OGUN ENTERPRISES, INC., 12-98 Plaza Rd., Fairlawn, NJ 07410. Representative: Catherine P. Mitchell, 100 Hamilton Plaza, Suite 606, Paterson, NJ 07505, (201) 523-3744. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *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, (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (4) *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 164347, filed November 22, 1982. Applicant: GRANITE STATE EXPRESS CO., INC., 5 Wellesley Pines, Weirs Blvd., Laconia, NH 03246. Representative: James F. Martin Jr., 8 W. Morse Rd., Bellingham, MA 02019, (617) 966-2093. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164747, filed November 12, 1982. Applicant: RONN J. NIEWOHNER AND GERI S. NIEWOHNER, d.b.a. MIDNIGHT EXPRESS, 1811 Maple St., Huron, SD 57350. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397-7033. 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 164766, filed November 18, 1982. Applicant: AUSTIN JAMES WISE, Main Ave., Box 322, South Hampton, NH 03827. Representative: Austin J. Wise, (same address as applicant), (603) 394-7721. 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.

MC 164826, filed November 19, 1982. Applicant: ON THE GO TOURWAYS, INC., 725 Cumberland St., Lebanon, PA 17042. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466-3892. Privately funded motor common carrier of passengers charter and special transportation. To operate as a *common carrier* by motor vehicle, in interstate and foreign commerce, over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S.

MC 164856, filed November 22, 1982. Applicant: HOLIDAY TRAVEL SERVICE, INC., 5501 U.S. 19 & Darlington Rd., Holiday, FL 33590. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466-3892. Privately funded motor common carrier of passengers charter and special transportation. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

MC 164857, filed November 23, 1982. Applicant: WILLIAM CHINN d.b.a. W & S TRUCKING, P.O. Box 111, Menominee, MI 49858. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-271

Decided: December 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 164548, filed November 3, 1982. Applicant: MIDWEST CANADIAN, LTD., 5300 Hubbell, P.O. Box 3263, Des Moines, IA 50316. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244-2329. To operate as a *broker* of general commodities (except household goods), between points in the U.S. (except AK and HI).

MC 164728, filed November 11, 1982. Applicant: AMERICAN STANDARD INDUSTRIAL SERVICES, INC., d.b.a. INDUSTRIAL WASTE ENGINEERING, 2225 East 28th St., Suite 508, Long Beach, CA 90806. Representative: J. F. Krafka (same address as applicant) 213-595-9441. 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).

Volume No. OP5-273

Decided: December 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 135828 (Sub-4), filed November 12, 1982. Applicant: PEACE BRIDGE BROKERAGE LIMITED, 33 Walnut St., Fort Erie, Ontario, CD L2A 5M7. Representative: Mike Scott, 540 Burrard St., Suite 305, Vancouver, BC V6C 2K1, 604-682-8421. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163509, filed November 22, 1982. Applicant: DELTA FREIGHT, INC., R.D. 2, Box 4, Parkesburg, PA 19365. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 797-6060. 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 164829, filed November 23, 1982. Applicant: WILLIAM M. SAVOREN, d.b.a. GILL BROKERS, 401 North 7th St., Minneapolis, MN 55405. Representative: James L. Nelson, 1821 University Ave., Suite 163 North, St. Paul, MN 55104, 612-646-6677. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164838, filed November 23, 1982. Applicant: DAVID B. JOHNS, 273 Kenagey Hill Rd., Paradise, PA 17562.

Representative: George E. Campbell, 985 Old Eagle School Rd., Suite 501 Wayne, PA 19087, 215-293-9220. Transporting food and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), agricultural limestone and fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-33612 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 314]

Motor Carriers; Permanent Authority Decisions, Restriction Removals; Decision-Notice

Decided: December 3, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the *Federal Register* of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,
Secretary.

MC 113784 (Sub-95)X, filed July 16, 1981, previously noticed in the *Federal Register* of July 2, 1981 and April 28, 1982, republished as follows: Applicant:

LIDLAW TRANSPORT LIMITED, 110 King Street West, Suite 490, Hamilton, Ontario, Canada. Representative: Mel P. Booker, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. Sub.-No. 37 certificate: broaden ports of entry on the Detroit River to "ports of entry in Michigan." While the Board reformed this authority previously in Sub.-No. 95X, a portion of the proposed broadening was omitted; therefore we are republishing this portion of the application.

MC 114533 (Sub-376)X, filed November 8, 1982. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55435. Representative: Sally G. Galway (same as applicant). Sub-Nos. 341 and 343: (1) broaden commodity description from "general commodities (except articles of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and commercial papers, documents and written instruments as are used in the business of banks and banking institutions)", to "general commodities (except articles of unusual value, Classes A and B explosives, commodities in bulk, and household goods as defined by the Commission)", and (2) remove the weight restrictions (a) "against the transportation of packages weighing more than 50 pounds, with each package or article considered a separate and distinct shipment" and (b) "against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location, to one consignee at one location, in any one day."

[FR Doc. 82-33611 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the *Federal Register* on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the *Federal Register* December 31, 1980. For compliance procedures, see 49 CFR

1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the *Federal Register* on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: Common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier or property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275-7992.

Volume No. OP1-219

Decided: December 3, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 143291 (Sub-8), filed November 26, 1982. Applicant: RAYLS BROTHERS TRANSFER, INC., P.O. Box 342, No. Dixie Highway, Hoopeston, IL 60942. Representative: Robert T. Lawley, 300 Reich Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 152671 (Sub-7), filed November 26, 1982. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O. Box 6699, Boise, ID 83707. Representative: Timothy R. Strivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3701. 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 158300 (Sub-1), filed November 24, 1982. Applicant: GERALD COSSETTE, d.b.a. GERALD COSSETTE TRUCKING, 2205 5th Avenue North, Fargo, ND 58102. Representative: Charles E. Johnson, Box 2056, Bismark, ND 58502, (701) 223-5300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ND, SD, MN, MT and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164381, filed November 26, 1982. Applicant: JOHN J. WAGGONER, JR. d.b.a. JOHN WAGGONER TRUCKING, 9300 Fleming Rd., Dexter, MI 48130. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 263-2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mallow Lithographing, Inc., of Ann Arbor, MI.

MC 164880, filed November 23, 1982. Applicant: WHEEL ENTERPRISES, INC., Rural Route 5, Box 304-A, Sullivan, IN 47882. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW., Suite 500, Washington, DC 20006, (202) 828-5015. Transporting (1) *metal products* and (2) *commodities in bulk*, points in IL, IN, MI, OH, and KY. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343, or an appropriate petition for exemption, or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) or exemption for common control to team 1, Room 2379.

For the following, please direct status calls to Team 3 (202) 275-5223.

Volume No. OP3-39

Decided: December 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 15735 (Sub-62), filed November 19, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681-8378. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Banquet Foods Corporation, of Ballwin, MO.

MC 110525 (Sub-1325), filed November 19, 1982. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box

200, Lionville, PA 19353. Representative: Robert K. Maslin (same address as applicant), (215) 363-4282. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 112595 (Sub-100), filed November 19, 1982. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 136774 (Sub-30), filed November 22, 1982. Applicant: McMorhan TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 180 N. LaSalle St., Chicago, IL 60601, (312) 368-0100. Transporting (1) *food and related products*, (2) *gift items*, (3) *alcohol*, (4) *chemicals and related products*, and (5) *animal feed and feed ingredients*, between points in the U.S. (except AK and HI).

MC 147644 (Sub-15), filed November 22, 1982. Applicant: J. M. C. TRANSPORT, INC., 1719 Potters Lane Jeffersonville, IN 47130. Representative: Gerald K. Gimmel Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. 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 164784, filed November 19, 1982. Applicant: COMMAND SYSTEMS, INC., 6810 Fleetwood Rd., McLean, VA 22101. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 3, Room 2158.

MC 164804, filed November 22, 1982. Applicant: J. DAVID FANNING, D.B.A. STRIDER TRUCKING INC., 4505 13th

Ave. N.W. Rochester, MN 55901.
Representative: J. David Fanning (same address as applicant); (507) 289-4056.
Transporting *lumber and wood products*, between points in ID, MT, MN, WI, IA and IL.

For the following, please direct status calls to Team 4 at (202) 275-7669.

Volume No. OP4-053

Decided: December 6, 1982.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 136077 (Sub-36), filed November 18, 1982. Applicant: REBER CORPORATION, 2216 Old Arch Rd., Norristown, PA 19401. Representative: Richard L. Thurston, One Franklin Plaza, Philadelphia, PA 19102 (215) 854-6444. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the U.S. and Canada.

MC 151407 (Sub-9), filed November 22, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting *such commodities* as are used by passenger air lines in in-flight service, between points in the U.S. (except AK and HI).

MC 153027 (Sub-5), filed November 22, 1982. Applicant: SOUTH CENTRAL EXPRESS, INC., 160 N. Perkins St., Memphis, TN 38117. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004 (202) 347-8862. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Memphis and Nashville, TN, over Interstate Hwy 40, serving all intermediate points.

Note.—Applicant states it intends to tack the authority herein within its presently authorized operations.

MC 163057 (Sub-1), filed November 22, 1982. Applicant: CONSIGNMENTS UNLIMITED, INC., 5719 S. Cedar Ave., Fresno, CA 93725. Representative: Sandra Shepherd (same address as applicant) (209) 237-5334. Transporting (1) *chemicals and related products*, and (2) *commodities in bulk*, between points in CA, OR, WA, NV, UT, ID, and AZ.

MC 164027 (Sub-1), filed November 22, 1982. Applicant: LA PORTE TRUCK

LINES, INC., 64 LaPorte Dr., Rt. 3, Mars, PA 16046. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with GroPro, Inc., of Warrington, PA.

MC 164127 (Sub-1), filed November 22, 1982. Applicant: J.E.M. INTERMODAL SERVICES, INC., 26 Hackensack Ave., Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 164807, filed November 23, 1982. Applicant: LARRY'S TRUCKING SERVICE INC., Hwy 190 West, P.O. Box 1520, Eunice, LA 70535. Representative: Larry J. Gotreaux (same address as applicant), (318) 457-3036. Transporting *Mercer commodities*, between points in LA, TX, OK, AL, AR, and MS.

MC 164816, filed November 22, 1982. Applicant: JAMES HOLDSTIEN, d.b.a. JAMES TRANSPORT, 1090 West St., Hollister, CA 95023. Representative: M. Douglas Wood, 201 W. Broadway, P.O. Box 5606, North Little Rock, AR 72119, (501) 376-3700. Transporting (1) *metals and related products*, and (2) *wood and related products*, between points in WA, OR, CA, NV, AZ, NM, TX, LA, AR, MO, OK, IL, MN, WI, IA, KS, NE, SD, ND, MT, WY, CO, UT, and ID.

MC 164817, filed November 23, 1982. Applicant: CAMTRANS, INC., 211 North Olive St., Media, PA 19063. Representative: S. Stanton Miller (same address as applicant) (215) 565-5100. Transporting *commodities in bulk*, between points in Chester and Delaware Counties, PA, on the one hand, and, on the other, points in DE, MD, and NJ.

MC 164827, filed November 22, 1982. Applicant: BILLY JOE HUMPHRIES, d.b.a. HUMPHRIES TRANSFER COMPANY, 839 Avon Dr., Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288-6000. Transporting *burlap, polyethylene, and polypropylene fabrics, bags and bagging, textile waste and wiping cloths, paper and paper products, steel wire, wire ties, metal strapping, coiled rod and nails*, (1) between points in FL, GA, KY, NC, SC, and TN, and (2) between points in FL, GA, KY, NC, SC, and TN, on the one hand, and, on the other, points in AL, AR, LA, MS, and TX.

MC 164847, filed November 22, 1982. Applicant: G & G TRANSPORTATION, INC., Route 4, Harlan, IA 51537. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6751. Transporting *meat, meat products, meat byproducts, and articles distributed by meat packing houses*, between those points in the U.S. in and west of OH, IN, IL, MO, AR, and LA.

For the following, please direct status calls to Team 5 (202) 275-7289.

Volume No. OP5-270

Decided: December 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36918 (Sub-17), filed November 15, 1982. Applicant: FASTWAY TRANSPORTATION, INC., P.O. Box 383, Matawan, NJ 07747. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, 201-992-2200. Transporting *such commodities* as are dealt in or used by brewers of malt beverages and manufacturers of metal products (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Stroh Brewery Company, F & M Schaefer Brewing Corp. and Jos. Schlitz Brewing Co. all of Detroit, MI.

MC 79658 (Sub-38), filed November 18, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812-424-2222. Transporting *household goods, displays, office furniture and electronic goods*, between points in the U.S. under continuing contract(s) with Sun Refining and Marketing Company of Philadelphia, PA.

MC 108119 (Sub-287), filed November 15, 1982. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Robert W. Lundgren, (same address as applicant), 612-454-5750. Transporting *lumber and wood products*, between points in the U.S. under continuing contract(s) with Idaho Timber Corporation of Boise, ID.

MC 142059 (Sub-188), filed November 19, 1982. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Dr., Channahon, IL 60410. Representative: Fred H. Daly, 2550 M Street NW., Washington, DC 20037, 202-293-3204. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 144688 (Sub-53), filed November 19, 1982. Applicant: READY TRUCKING, INC., 2717 Campbell Blvd., Ellenwood,

GA 30049. Representative: Lavern R. Holdeman, 1610 South 70th, Suite 200, Lincoln, NE 68506, 402-488-0985. Transporting *general commodities* (except classes A and B explosives, and household goods) between those points in the U.S. in and west of MT, WY, CO, and NM, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152229 (Sub-10), filed November 19, 1982. Applicant: SALINAS MOTOR EXPRESS, INC., P.O. Box 177, Salinas, CA 93902. Representative: Ben Ryburn (same address as applicant), 408-757-2991. 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 154318 (Sub-1), filed November 19, 1982. Applicant: G.F.C., INC., 227 Old Dominion Dr., Charleston, SC 29405. Representative: David Popowski, P.O. Box 1064, Charleston, SC 29402, 803-722-8301. Transporting *general commodities* (except classes A and B explosives), between points in Charleston, Berkeley and Dorchester Counties, SC, on the one hand, and on the other, points in FL, GA, NC, AL, TN, and VA.

MC 162808, filed November 12, 1982. Applicant: DONALD D. JOHNSON, d.b.a. JOHNSON FARM LINES, Route 3, Box 152-A, Highway 103 N, Clarksville, AR 72830. Representative: Donald D. Johnson (same address as applicant) 501-754-6921. Transporting *Lumber and wood products*, and *farm products*, between points in AR, MO, OK, IA, NE, KS, MS, TN, TX, IL, WI, MN, SD and LA.

Volume No. OP5-272

Decided: December 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 13179 (Sub-5), filed November 22, 1982. Applicant: R. C. WILLIAMS, INC., P.O. Box 273, Russell, KS 67665. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110-L, Topeka, KS 66612, 913-233-9629. Transporting *mercator commodities*, (1) between points in ND, SD, WY, MT and UT, and (2) between points in ND, SD, WY, MT, and UT, on the one hand, and, on the other, points in CO, KS, NE and OK.

MC 56679 (Sub-182), filed November 17, 1982. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, GA 30315. Representative: B.K. McLain, 125 Milton Ave., S.E., Atlanta, GA 30315, 404-622-5383. 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 K-Mart Corporation of Troy, MI.

MC 141108 (Sub-17), filed November 22, 1982. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, 515-682-8154. Transporting *rubber and plastic products*, between points in Medina, Portage, Stark, and Summit Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141758 (Sub-17), filed November 22, 1982. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant) (203) 646-1233. Transporting *metal and metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Anaconda Brass Division, Atlantic Richfield Company, of Ansonia, CT.

MC 141758 (Sub-18), filed November 23, 1982. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant), (203) 646-1233. Transporting *Construction equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Patent Scaffolding Company Division of HARSCO Corporation, of Fort Lee, NJ.

MC 146449 (Sub-6), filed November 22, 1982. Applicant: ALL CITIES TRANSFER, INC., 1567 E. Hamilton Ave., East Point, GA 30344. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004 (202) 347-8862. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, GA, MS, and FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151878 (Sub-5), filed November 15, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White Jr., 1019 19th St., NW, Suite 800, Washington, DC 20036, 202-785-3420. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with Measurex Corporation of Cupertino, CA.

MC 153938 (Sub-11), filed November 17, 1982. Applicant: ENERGY EXPRESS, INC., P.O. Box 27605, Salt Lake City, UT 84127. Representative: Norval Millsap

(same address as applicant) 801-364-4532. Transporting *petroleum, natural gas and their products*, between points in the U.S. under continuing contract(s) with Petro Source, Inc. of Houston, TX.

MC 155238 (Sub-4), filed November 12, 1982. Applicant: EVAN F. SITTON, dba. SITTON TRUCKING, 2211 Whistlers Park Road, Roseburg, OR 97470. Representative: Evan F. Sitton (same address as applicant) (503) 672-2767. Transporting (1) *plastic pipe*, (2) *building materials*, and (3) *materials and supplies* used in the installation of the commodities in (1) and (2), between points in El Dorado and Riverside Counties, CA, and Hill and McLennan Counties, TX, on the one hand, and, on the other, points in Cassia and Ada Counties, ID, Washoe and Clark Counties, NV, Kern County, CO, Salt Lake County, UT, Maricopa County, AZ, Multnomah County, OR, King County, WA, and Uinta County, WY; (4) *minerals*, between points in Inyo County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI); (5) *steel*, between points in WA, OR, CA, UT, CO, and NE, on the one hand, and, on the other, points in OR, and (6) *metal buildings*, between points in Ormsby County, NV, on the one hand, and, on the other, points in OR, WA, ID, UT, and MT.

MC 156088 (Sub-5), filed November 19, 1982. Applicant: R & S TRUCK LEASING, INC., 1651 Walker Rd., Muskegon, MI 49442. Representative: Margaret J. Smith (Same address as applicant.) (616) 777-2994. 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 158938 (Sub-4), filed November 19, 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 *lumber and wood products*, and *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with M.W. Williams Cross Tie Salvage of Richmond, MO.

MC 159399 (Sub-2), filed November 15, 1982. Applicant: JAMES C. OLSON d.b.a. TREE LINE TRANSPORTATION, 8061 Jordan S.E., Salem, OR 97301. Representative: James D. Olson (Same address as applicant) 503-371-1414. Transporting (1) *building materials*, under continuing contract(s) with L & L Suppliers Inc. of Stockton, CA, (2) *food and related products*, under continuing contract(s) with GAM & Company of Portland, OR, and (3) *chemicals and*

related products, under continuing contract(s) with Purex Corporation of South Gate, CA, in (1) (2) and (3) above, between points in the U.S. (except AK and HI).

MC 160798 (Sub-2), filed November 22, 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 (402) 392-1220. Transporting *foodstuffs*, between Denver, CO, points in Dakota County, MN, Madison County, IL, Pottawattamie, County, IA, and points in NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161088, filed November 19, 1982. Applicant: EDWARDS XPRESS, INC., Route 3, Box 65 Pulaski, TN 38478. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, 901-526-4114. Transporting (1) *rubber and rubber products*, between points in Giles County, TN, and Summit County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *metal products*, between points in Giles County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162199 (Sub-1), filed November 17, 1982. Applicant: NEW ENGLAND TRANSPORTATION, INC., P.O. Box 8793, New Haven, CT 06523. Representative: Barry D. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110, 215-461-1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164799, filed November 12, 1982. Applicant: 48 FREIGHTWAYS, INC., 1875 North State St., Belvidere, IL 61008. Representative: Richard D. Armstrong, 925 Hyland Dr., Stoughton, WI 53589, 608-873-8929. Transporting *food and related products*, between points in Freeborn County, MN and in IA and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164808, filed November 22, 1982. Applicant: JIM WHITE, P.O. Box 1167, Beecher, IL 60441. Representative: Edward D. McNamara, Jr., P.O. Box 5039, Springfield, IL 62705, (217) 528-8476. Transporting *bananas*, between Tampa, FL, Gulfport, MS, Charleston, SC, Mobile, AL, and Galveston, TX, on the one hand, and, on the other, points in Lake County, IN.

MC 164809, filed November 22, 1982. Applicant: J.D. STEELE, INC., 1083

Columbus, Rd., Wooster, OH 44691. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614-464-4103. Transporting *Mercer commodities*, between points in OH, WV, PA, and NY, on the one hand, and on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-33634 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

[No. 38895¹]

International Transport, Inc., et al.— Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce
Commission.

ACTION: Notice of provisional
exemption.

SUMMARY: Twenty-three motor contract carriers have each requested exemption from the requirements of 49 U.S.C. 10701, 10761, and 10762. The sought relief is provisionally granted in part.

DATES: Comments are due on December 27, 1982. The sought relief will become effective on January 11, 1983 unless, in response to adverse comments filed, the Commission issues a further decision modifying or withdrawing this relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Jane Morris, (202) 275-1757.

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. (49 U.S.C. 10702(b), 10761(b), and 10762(f)).

The 23 motor contract carriers identified in the appendix filed individual petitions requesting exemptions under the three exemption provisions mentioned above. As the issues presented and the relief sought by these petitions are substantially similar,

we are consolidating them for notice purposes.

The petitioners hold a number of contract carrier permits to serve various shippers transporting a wide variety of commodities. They argue, generally, that the tariff filing requirements represent an undue burden on their ability to compete effectively and to offer their shippers the immediate service often required. Petitioners assert that they are interested in avoiding unnecessary expenses which handicap their efforts to provide economical and efficient service. They also argue that the Motor Carrier Act of 1980 encourages the Commission to remove obstacles which keep contract carriers from realizing their full potential.

Several petitions, including those of Central Transport, Inc., International Transport, Inc., and Refrigerated International Cargo Haulers, Inc., have requested exemptions for both existing and future contracts. One petitioner, L.R.C. Truck Line, Inc., (LRC), limits its request for exemption to rates filed for its affiliated shippers. A number of petitioners offer to provide interested parties with copies of their rates if requested. Finally, United Freight, Inc., filed a statement in support of Bowman Transportation, Inc.'s petition.

We see no reason to deny these carriers the savings to be realized from a tariff filing exemption for existing contracts. It appears that exemption of these carriers from the requirement that they file tariffs covering their existing contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101. In the case of LRC, we conclude there is no reason to limit its exemption to its affiliated shippers and, therefore, provisionally grant an exemption for all of its existing shippers. Additionally, we will not order these carriers to provide copies of their rates upon request by interested parties, since we have not imposed that requirement for other recent filings.

We are unable to conclude, however, that an exemption is justified for future contracts and services. Because the scope and terms of possible future contracts are unknown, an exemption as to future contracts could only be based on general findings about the continued need for any contract filing requirements for any motor contract carrier. A proceeding to investigate this issue on an industry-wide basis will shortly be instituted in Ex Parte No. MC-165. Under these circumstances, at this time we do not find that exemption of future contracts is consistent with the public

¹ This proceeding embraces 23 petitions for exemption. See Appendix.

interest or the transportation policy of 49 U.S.C. 10101.

With the exception noted above, we provisionally grant the sought relief. The provisional relief will become effective unless the Commission issues a further decision modifying or withdrawing the relief in response to adverse comments that may be filed.

This decision does not appear to have a significant effect on either the human environment or conservation of energy sources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: December 3, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,
Secretary.

APPENDIX

The dockets embraced by this proceeding are as follows:

No. 38895 International Transport, Inc.
No. 38897 Quality Operations, Inc.
No. 38903 Wilson Certified Express, Inc.
No. 38906 Otto Feldt, Inc.
No. 38908 Bowman Transportation, Inc.
No. 38912 K.J. Transportation, Inc.
No. 38920 L.R.C. Truck Line, Inc.
No. 38922 Mercury Tanklines Limited
No. 38926 Ridgefield Park Transport Co., Inc.
No. 38927 P&P Trucking Company, Inc.
No. 38928 Refrigerated International Cargo Haulers, Inc.
No. 38932 National Transportation, Inc.
No. 38934 Processed Beef Express, Inc.
No. 38935 Trafik Services, Inc.
No. 38937 Central Transport, Inc.
No. 38938 Willard D. Van Zuiden Trucking, Inc.
No. 38939 Carnaco Transport, Inc.
No. 38942 Quad City Spotting Service, Inc.
No. 38943 J.R.S. Leasing Charter, Inc.
No. 38944 National Freight, Inc.
No. 38945 Mr. Frank Inc.
No. 38947 Capstan Transportation Co.
No. 38952 Nu-Car Carriers, Inc.

[FR Doc. 82-33609 Filed 12-9-82; 8:45 am]

BILLING CODE 7035-01-M

[No. AB-1 (Sub-142)]

Chicago & North Western Transportation Co.—Abandonment Between Norwood and Madison, MN; Corrected Notice of Findings

December 7, 1982.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated November 24, 1982, (47 FR 54367, 12-02-82) a finding, which is administratively

¹ This carrier indicated by letter that it would withdraw its request in view of Ex Parte No. MC-165. However, as that proceeding has not yet been instituted, no useful purpose would be served by not granting a provisional exemption here.

final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by Chicago and North Western Transportation Company of a segment of rail line extending from railroad milepost 51.3 near Norwood to railroad milepost 181.8 near Madison, a distance of 130.5 miles, in Carver, Sibley, Renville, Redwood, Yellow Medicine and Lac Qui Parle Counties, MN. Abandonment is subject to the conditions for the protection of employees in *Oregon Short Line Railroad Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979), and to continued operations of the segment of line between Madison and the connection with the Burlington Northern Inc., at Hanley Falls, MN, for a period of two years from December 2, 1982. Offers of financial assistance, except for the segment of line between Madison and Hanley Falls, must be made within 10 days of the publication of the prior notice served December 2, 1982. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offer may be considered to have lapsed. An appropriate certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above finding, 30 days after publication of the prior notice, unless within 15 days from the date of the prior publication, the Commission further finds:

- (1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Deputy Director, Rail Section, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and
- (2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such a line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all of any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days

of any offer, and no request is made of the Commission to set conditions or amount of compensation, an appropriate certificate of abandonment will be issued. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 CFR Part 1152 (formerly 49 CFR Part 1121). All interested persons are advised to follow the instructions contained therein as well as the instructions in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-33609 Filed 12-9-82; 8:45 am]

BILLING CODE 7035-01-M

[No. AB-43 (Sub-92)]

Illinois Central Gulf Railroad Co.—Abandonment—In Alexander County, IL; Findings

December 6, 1982.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated December 6, 1982, a finding, which is administratively final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by Illinois Central Gulf Railroad Company of a segment of rail line extending from railroad milepost 500 northwest of Cairo, IL, to railroad milepost 518 near Elco, IL, a distance of 18 miles all in Alexander County, IL, together with approximately 9.87 miles of sidetrack. Abandonment is subject to the conditions for the protection of employees in *Oregon Short Line Railroad Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). Offers of financial assistance must be made within 10 days of the publication of this notice. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offer may be considered to have lapsed. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

- (1) A financially responsible person (including a government entity) has offered financial assistance (in the form

of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and (2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues with are attributable to such a line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all of any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of any offer, and no request is made of the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 CFR 1121 as revised by Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad Lines and Discontinuance of Service*, 365 I.C.C. 249 (1981), as published at 46 FR 45342 (September 11, 1981). All interested persons are advised to follow the instructions contained therein as well as the instructions in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-33607 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-93)]

**Illinois Central Gulf Railroad Co.—
Abandonment—Between Laurel and
Carmichael, MS; Findings**

The Commission has found that the public convenience and necessity permits the Illinois Central Gulf Railroad Company to abandon its 37.06 mile rail line between Carmichael, MS (milepost 72.92) and Laurel, MS

(milepost 110) in Perry and Jones Counties, MS. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-33610 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

**Long-and-Short-Haul Application for
Relief**

December 7, 1982.

This application for long-and-short-haul relief has been granted by the I.C.C.

No. 43983, Trans-Continental Freight Bureau (No. 568), reduced rates on brandy, Champagne, vermouth or wine, minimum weights 95,000 and 108,000 pounds, from California origins to Eastern Destinations, in its tariff ICC TCFB 3002-S, effective December 4, 1982. Grounds for relief: Motor and Water Competition.

This application was received by the Commission's Suspension Board on December 2, 1982. This precluded the Board from publishing the requested relief in the *Federal Register* in order to give interested parties an opportunity to protest.

By action of December 3, 1982, the Commission's Suspension Board, Members Fitzgerald, Halvarson and Hall—Member Hall not participating, concluded to grant the requested relief in Long-And-Short-Haul Order No. 20699, subject to the proviso that the authority will expire with January 15, 1983. This notice is to advise that the Commission's Suspension Board will reopen this proceeding on its own motion (if not protested) to consider the expiration date of this authority. Interested parties wishing to object may file their objections with the Suspension Board not later than January 3, 1983.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-33632 Filed 12-9-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the *Federal Register*.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278, or Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review bd ¹	Decided date
441	Burlington Northern Railroad Co., ICC-BN-C-0198, (Ballast)	1	12-3-82
442	Norfolk and Western Railway Co., ICC-NW-C-7013, (Coal)	2	12-3-82
443	Missouri Pacific Railroad Co., ICC-MP-C-0197, (Canned or preserved foodstuffs)	3	12-3-82
444	Missouri Pacific Railroad Co., ICC-MP-C-0199, (Petroleum coke)	1	12-3-82

¹ Review Board No. 1, Members Parker, Chandler, and Fortier; 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. 82-33524 Filed 12-9-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Cap on Tax Credit Reductions in 10 States

The Secretary of Labor has determined that 10 States with outstanding Federal loans to their unemployment funds are eligible for a "cap" on the repayment requirements in Section 3302(c)(2) of the Federal Unemployment Tax Act, 26 U.S.C. 3302(c)(2). The determinations were made as of November 10, 1982, and the Secretary of the Treasury was informed in a letter of December 2, 1982, which is printed below.

Albert Angrisani,

Assistant Secretary of Labor.

December 2, 1982.

Honorable Donald T. Regan,
Secretary of the Treasury,
Washington, D.C. 20220.

Dear Don: This is to verify the status of States which have had an outstanding balance of repayable advances under Title XII of the Social Security Act on January 1 in at least 2 consecutive years and are, therefore, subject to the reduction in credit provisions of Section 3302(c)(2) of the Federal Unemployment Tax Act (FUTA).

Employers in 16 States are subject to a reduction in FUTA offset credit for taxable year 1982:

Arkansas	New Jersey
Connecticut	Ohio
Delaware	Pennsylvania
District of Columbia	Puerto Rico
Illinois	Rhode Island
Maine	Vermont
Michigan	Virgin Islands
Minnesota	West Virginia

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) added a new Subsection (f) to Section 3302 of FUTA which limits the FUTA tax credit reduction in 1982 to an amount which will not exceed the greater of 0.6 percent of wages subject to FUTA or the percentage reduction that was in effect for the preceding taxable year under certain conditions.

To qualify for the "cap" in taxable year 1982, a State must have taken no action in the 12 months ending September 30, 1982, unless required under State law in effect before August 13, 1981, which has resulted or will result in:

(1) A reduction in the State's unemployment tax effort, or

(2) A net decrease in the solvency of the State unemployment compensation system.

I have determined that under these criteria 10 States qualify for the "cap" and are subject to the reduced 1982 FUTA credits indicated:

	Percent
Connecticut ¹	0.7
Delaware	0.6
District of Columbia	0.6
Illinois	0.6
New Jersey	0.6
Pennsylvania	0.6
Puerto Rico	0.6
Rhode Island	0.6
Vermont	0.6
Virgin Islands	0.6

¹ Additional 0.1 percent is difference between average contribution rate and 2.7 percent in 1979 per Section 3302(c)(2)(B).

The six States not affected by the "cap" are subject to the credit reductions as shown:

	Percent
Arkansas	0.3
Maine ¹	0.9
Michigan	0.3
Minnesota	0.3
Ohio	0.3
West Virginia	0.3

¹ Chose not to apply for the "cap."

The States of Iowa, Kentucky, Missouri, and Wisconsin have outstanding Title XII advances but are not subject to reduced credits for 1982.

Sincerely,

Raymond J. Donovan.

[FR Doc. 82-33572 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Relocation of Meeting

Notice is hereby given that the location for the December 15, 1982 meeting of interested groups, announced in the December 3, 1982, issue of the Federal Register (47 FR 54574) has been changed as follows:

Hyatt Regency Hotel,
Columbia Ballroom,
400 New Jersey Avenue, NW.,
Washington, D.C.

No change in the time.

Signed at Washington, D.C., this 8th day of December, 1982.

Patrick J. O'Keefe,

Director, Transition Task Force.

[FR Doc. 82-33821 Filed 12-9-82; 11:55 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-81-C]

Action Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Action Mining Company, Inc., P.O. Box 835, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 15-13196) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.
2. The coal seam ranges in height from 42 to 50 inches, with consistent ascending and descending grades creating dips in the coalbed.
3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies can strike and dislodge roof support. The canopy also restricts the equipment operator's visibility, increasing the chances of an accident.
4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33573 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-86-C]

Angus Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Angus Mining Company Inc., Box 266, Caretta, WV 24821 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine

(I.D. No. 46-06366) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of cabs or canopies on the mine's ramcars would result in a diminution of safety for the miners affected because:

a. The canopies could strike the roof, roof support devices and overhanging cables; and

b. The canopies restrict the equipment operator's visibility, increasing the chances of an accident.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 1, 1982.

Patricia W. Silvey,
Acting Director, Office of Standards,
Regulations and Variances.

[FR Doc. 82-33574 Filed 12-9-82; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-81-248-C]

C. J. Langenfelder & Son, Inc.; Petition for Modification of Application of Mandatory Safety Standard

C. J. Langenfelder & Son, Inc., 8427 Pulaski Highway, P.O. Box 9606, Baltimore, Maryland 21237 has filed a petition to modify the application of 30 CFR 77.1109 (quantity and location of firefighting equipment) to Consolidation Coal Company's Buchanan No. 1 Mine (I.D. No. 44-04856) located in Pocahontas County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mobile equipment be equipped with portable fire extinguishers.

2. Petitioner is performing surface construction work; previous experience

indicates that when the fire extinguisher is mounted on specific equipment, it often becomes damaged or destroyed and unusable.

3. To ensure that operable fire extinguishers be available at all times, petitioner proposes as an alternative method to maintain fire extinguishers in a specified nearby location under the control of a designated supervisor.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 3, 1982.

Patricia W. Silvey,
Acting Director, Office of Standards,
Regulations and Variances.

[FR Doc. 82-33577 Filed 12-9-82; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-82-74-C]

Peanut Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Progressive Training and Research, Star Route—P.O. Box 61, Elkhorn City, Kentucky 41522, as an authorized agent, has filed a petition for modification on behalf of Peanut Coal Company, P.O. Box 34, Steele, Kentucky 41566, to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 3 Mine, (I.D. No. 15-13295) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 40 to 48 inches with consistent ascending and descending grades creating dips in the coalbed.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because the canopies have to be installed in such a manner to prevent them from striking the roof and possibly destroying the roof support system.

Consequently, the installation of canopies causes the equipment operator to work in a cramped compartment and the canopies limit the operator's visibility, resulting in increased chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 2, 1982.

Patricia W. Silvey,
Acting Director, Office of Standards,
Regulations and Variances.

[FR Doc. 82-33579 Filed 12-9-82; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-82-78-C]

TAS Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

TAS Coal Corporation, P.O. Box 863, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 44-04446) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal mining height ranges between 41 and 60 inches, with the present working face approximately 44 inches, with unstable floor conditions.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because canopies on the equipment limit operator visibility and strike the roof and roof support system.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33576 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-116-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 24219-0196 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Hampton No. 3 Mine (I.D. No. 46-01283) located in both Logan and Boone County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that permanent pumps be housed in fireproof structures or areas and that air currents used to ventilate these structures be coursed directly into the return.

2. Accumulation of water coming out of the abandoned West Headings has necessitated the use and maintenance of four pumps in the South Headings. The return aircourse formerly used to course air from these pump installations is presently unavailable for ventilation due to roof falls. Even if the return were opened, effective coursing to the return would be restricted due to the gob areas. Given the location of the pumps, each approximately four breaks from the return entries, it would be impossible to provide sufficient ventilation to ventilate the pump housings because of obstructions in the return entries in the South Headings and the ventilation of the gob areas in the old 3-A East Headings.

3. As an alternative method to coursing the air currents passing over the pump installations in the South Headings directly to return air, petitioner proposes to install dry chemical fire suppression devices on each pump installation. Specifically:

a. Each pump installation will be provided with a twenty-pound dry-type chemical fire suppression unit activated by two heat sensors located directly above the electric pump motor and electric motor starter. When the fire suppression device is activated, the incoming power will be cut off from the pump starter by an additional contactor located outside each fireproof structure;

b. Two heat sensors connected to a cable located directly above each pump unit will operate to close the door opening in the pump housing in the event of a fire. At the same time, a switch, located on one of the doors will activate a highly visible alarm light.

4. Petitioner states that the proposed alternative method will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33575 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-124-C]

Wiley-Dixon, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Wiley-Dixon, Inc., Route 2, Auxier Road, Prestonsburg, Kentucky 41653 has filed a petition to modify the application of 30 CFR 75.329 (bleeder systems) to its Mine No. 1 (I.D. No. 15-02216) located in Floyd County, Kentucky. This petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all areas from which pillars have been wholly or partially extracted and abandoned areas be ventilated by bleeder entries, bleeder systems, equivalent means or be sealed.

2. The area located at No. 8 West off North mains is securely brattished with substantially constructed stoppings.

This area has been abandoned since the mid- to late-1950s, and is inaccessible.

3. As an alternative method to sealing or ventilating these abandoned areas with bleeder systems, petitioner proposes to brattice these areas with substantially constructed stoppings, vented to the surface at several locations. In support of this proposed alternative method, petitioner states that:

a. The stoppings are very near the rail line haulage and the travelway can be readily examined;

b. The entire station crew could be evacuated to the surface in less than five minutes; and

c. The section is ventilated by a positive pressure system using two fans. Minimum ventilation could be maintained using only one fan in the event of mechanical failure of either fan.

4. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 10, 1983. Copies of the petition are available for inspection at that address.

Dated: December 1, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-33578 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. D-3660]

Proposed Exemption for Certain Transactions Involving Harcourt Brace Jovanovich, Inc., Pension Plan Located in New York, New York

AGENCY: Office of Pension and Welfare Benefit Programs, Labor Department.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income

Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The purchase of a parcel of land (the Land) by the Harcourt Brace Jovanovich, Inc. Pension Plan (the Plan) from Sea World of Florida, Inc. (Sea World), a wholly-owned subsidiary of Harcourt Brace Jovanovich, Inc. (HBJ), the Plan sponsor; (2) the construction of a building (the Building) on the Land (collectively, the Property), resulting in the use of Plan assets for the benefit of HBJ; (3) the lease (Lease) of the Property by the Plan to HBJ; (4) the possible purchase of the Property by HBJ from the Plan; and (5) the indemnification of the Plan by HBJ in the event the Plan sells the Property for less than its original cost. The proposed exemption, if granted, would affect HBJ, the Plan and its participants and beneficiaries.

EFFECTIVE DATE: The effective date of the proposed exemption, if granted, will be October 15, 1982.

DATE: Written comments and requests for a public hearing must be received by the Department on or before January 20, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-3660. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by HBJ and the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the

authority of the Secretary of the Treasury to issue exemption of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined benefit plan with approximately 3,316 participants as of December 31, 1981 and net assets of approximately \$55,700,000 as of January 1, 1982. The members of the Plan Investment Committee, who are charged with the responsibility of investing Plan assets, are Robert H. Hillebrecht, James Barsky, Sarah Blackmun, J. William Brandner and Margaret Mary McQuillan, all of whom are employees of HBJ. HBJ is a publisher of textbooks, tests, general books and periodicals and, through Sea World, is also engaged in the marine park business. HBJ's net worth as of December 31, 1981 was \$171,950,168.

2. The Land consists of approximately 14.2 acres located in Orange County, Florida near the city of Orlando. The Land is presently owned by Sea World. The proposed Building will be an eight story general purpose office building which will contain approximately 380,000 square feet. Although it is intended that HBJ will be the only tenant, the Building's design is such that the office space can be readily subdivided and leased to a number of unrelated tenants. It is contemplated that the Plan will purchase the Land in late October or early November 1982 and that construction of the Building will begin during late November 1982 and be completed by approximately mid-February 1984. Therefore, the applicants have requested that the exemption be made effective as of October 15, 1982.

3. The independent architectural firm of Reynolds, Smith and Hills has estimated that the cost to the Plan of planning and constructing the Building will be approximately \$23 million. The Plan will enter into a contract (the Construction Contract) for the construction of the Building which will be a fixed price contract, thereby preventing the Plan from incurring any cost overruns. The applicants estimate that the fair market value of the Land, which will be appraised by an independent appraiser at the time of sale to the Plan, is currently \$2.5 million based on recent sales of comparable

property in the area. During the construction period, Plan assets will be applied to the construction of the Building and will not be available for investment elsewhere. To compensate the Plan for the lost opportunity of investing these funds, there will be accrued and added to the cost of the Building, on a monthly basis, interest at the prime rate in effect during the construction period as quoted by Morgan Guaranty Trust Company. The interest to compensate the Plan for its lost investment opportunity will be considered as part of the cost of the Building (and as such will be included in HBJ's rent base) notwithstanding that it does not constitute a cash outlay on the part of the Plan. It is estimated that such interest on the cost of construction will total approximately \$3.3 million. The total cost of the Property is therefore estimated to be \$28.8 million. The independent pension consulting firm of Towers, Perrin, Forster & Crosby has estimated that the Plan's total investment in the Property upon completion of construction in 1984 would constitute between 30% and 40% of the Plan's assets at that time, depending on a number of variables, including the Plan's actual investment performance. Because of the percentage of the Plan's assets that would be invested in the Property, the Plan will establish and maintain for a period of not less than ten years, a \$15 million "immunized" bond portfolio consisting solely of securities of the United States and/or federal agencies. The applicants represent that all credit risk with regard to funds so invested is eliminated, there by enhancing the retirement security of Plan participants and beneficiaries.

4. Upon completion of the Building, HBJ and the Plan will enter into the Lease which will be triple net and will have an initial term of 15 years and two renewal periods of 15 years each at the option of HBJ. The annual rent during the first five years of the Lease will be equal to 15% of the greater of the estimated \$28.8 million cost of the Property or the fair market value of the Property as determined by an independent appraiser at the time of initial occupancy by HBJ. The Property will be appraised by an independent appraiser at five year intervals and the rental will be adjusted to the fair market rental value as determined by such appraisal. However, no such adjustment shall reduce the rent below that set upon HBJ's initial occupancy. Therefore, based upon the Property's estimated cost of \$28.8 million, HBJ will, upon entering into the Lease, assume a legal obligation to pay the Plan a minimum of

\$64.8 million in rent over the initial 15 year term of the Lease.

5. If the Plan decides to sell the Property, HBJ will have the right of first refusal to purchase the Property from the Plan for cash, at a price equal to the greater of the price offered by any potential unrelated buyer or the initial cost to the Plan of the Property, including construction period interest, such right to extend 90 days after HBJ is notified in writing by the Plan of the Plan's intention to sell. If HBJ does not exercise its right of first refusal, and the Property is sold for less than the Plan's initial cost, including construction period interest, HBJ will pay to the Plan not later than 90 days after the closing of the sale to another party, an amount equal to the deficiency. The provisions relating to HBJ's right of first refusal and obligation to make up any difference between the Plan's initial cost, including construction period interest, and the sales price, shall only apply so long as HBJ is lessee. For this reason, if HBJ chooses not to renew the Lease, the Plan will be required to determine whether the Property should be sold during the 12 months' notice period, pursuant to the terms of the Lease.

6. Kidder, Peabody & Co., Inc. (Kidder Peabody), an investment firm which is unrelated to and independent of HBJ and its affiliates, has agreed to act as "interim independent fiduciary" on behalf of the Plan with regard to the proposed transactions. Kidder Peabody will represent the Plan in negotiating the specific terms of the sale of the Land and of the Lease. Kidder Peabody will also obtain appraisals of the Land at the time it is sold to the Plan, and of the Property upon completion of construction. Kidder Peabody has stated that the terms of the proposed transactions are at least as favorable to the Plan as could be obtained through arm's-length negotiations and therefore they believe the proposed transactions are fair and equitable from a financial point of view and are in the interests of the participants and beneficiaries of the Plan.

7. Sun Bank, N.A. (Sun Bank) of Orlando, Florida has agreed to act as "permanent independent fiduciary" on behalf of the Plan with regard to the proposed transactions. Sea World currently has depositary accounts of \$435,000 and HBJ has a line of credit in the amount of \$5 million with Sun Bank, which constitutes less than one percent of Sun Bank's deposits and loan portfolio, respectively. Sun Bank will perform the following duties on behalf of the Plan: (a) Negotiate, execute and monitor the Construction Contract; (b)

monitor the terms of the Lease; (c) arrange for an appraisal of the Property at the end of each five year period; (d) act to insure that HBJ fulfills its obligations pursuant to the terms of the sale of the Land and the Lease; and (e) determine the appropriateness of the continued holding of the Property by the Plan.

8. The applicants represent that the investment by the Plan in the Property represents a singular opportunity for the enhancement of the retirement security of the participants and beneficiaries of the Plan. The Plan will receive a high cash yield on its investment and will be guaranteed by HBJ against any reduction in rental income below the rent at the inception of the Lease as well as against any loss in the event Sun Bank determines to sell the Property. In addition, the Plan will be afforded an opportunity to hedge against future inflation since the value of the Land and Building is likely to rise in an inflationary economy and such increases in value will be reflected in increased rental income as the Property is reappraised at five year intervals. The Plan's investment in the Property also offers an opportunity to diversify its portfolio since the Plan does not currently own any real estate.

9. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) due to the following:

(a) Kidder Peabody has determined that the proposed transactions are in the Plan's interests;

(b) Kidder Peabody will act on the Plan's behalf as "interim independent fiduciary" with the duties and responsibilities described above;

(c) Sun Bank will act on the Plan's behalf as "permanent independent fiduciary" with the duties and responsibilities described above; and

(d) HBJ has agreed to indemnify the Plan in the event the Plan sells the Property at a price below its original cost.

Notice to Interested Persons

Within ten days after the notice of pendency is published in the *Federal Register*, notice will be given to all Plan participants and beneficiaries by mail, personal delivery or posting such notices at locations where participants work which are customarily used for providing information to employees. The notice will include a copy of the notice of pendency as proposed in the *Federal Register* and will inform each recipient of his right to comment or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective October 15, 1982, to: (1) The sale of the Land by Sea World to the Plan, provided that the purchase price is not more than the fair market value of the Land on the date of sale; (2) the expenditure of Plan assets to construct the Building; (3) the Lease of the Property by the Plan to HBJ; (4) the possible purchase of the Property by HBJ from the Plan at a price equal to the greater of the price offered by any unrelated buyer or the initial cost to the Plan of the Property; and (5) the agreement by HBJ that in the event the Property is sold to an unrelated party at a price below the Plan's total original cost, HBJ will pay the Plan the difference between the Plan's cost and the purchase price, provided the terms and conditions of each of the above transactions are at least as favorable as the Plan could obtain from an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of this exemption.

Signed at Washington, D.C., this 30th day of November, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-33670 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-29-M

Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income

Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1975 (the Code).

Notices were published in the *Federal Register* of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Prohibited Transaction Exemption 82-209; Exemption Application No. D-3498]

Smith, Barney Real Estate Fund (the Fund), Located in New York, New York Exemption

Section I. Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of

section 4975(c)(1)(A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-Interest and the Fund: General.* Any transaction between a party-in-interest with respect to a qualified pension or profit sharing plan participating in the Fund (Unitholder) and the Fund, or any acquisition or holding by the Fund of employer real property, if the party-in-interest is not Smith, Barney Real Estate Corporation (SBREC), any of its affiliates, or any other group trust managed by SBREC or any of its affiliates, and if, at the time of the transaction, acquisition or holding, the interest of the Unitholder, together with the interests of any other Unitholders maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Fund.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Unitholder and the Fund, or any acquisition or holding by the Fund of employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a "substantial employer" with respect to the plan, or

(B) The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales or Holdings of Employer Real Property.* (A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to SBREC or to the employer or to any affiliate of SBREC or the employer in connection with the acquisition, sale or lease of employer real property; and

(i) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or

adaptable without excessive cost) for use by different tenants, and

(ii) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(B) In the case of a Unitholder that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the real property, the aggregate fair market value of employer real property held by the Fund does not exceed 10 percent of the fair market value of the Unitholder's interest in the Fund.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer real property" shall include real property leased to a person who is a party-in-interest with respect to a Unitholder by reason of a relationship to the employer described in section 3(14)(E), (G), (H) or (I) of the Act.

(b) The restriction of section 406(a)(1)(A), (B), (C), and (D) and section 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties in Interest With Respect to a Unitholder Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Fund and a person who is a party-in-interest with respect to a Unitholder if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Unitholder, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Unitholder's assets in, or held by, the Fund, and

(B) The person is not an affiliate of SBREC.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Unitholder or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in

connection with real property owned by the Fund;

(B) The party-in-interest is not SBREC or any affiliate of SBREC; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of \$25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by SBREC or by an affiliate of SBREC in connection with the management of the real property owned by the Fund, if the compensation paid to SBREC or its affiliate does not exceed the cost of the services to SBREC or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Unitholder, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II. Excess Holdings Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of SBREC or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) SBREC or its affiliate maintains for

a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of SBREC or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act; the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Unit holder who has authority to acquire or dispose of the interests in the Fund of the Unitholder or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Unitholder or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Unitholder or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine the trade secrets of SBREC or any of its affiliates, or commercial or financial information which is privileged or confidential.

Section IV—Definitions and General Rules

For the purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3 (15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(d) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a) (4) and (e)(3) (c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Unitholder exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Unitholder. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Fund which becomes

a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Unitholder shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 24, 1982 at 47 FR 42189.

WRITTEN COMMENTS AND HEARING REQUESTS:

The Department has received one public comment which supports the granting of an exemption as proposed.

FOR FURTHER INFORMATION CONTACT:

Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82-210; Exemption Application No. D-3425]

Southern Electric Supply Co., Inc., Profit Sharing Trust (the Plan) Located in Meridian, Miss.

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to a loan of \$350,000 by the Plan to Southern Rentals, a party in interest with respect to the Plan and the guarantee of repurchase of the note by Southern Electric Supply Company, Inc., provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transactions.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 15, 1982 at 47 FR 46179.

FOR FURTHER INFORMATION CONTACT:

Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 82-211; Exemption Application No. D-3581]

Backer and Probst Inc., Employees Profit Sharing Plan (the Plan) Located in St. Louis, Mo.

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of an improved parcel of real property, as described in the notice of proposed exemption, to Drs. Matt H. Backer, Jr. and Raymond E. Probst, parties in interest with respect to the Plan, for \$205,000, provided that this amount is not less than the fair market value of the property on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 15, 1982 at 47 FR 46162.

FOR FURTHER INFORMATION CONTACT:

Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the

transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 8th day of December 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-33671 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Bureau of Labor Statistics
Consumer Expenditure Survey
CE-300, 301, 303, 801, 802, 803, L1-L5, L
On occasion
Households
33,660 responses; 83,282 hours; 5 and 6 letters.

The forms are to be used to gather information on expenditures, income, and other related subjects to be used to update periodically the Nation's Consumer Price Index (CPI) in order that the buying habits of the entire population are accurately reflected in the index.

Labor-Management Services
Administration
Update of Summary Plan Description
Under ERISA

Every fifth plan year for plans that have been amended during the five year period. Every tenth year for plans that were not amended during the five year period.

Businesses or other institutions
Small business or organization
SIC: All

15,296,672 responses; 5,580,689 hours

This is an amendment to a summary plan description regulation under ERISA relating to employee benefit plans. The amendment would permit plan administrators to defer the distribution data for updated summary plan descriptions and establishes the dates for the distribution of future updated or replacement summary plan descriptions required by ERISA.

Extension (Burden Change)

Labor Management Services
Administration
Annual Report of Employee Benefit
Plans
DOL/IRS/PBGC 5500, 5500-C, 5500-K
and 5500-R

Annually
Businesses or other institutions
Small business or organization
SIC: All
625,000 responses; 1,960,000 hours; 4 forms

The Form 5500 Series provides a standard format for fulfilling the requirements of section 104(a)(1)(A) of ERISA which requires plan administrators to file an annual report containing that information described in section 103 of ERISA.

Reinstatement

Occupational Safety and Health
Administration
Survey for pesticide Formulation Study
(Ethylene Dibromide)
OSHA-155
One-time survey
Businesses or other institutions
Small business or organization
SIC: 2879

13 responses; 24 burden hours; 2 forms
The survey will be conducted to gather information from firms that are currently involved in the formulation of products containing ethylene dibromide (EDB) in the United States to determine: (1) Structure of EDB pesticide formulation industry; (2) current industry control practices and the potential compliance burden on these firms; and (3) the population at risk.

Signed at Washington, D.C., this 7th day of December, 1982.

Paul E. Larson,
Departmental Clearance Officer.

[FR Doc. 82-33669 Filed 12-9-82; 8:45 am]

BILLING CODE 4510-24, 4510-26, 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-67]

NASA Advisory Council, Space
Systems Technology Advisory
Committee; Meeting Postponement

AGENCY: National Aeronautics and
Space Administration.

ACTION: Notice of meeting
postponement.

SUMMARY: The scheduled meeting on
December 14-15, 1982, of the NAC,
Space Systems and Technology
Advisory Committee, Ad Hoc Informal

Advisory Subcommittee on Structures/Controls Interaction, published in the *Federal Register* November 26, 1982 (47 FR 53535-53536) has been postponed until further notice.

FOR FURTHER INFORMATION CONTACT:

Dr. Deene Weidman, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202/755-3277).

Dated: December 6, 1982.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 82-33570 Filed 12-9-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of recordkeeping requirements that will affect the public.

Agency clearance officer: Herman G. Fleming, (202) 357-7580.

OMB officer: Gwendolyn Pla, (202) 395-7313.

Title: NSF Grant Applications, 3145-0058.

Affected public: Universities, university consortia, nonprofit and other research organizations, individuals.

Number of responses: 22,300; total number of hours 2,676,000.

The National Science Foundation initiates and supports fundamental and applied research in all scientific disciplines, science education and research policy. This support is made through grants, contracts and other agreements awarded to universities, university consortia, nonprofit, and other research organizations.

Title: NSF Proposal Evaluation Process, 3145-0060.

Affected public: Scientists, educators, engineers, specialists in fields.

Number of responses: 137,517; total number of hours 696,641.

The Foundation's scientists, engineers and other officials evaluate all proposals submitted to the agency. To assist them in the evaluation process, the Foundation obtains the advice of scientists and others who are specialists in the fields covered in the proposals. Assistance is obtained through mail review and assembled panels.

Title: Survey of Scientific and Engineering Personnel Employed at Universities and Colleges, January 1984, 1985, 1986, OMB 3145-0074.

Affected Public: Universities and Colleges and their associated Federally Funded Research and Development Centers.

Number of responses: 1,250; total number of hours 21,034.

This unique data system which is unavailable from any other source provides the basis for National planning and policy formulation regarding academic science and technology. This data is used by the Congress, other Federal agencies, industry, professional societies and Foundation's, States, universities, the Press, international groups, and NSF.

Herman G. Fleming,

Chief, Records and References Branch, National Science Foundation.

[FR Doc. 82-33624 Filed 12-9-82; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

Correction

In FR Doc. 82-29792 beginning on page 49292 in the issue for Friday, October 29, 1982, make the following corrections:

1. On page 49304, third column, the entry for the *Department of the Navy* now designated "213.3207" should have been designated "213.3208".

2. In the same column, the entry for the *Department of the Air Force* now designated "213.3207" should have been designated "213.3208".

BILLING CODE: 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19296; (SR-Amex-82-18)]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 3, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 25, 1982, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, filed with the Commission copies of a proposed rule change which extends to short options positions in non-equity securities the margin treatment heretofore available on such positions in equity options under Exchange Rule 462(d)(2)(I). Under that rule, a customer, in lieu of posting margin on a short call, may deliver to a member organization either an escrow receipt or an option guarantee letter from an Exchange-approved custodian stating that the custodian holds for the

customer's account the security underlying the call and will deliver it on payment of the call option's exercise price. In the case of a short put, the rule allows, in lieu of margin, delivery of a similar option guarantee letter covering cash in the amount of the put's exercise price.

Although the rule as proposed would allow delivery of escrow receipts which guarantee delivery of the security underlying a call to the Options Clearing Corporation ("OCC"), Amex does not contemplate for the immediate future the use of escrow receipts running to OCC in respect of non-equity securities until OCC's own rules have been changed to permit it to accept such receipts in lieu of margin on short non-equity options positions.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Reference should be made to File No. SR-Amex-82-18.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change is a technical modification to reflect the trading of government debt options begun on the Amex October 22, 1982. Moreover, the modification would result in margin treatment similar to that provided for government security options by the Chicago Board Options Exchange ("CBOE") under its Rule

21.25(e) CBOE has also commenced trading in government debt options.

It is therefore order, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33597 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22750; (70-6815)]

**Central and South West Corp.;
Proposal To Issue and Sell Adjustable
Rate Subordinated Notes Convertible
Into Common Stock of the Issuer;
Request for Exception From
Competitive Bidding**

December 2, 1982.

The Central and South West Corporation ("CSW"), 2700 One Main Place, Dallas, Texas 75202, a registered holding company, has filed with this Commission a declaration pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

CSW proposes to issue and sell up to \$100 million of adjustable rate convertible subordinated notes ("Note" or "Notes") during the period ending December 31, 1983. Each such Note is an unsecured note subordinated to CSW's short-term debt. The Notes will be convertible from the date of issuance, at the holder's option, into shares of CSW common stock. The conversion rate will be fixed at approximately the market price per share on the date of the issue of the Notes. The initial interest rate will be a fixed dollar amount over the then current dividend paid on CSW's common stock and will increase with each subsequent increase in the common dividend, perhaps subject to a maximum specified at the time of issuance.

CSW's liability to pay the Notes in cash will, however, be substantially less than issue price, the amount to be fixed at the time of issuance. The limited liability will apply to all circumstances, maturity, call or insolvency. And CSW will have the right to call the Notes at any time, unless a relatively short no-call period is provided at the time of issuance. In effect, holders of the Notes will find it necessary to convert the Notes into CSW stock, immediately before they mature, by call or otherwise.

CSW has been advised by counsel that the interest paid on the Notes will be deductible for income tax purposes

and expects their issuance to produce significant savings without subjecting CSW to the disadvantages associated with standard debt instruments. In view of CSW's assumption of all liabilities and risks associated with the proposed transaction, the tax savings produced by the tax deductibility feature would be dedicated solely to CSW under the consolidated tax return allocation agreement to be filed pursuant to Rule 45(c) under the Act.

The net proceeds from the proposed sale of the Notes will be used to retire a like amount of short-term borrowings by CSW expected to be outstanding at the time of sale. These short-term borrowings were incurred to finance, in part, capital contributions during 1982 to several of CSW's utility subsidiaries. After retiring such short-term borrowings, if net proceeds remain, they will be applied to retire a portion of the short-term borrowings expected to be incurred during 1983 to make similar capital contributions.

For illustrative purposes only, CSW has provided the following example of the possible terms and conditions of the proposed Notes. If CSW common stock were trading at \$16 per share at the issuance date of the Notes, a \$100,000 Note would be convertible into 6,250 shares (\$100,000 divided by \$16 = 6,250) of CSW common stock. The current dividend of \$1.68 per share equals an annual dividend rate of 10.50% when the stock is trading at \$16. One possible set of terms, therefore, would include a Note with a 15 year maturity, convertible at any time into 6,250 shares of common stock with a maturity value (the specified cash payment) of \$50,000. Interest would be payable quarterly and subject to adjustment quarterly to reflect changes in the common stock dividend rate. The initial and minimum annual interest payment could be \$.40 more than the dividend rate, or \$2,500 more than the total dividends on the underlying 6,250 convertible shares ($6,250 \times \$1.68 = \$10,500$ vs. $6,250 \times \$2.08 = \$13,000$). Assuming an initial fixed premium of \$.40, the initial yield on the Note would be 13% (\$13,000 divided by \$100,000). Thereafter, the Note's annual interest rate would be the greater of (a) 13%, or (b) a rate equivalent to \$2,500 more than the then aggregate annual dividends on the underlying number of convertible shares (in this example, 6,250). The Notes would contain certain standard anti-dilution provisions to reflect changes in the basic equity capitalization of CSW. All terms are subject to change depending on market conditions, but under the example set out above with a \$50,000 maturity value, CSW has been

advised that 50% of the aggregate face value of the Notes would be added initially to common stock equity on the books of CSW while the remaining 50% of face value would be treated as debt.

CSW has requested that the proposed issuance and sale be expected from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) thereof on the grounds that the structure, complexity and uniqueness of this security do not lend themselves to competitive bidding and that competitive bidding is not necessary in the public interest for the protection of investors. CSW proposes to negotiate immediately the terms and conditions of the proposed public offering of the Notes with a managing underwriter. It may do so.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33590 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22752; (70-6534)]

Central and South West Fuels, Inc., et al.; Proposed Fuel Exploration and Development Budgets

December 3, 1982.

In the matter of Central and South West Fuels, Inc., 1800 Davis Building, 1309 Main Street, Dallas, Texas 75202; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana

71156; and West Texas Utilities, P.O. Box 841, Abilene, Texas 79604.

Central Power & Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEPCO") and West Texas Utilities ("WTU"), electric utility subsidiaries of Central and South West Corporation ("CSW"), a registered holding company, together with Central and South West Fuels, Inc. ("CSWF"), a fuel subsidiary of CPL, PSO, SWEPCO, and WTU have filed a post-effective amendment to their application-declaration with this Commission pursuant to Sections 9(a), 10, 12 and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 80-95 thereunder.

By orders dated December 28, 1978, March 30, 1979, May 11, 1979, May 31, 1979, June 28, 1979, July 31, 1979, October 31, 1979, April 1, 1980, March 30, 1981 and December 29, 1981 (HCAR Nos. 20864, 20933, 21046, 21071, 21124, 21165, 21234, 21506, 21985 and 22337), applicants-declarants were authorized fuel exploration and development budgets for the period January 1, 1979 through December 31, 1982. Applicants-declarants here request fuel exploration and development authorizations for the period January 1, 1983 through December 31, 1983.

CSWF and the operating companies have budgeted expenditures of \$17,919,000 for 1983 for lignite projects at the Dolet Hills Area, Louisiana, the Karnack-Woodlawn, South Hallsville, Walker-Grimes and Coastal States Areas of Texas and other lignite prospects. In addition \$1,791,900 has been budgeted as a contingency against cost overruns for lignite projects.

CSWF has budgeted \$542,000 for coal projects for the period plus \$54,200 as a contingency against cost overruns. Of this \$359,000 has been budgeted for land records maintenance and engineering work at its New Castle-Crystal Falls Area, Texas coal project and \$183,000 for transportation, engineering and feasibility studies related to various existing or prospective projects.

CSWF and the operating companies have budgeted \$5,000 for uranium expenditures for the period. An additional contingency amount of \$500 is budgeted to protect CSWF against unforeseen cost overruns. Most of these expenditures will be for land-related legal fees for PSO's uranium holdings.

Additionally, CPL, PSO and SWEPCO have budgeted \$20,700,000, \$10,000,000, and \$1,200,000, respectively, for the 1983 calendar year, for oil and gas exploration and development activities

to be conducted by them unilaterally or with entities not affiliated with any CSW operating company. CPL, PSO and SWEPCO have budgeted \$2,070,000, \$1,000,000 and \$120,000 respectively to protect against cost overruns.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33600 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22751; (70-6826)]

**Columbia Gas System, Inc., et al.;
Notice of Proposed Intrasystem
Financing and Issuance and Sale of
Commercial Paper and/or Notes to
Banks by Holding Company**

December 2, 1982.

In the matter of The Columbia Gas System, Inc., Columbia Gas System

Service Corporation, Columbia LNG Corporation, Columbia Alaskan Gas Transmission Corporation, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Gas Development of Canada Ltd., 639 5th Avenue, S.W., Calgary, Alberta, Canada T2P 0M9; Columbia Gas Development Corporation, 1700 West Loop, South, Houston, Texas 77027; Commonwealth Gas Pipeline Corporation, Commonwealth Gas Services, Inc., Commonwealth Propane, Inc., 200 South Third Street, Richmond, Virginia 23219; and Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., Columbia Coal Gasification Corporation, 340 17th Street, Ashland, Kentucky 41101.

The Columbia Gas System, Inc., ("Columbia"), a registered holding company, and its subsidiary companies named above have filed an application-declaration with this Commission pursuant to Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder.

It is proposed that certain subsidiaries of Columbia listed below issue and sell to Columbia prior to December 31, 1983, common stock and installment promissory notes up to the amounts indicated:

Subsidiaries	Equity			Installment notes aggregate amount (thousands)	Total (thousands)
	Number of shares (thousands)	Par value	Aggregate amount (thousands)		
Columbia of Kentucky				\$1,900	\$1,900
Columbia of Ohio	104	\$25	\$2,600	23,400	26,000
Columbia of Maryland	24	25	600	1,300	1,900
Columbia of New York	16	25	400	1,200	1,600
Columbia of Pennsylvania	68	25	1,700	11,900	13,600
Columbia of Virginia	24	25	600	900	1,500
Columbia of West Virginia				6,700	6,700
Columbia Transmission	520	25	13,000	100,000	113,000
Columbia Gulf Development				10,000	10,000
Development Canada				16,000	16,000
Commonwealth Propane				10,500	10,500
Commonwealth Services				400	400
Inland	20	10	200	1,000	1,000
				500	700
TOTAL			19,100	185,700	204,800

The installment notes will be unsecured, dated the date of issuance, and due in equal annual installments on January 31 of each year for a term which approximates that of the instrument issued by Columbia. Interest will accrue from the date of issuance and will be payable semi-annually. The interest rate will be equal to the actual cost of money to Columbia for its most recent sale of debentures or preferred stock. Installment notes issued by Development Canada will have the same provisions except that their interest will be due and payable only if and to the extent that it is determined, as of the end of such payment period, that Columbia will be able to reduce its United States consolidated income tax liability for the taxable year by the full amount of any foreign taxes paid or payable by Columbia with respect to such interest.

The subsidiaries have issued floating rate term notes to Columbia pursuant to the Commission's orders in File Nos. 70-6580 and 70-6673. These notes were to be repaid in single maturity on March 31, 1987, consistent with Columbia's repayment obligation for securities issued to a group of commercial banks under its Revolving Credit and Term Loan Agreement dated as of April 1, 1980 (HCAR No. 21546 (May 1, 1980)). Columbia entered into a new Credit Agreement dated August 1, 1982, which replaced the April 1980 agreement. Under the new agreement, the repayments of borrowings are scheduled in 16 equal quarterly installments from November 1, 1988, to August 1, 1992. It is proposed that the subsidiaries' repayment provisions of their floating rate term notes be modified to match Columbia's new repayment schedule. All other provisions of said notes are to remain unchanged in accordance with the Commission's previous authorizations.

It is stated that the proceeds from the issuance and sale of the common stock and installment notes, together with funds generated from internal sources, will be used to finance these subsidiaries' 1983 capital expenditures programs. Big Marsh Oil Company, Coal Gasification, Columbia LNG, Commonwealth Pipeline, Hydrocarbon, and Service are financing their entire capital expenditures from internally generated funds. Columbia Alaskan has previously received Commission approval for its financing requirements (HCAR No. 21793 (November 18, 1980)). The projected aggregate of net capital expenditures for all of the subsidiaries is estimated at \$434,038,000.

It is also proposed that Columbia advance on open account to certain subsidiaries, and have outstanding from time to time, up to an aggregate amount of \$969,500,000 to finance the purchase by such subsidiaries of underground storage gas inventories and liquid hydrocarbon inventories and to use for other short-term requirements. All of such advances are to be taken down by December 31, 1983. The funds are to be advanced, repaid, and reborrowed, as required from time to time, for periods not exceeding one year from the date of the advance. The subsidiaries' cost of money on all such short-term advances will be the effective cost incurred by Columbia on its short-term financing.

The proposed advances will be limited to the amount of each subsidiary's estimated short-term financing requirements as shown below:

[Dollars in thousands]	
Subsidiaries	Amounts
Columbia of Kentucky	\$35,000
Columbia of Ohio	275,000
Columbia of Maryland	4,000
Columbia of New York	10,500
Columbia of Pennsylvania	63,000
Columbia of Virginia	12,000
Columbia of West Virginia	75,000
Columbia Transmission	425,000
Columbia Gulf	15,000
Development	15,000
Hydrocarbon	12,000
Inland	2,000
Development Canada	5,000
Service	1,000
Commonwealth Propane	2,000
Commonwealth Services	11,000
Commonwealth Pipeline	2,000
Coal Gasification	5,000
Total	969,500

The above short-term requirements will be funded as follows: first, from temporary surplus cash from subsidiary companies through either the intra-system prepayments program or the intrasystem money pool, *infra*; and second, through short-term borrowings from Columbia which in turn are funded through the sale of commercial paper, bank borrowings, or by other means authorized by the Commission.

Columbia requests that, through December 31, 1983, the exemption from the provisions of 6(a) of the Act afforded it by the first sentence of 6(b), relative to the issuance and sale of short-term notes, be increased from 5% to approximately 30% and that Columbia be permitted to issue and sell through December 31, 1983, and/or have outstanding at any one time, up to \$525,000,000 principal amount of short-term notes. Generally, this is to enable Columbia to furnish funds to its subsidiaries for the purchase of gas for underground storage and liquid hydrocarbon inventories and for other

short-term financing requirements as shown above. Columbia's proposed short-term notes will be in the form of either commercial paper or notes to banks.

Columbia proposes to issue and sell commercial paper to one or more commercial paper dealers and continue to do so as long as the effective interest rate on such commercial paper is less than the effective interest cost which Columbia would have to pay on bank borrowings, except that, in order to obtain greater flexibility, commercial paper may be issued with an effective interest cost in excess of the effective interest cost on bank borrowings if the paper has a maturity of not more than 60 days from the date of issue. Commercial paper will be issued by Columbia in denominations of not less than \$50,000 nor more than \$5,000,000 and will be reoffered by the dealer or dealers in such a manner as not to constitute a public offering. Such commercial paper will be sold by Columbia to a dealer or dealers at a discount rate which will not be in excess of the then prevailing discount rate for similar commercial paper. No commission or fee will be payable by Columbia in connection with the issuance and sale of such commercial paper. The purchasing dealer, however, will reoffer such notes at a discount rate of up to 1% per annum less than such discount rate to the issuer.

Columbia currently has \$550,000,000 of bank lines of credit and intends to adjust that amount to \$525,000,000. In no event will the proposed commercial paper or proposed short-term bank borrowings exceed an aggregate amount of \$525,000,000. Borrowings under these confirmed lines of credit will be repaid within nine months from the date of issuance, and Columbia will have the right to repay such borrowings, in whole or in part, without penalty. It is anticipated that negotiations will result in borrowing costs at not more than the prime rate in effect from time to time, adjusted for the effect of compensating balances or fees in lieu thereof. Assuming a 7.0% compensating balance requirement and a prime rate of 12%, the effective cost would be 12.9%. Assuming a fee in lieu of balances of 1/4% and a prime rate of 12%, the effective cost would be 12.5%.

It is stated that during the winter heating season the distribution subsidiaries generate substantial amounts of cash in excess of their current requirements. During the same period, however, the transmission subsidiaries generate lesser amounts of cash, and their capital expenditures are

generally larger, with the result that Columbia must advance such subsidiaries funds under Commission authorization while the distribution subsidiaries have cash considerably in excess of their current requirements. Also, there are considerable fluctuations in the subsidiaries' cash flow on a day-to-day basis during each month due to their normal receipt and disbursement patterns. Accordingly, it is proposed that the subsidiaries, from time to time during 1983, temporarily prepay outstanding installment promissory notes and, for Development Canada, demand promissory notes with excess cash in aggregate amounts not to exceed the aggregate amounts of such notes owing to Columbia and, with respect to state regulated companies, the amount authorized by their respective state regulatory commission having jurisdiction. Interest on such indebtedness will cease upon prepayment and recommence upon reinstatement.

As such funds are thereafter required for construction and other corporate purposes, it is proposed that advances be made on open account to such subsidiary by Columbia in such aggregate amounts not to exceed the amount of indebtedness previously prepaid, less any current maturities applicable to notes which have matured subsequent to the date of prepayment. The open account loans will bear interest at the same rate or rates as borne by the equivalent principal amounts of indebtedness previously prepaid by such subsidiary during 1983. It is proposed that advances on open account to an individual subsidiary, as proposed herein, be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiary; however, at no time will the advances outstanding under the authority herein requested be in excess of the indebtedness prepaid theretofore. Either at such time as the advances equal the aggregate amount of indebtedness prepaid or, in any event, not later than December 31, 1983, the indebtedness that was prepaid will be reinstated and accepted by Columbia in repayment of the outstanding open account loans.

It is stated that certain subsidiary companies ("Lenders") generate excess cash from time to time that exceeds their debt obligations to Columbia. It is proposed that an intrasystem money pool be established for more efficient use of such cash within the system. Columbia would administer the money pool and coordinate loans to subsidiaries in need of such cash.

Columbia would not utilize any of the money pool funds for its own account. Loans to any subsidiary company ("Borrower") through the money pool would be made through December 31, 1983 pursuant to open account advances which are to be returned upon demand to the Lender(s). Each Borrower's loans will be allocated to each Lender based on the proportion of the Borrower's short-term open account advances to the aggregate of such advances. The total available money pool funds on any one day are solely the product of excess cash deposited by the Lenders.

The daily interest on outstanding money pool loans will be the weighted average daily cost to Columbia for its external short-term borrowing or, if no such borrowings are outstanding, the daily rate published in "The Wall Street Journal" for 30-day commercial paper notes sold through dealers by major corporations. The Lenders would receive interest income from the Borrowers in accordance with the above-mentioned pricing mechanism for their proportionate contribution through the money pool's administrator. Certain lenders are regulated by state commissions and require authorization from those commissions prior to the lending of funds. It is requested that loans and borrowings pursuant to the money pool be authorized to the extent of excess cash which may not be utilized in the prepayments program or, if there is a state regulatory commission with jurisdiction, to the extent authorized by such commission.

It is requested that the companies be authorized to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A Fitzsimmons,
Secretary.

[FR Doc. 82-33586 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22757; (70-6814)]

Consolidated Natural Gas Co., et al., Proposed Intrasystem Financing

December 3, 1982.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York 10005, a registered holding company and its subsidiary companies, CNG Producing Company ("Producing Company"), Consolidated Gas Supply Corporation ("Supply Corporation"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), and West Ohio Gas Company ("West Ohio"), have filed an application-declaration and an amendment thereto with this Commission pursuant to Sections 6, 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 42(b)(2), 45, and 50(a)(3) promulgated thereunder.

It is stated that certain companies in the Consolidated system temporarily accumulate cash over and above current requirements, for the most part because of large seasonal heating business. At the same time, Consolidated may require funds for working capital and for the financial requirements of other system companies. Therefore, Consolidated may be making short-term borrowings when subsidiaries with excess cash are making temporary money-market investments outside the system. Accordingly, applicants-declarants state that it would be advantageous to continue a procedure previously authorized by this Commission (HCAR No. 22327) which includes the temporary prepayment of subsidiary long term notes and the maintenance of open account advances in order to optimize the internal utilization of excess funds accumulated within the system.

It is proposed that the following subsidiaries make temporary prepayments on long-term notes held by Consolidated from excess cash funds, from time to time prior to December 31, 1983, not exceeding at any time the amounts set forth below:

East Ohio	\$75,000,000
Peoples	15,000,000
Producing Company	10,000,000

Supply Corporation	50,000,000
West Ohio	3,500,000
Total	153,500,000

Consolidated estimates that the aggregate prepayment of \$153,500,000,000 is the maximum that can be utilized for the temporary financing of system requirements during 1983.

The long-term notes temporarily prepaid by an individual subsidiary will be those bearing the highest interest rate outstanding at the time of each prepayment. Interest on such notes will cease upon prepayment and start again upon reinstatement of the notes. As funds are thereafter required by such subsidiary for corporate purposes, including construction, it is proposed that advances be made on open account to the subsidiary by Consolidated in an aggregate amount not to exceed the amount of long-term notes previously prepaid, less any current maturities applicable to notes which have matured subsequent to the prepayment dates. The open account advances will bear interest during 1983 at the same rate or rates as borne by the equivalent principal amounts of the notes previously prepaid by such subsidiary but in reverse order to that of the prepayments, i.e., from the lowest rate on the notes previously prepaid to the highest rate. Interest on the open account advances will commence on the date of the advance and will become due on June 30, 1983, and December 31, 1983, and/or on the date such advances are repaid by the reinstatement of the prepaid notes.

It is proposed that open account advances to a subsidiary be increased or decreased from time to time in accordance with variations in the cash flow of the subsidiary. At no time will the advances outstanding be in excess of the notes prepaid. At such time as the open account advances equal the aggregate amount of the prepaid notes, or in any event not later than December 31, 1983, the notes prepaid by a subsidiary will be reinstated in repayment of the related outstanding open account advances made to the subsidiary by Consolidated. If the aggregate of the notes prepaid exceeds such advances at the end of 1983, Consolidated proposes to make cash repayment of the difference in order to effect reinstatement of the proposed notes in full. No financing of any subsidiary which may be presently or subsequently authorized by this Commission in connection with the construction or gas storage programs of

any such subsidiary will be consummated until such time as advances have been made in an amount equal to the amount of notes prepaid.

It is stated that the proposed transactions will be beneficial to the system because they will: (1) Permit subsidiary companies with excess cash to prepay temporarily long-term notes held by Consolidated, with a resulting reduction in their interest expense; (2) make available to Consolidated a temporary cash source for working capital and for the financing of other companies within the system; and (3) permit Consolidated, which obtains all external financing required by the system, to defer or prepay short-term financing such as inventory loans with banks and commercial paper borrowings for working capital.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33593 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 12867]

First Boston Corp.; Filing of Application

December 3, 1982.

Notice is hereby given that The First Boston Corporation ("First Boston"), Park Avenue Plaza, New York, New York 10055, has filed an application on October 1, 1982, and an amendment thereto on November 2, 1982, pursuant to Section 9(c) of the Investment Company Act of 1940 ("the Act") for an

order exempting First Boston permanently from the provisions of Section 9(a) of the Act in respect of the facts and circumstances described therein and for an order of temporary exemption from Section 9(a) pending the determination of the Commission on its application for permanent exemption.

First Boston states that it is a Massachusetts corporation and is registered as a broker-dealer under Section 15 of the Securities Exchange Act of 1934 and as an investment adviser under the Investment Advisers Act of 1940. First Boston states that it engages in the investment banking business and buys and sells securities for its own account and the accounts of others. According to First Boston, it is wholly-owned by First Boston, Inc., a Delaware corporation and a holding company the shares of which are registered pursuant to Section 12(g) of the Securities Exchange Act of 1934 and traded in the over-the-counter market in the United States.

On August 12, 1982, the Liquidity Fund for Thrifts, Inc., a Maryland corporation ("Fund"), filed with the Commission a notification of registration on Form N-8A under the Act as an open-end, diversified management investment company and a registration statement on Form N-1 under the Act and the Securities Act of 1933. The Fund will offer two separate portfolios of money market instruments. Each portfolio will be represented by a separate class of shares. These shares will be offered to savings and loan associations and other financial institutions which are members of, or eligible for membership in, the Federal Home Loan Bank System. If First Boston's application is granted, First Boston will act as the Fund's investment adviser.

On November 25, 1975, the Commission commenced an action in the United States District Court for the District of Columbia entitled *Securities and Exchange Commission v. American Institute Counselors, Inc. et al.* (75 Civ. 1965) against various defendants, including Credit Suisse (which was referred to in such action, and is hereinafter referred to as Swiss Credit Bank), alleging violations of various provisions of the federal securities laws. Swiss Credit Bank, without admitting or denying any of the allegations of the Complaint, stipulated to the entry of a Final Order terminating the action against it, with prejudice, and entered into a Stipulation and Undertaking with the Commission.

The Final Order provides that Swiss Credit Bank shall not, directly or indirectly, make use of any means or

instruments of transportation or communication in interstate commerce or of the mails to sell, offer to buy or sell, or carry or cause to be carried any of the Progress Securities (as defined in the Final Order) except in accordance with the provisions of Section 5 of the Securities Act of 1933. The order further provides that Swiss Credit Bank shall not transact business with any member of the Progress Group (as defined in the Final Order) when such member is acting as a broker-dealer or investment adviser or is engaging in investment company activities unless such member has complied with the applicable registration requirements of the securities laws of the United States.

Applicant states that in 1978, First Boston, Inc. entered into an agreement with Swiss Credit Bank and Societe Anonyme Financiere du Credit Suisse et de White Weld (subsequently renamed Financiere Credit Suisse-First Boston) under which First Boston, Inc. has since acquired approximately 34% of the outstanding voting stock of Financiere Credit Suisse-First Boston ("Financiere") and Financiere has since acquired approximately 44% of the outstanding voting stock of First Boston, Inc. To the best of Applicant's knowledge, approximately 49% of the outstanding voting stock of Financiere is beneficially owned by a Swiss holding company named CS Holding which in turn is owned by the CS Anniversary Foundation, a charitable foundation. Members of Swiss Credit Bank's management are represented on the Board of this foundation. In addition, the Chairman of Financiere is also the President of Swiss Credit Bank. In light of these relationships it might be alleged that Financiere and Swiss Credit Bank are "affiliated persons" of each other within the meaning of Section 2(a)(3) of the Act and, therefore, that Swiss Credit Bank is an "affiliated person" of First Boston within the meaning of such section. In order to avoid any uncertainty, First Boston assumes solely for the purpose of its application that Swiss Credit Bank is an "affiliated person" of First Boston within the meaning of Section 2(a)(3) of the Act, with the result that First Boston would, to the extent that Section 9(a) of the Act is applicable by virtue of the entry of the Final Order referred to above against Swiss Credit Bank, be ineligible to serve as Fund's investment adviser. Section 9(a) of the Act, insofar as it is pertinent here, makes it unlawful for a company to serve as an investment adviser of any registered investment company if any affiliated person of such company has, by reason of any misconduct, been

enjoined by order of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) of the Act provides that, upon application, the Commission by order shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

First Boston submits that the prohibitions of Section 9(a) of the Act, to the extent applicable by virtue of the entry of the Final Order against Swiss Credit Bank, would be unduly and disproportionately severe as applied to First Boston and that the conduct of Swiss Credit Bank and First Boston has been such as not to make it against the public interest or protection of investors to grant this Application. In support of this submission, First Boston represents that (1) at the time of the alleged violations of the federal securities laws by Swiss Credit Bank which resulted in the final order, Swiss Credit Bank was not an affiliated person of First Boston within the meaning of the Act and (2) First Boston did not participate in any of the conduct alleged to have constituted such violations. First Boston states that it believes that its ability to serve as the Fund's investment adviser and to comply as investment adviser with the requirements of the Act is not in any way impaired, or even apparently impaired, by the existence of the Final Order against Swiss Credit Bank.

After its registration statement on Form N-1 is declared effective under the Securities Act of 1933, the Fund wishes to commence selling its shares publicly to investors in late November, 1982. First Boston therefore applies for a temporary order of exemption from the provisions of Section 9(a) so that any delay in the commencement of the Fund's operations can be avoided or at least minimized.

The Commission has considered the matter and finds that:

1. The prohibitions of Section 9(a) may be unduly or disproportionately severe as applied to First Boston in that First Boston did not participate in any of the alleged conduct set forth in the Commission's Complaint and that the conduct of Swiss Credit Bank has been such as not to make it against the public interest or protection of investors to grant the application of First Boston for

a temporary exemption from Section 9 (a) pending determination of the application; and

2. In order not to delay the investment advisory services rendered by First Boston to the Fund, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary order be issued forthwith.

Accordingly, it is ordered, pursuant to Section 9(c) of the Act, that First Boston is hereby temporarily exempted from any of the provisions of Section 9(a) of the Act operative as a result of the entry of the Final Order against Swiss Credit Bank in *Securities and Exchange Commission v. American Institute Counselors, Inc., et al.*, pending final determination by the Commission of First Boston's application for an order exempting First Boston from any of the provisions of Section 9(a) operative as a result of the entry of such Final Order.

Notice is further given that any interested person may, not later than December 27, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.
George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33566 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12868; (812-5318)]

**First Investors Tax Exempt Fund, Inc.;
Filing of an Application**

December 3, 1982.

Notice is hereby given that First Investors Tax Exempt Fund, Inc. ("Applicant"), 120 Wall Street, New York, NY 10005, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on September 17, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 22(d) of the Act to the extent necessary to permit the sale of shares of Applicant at a reduced sales charge to participants in a reinvestment program to be offered to unitholders of Investors Municipal Pennsylvania Trust Series 1 through 4 and to unitholders of Pennsylvania Quality Tax Exempt Trust, Series 5 and Subsequent Series ("Trusts"), registered under the Act as a unit investment trust. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to provide a high level of tax exempt income by investing in a managed portfolio of debt obligations, the interest on which is exempt from federal and Pennsylvania state income taxes, and the principal and interest payments on which are insured by an independent insurance company. First Investors Management Company, Inc. ("Adviser") is the investment adviser of the Applicant. Applicant states that the Trust Series 1 through 3 were sponsored by Butcher & Singer, and that Series 4 and Subsequent Series are sponsored by Van Kampen Merritt Inc. (formerly Van Kampen Filkin & Merritt Inc.), a broker-dealer registered under the Securities and Exchange Act of 1934. The trustee of the Trusts is United States Trust Company of New York, for Series 1 through 4, and Bradford Trust Company for Series 5 and Subsequent Series.

Applicant states that its shares are offered for sale to the public at net asset value plus a sales charge which varies from 7.25% to 1.25% of the offering price based upon the amount invested. The minimum initial investment in Applicant is \$2,000 and subsequent investments must be made in amounts of \$500 or more. Shareholders of Applicant may reinvest dividends declared on shares of Applicant at the net asset value in effect at the close of business on the dividend reinvestment date.

Applicant proposes to permit unitholders of the Trusts to reinvest their distributions of interest, capital gains and principal on units of the Trusts in shares of the Applicant at net asset value plus a sales charge of 0.4%, a purchase price which is less than the current public offering price described in Applicant's prospectus, without regard to Applicant's minimum initial investment requirements. The application states that all unitholders of the Trusts will be eligible to participate in the reinvestment programs, but will be required to reinvest the entire amount of all future semi-annual, quarterly or monthly distributions from any series of the Trusts. The application further states that unitholders of the Trust will be provided with a prospectus of Applicant prior to becoming participants in the reinvestment plans. Applicant states that each prospectus of future series of the Trusts will disclose the existence of the reinvestment privilege and provide a means for unitholders to indicate interest in reinvesting distributions in shares of the Applicant. Unitholders who have elected to participate in the reinvestment program will be entitled to all rights of any shareholders of Applicant but will not be entitled to a reduced sales charge for quantity purchases of Applicant's shares and will not have the right to exchange shares of Applicant acquired pursuant to the reinvestment program for shares of other companies managed by the Adviser. The application states that any participant wishing to purchase shares of Applicant outside the reinvestment program will be required to satisfy Applicant's minimum investment requirements.

According to the application: (1) On each distribution date, or immediately thereafter, the trustee for the Trusts will forward funds representing participants' distributions of interest income, capital gains and principal to Applicant's co-underwriters who will purchase shares of Applicant for each participant at the net asset value per share next determined after receipt of the purchase order, plus a sales charge of 0.4% and (2) the transfer agent will maintain separate accounts for each participant in the reinvestment program and will mail confirmations concerning transactions to each participant. The application further states that a participant may elect to terminate participation in the reinvestment program and receive future distributions in cash by notifying the trustee for the Trusts in writing at least five days prior to the distribution date.

Applicant states that its prospectus will be amended to state that unitholders of the Trusts will be permitted to invest their distributions in shares of Applicant at net asset value per share plus a reduced sales charge of 0.4% of the offering price, and states that the Adviser will retain the entire 0.4% sales charge and will bear the distribution expenses associated with the reinvestment programs.

Section 6(c) of the Act, provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that Section 22(d) of the Act is intended to ensure that all investors purchase investment company securities on an equal basis and to prevent dilution of existing shareholders' equity. It asserts that because participants in the reinvestment program will be required to purchase shares at current net asset value plus a sales charge, the equity of existing shareholders will not be diluted. Applicant further asserts that the reduced sales charge is fair and equitable and in the best interests of Applicant's shareholders. In support of these assertions Applicant states that it believes that the sales costs associated with sales made pursuant to the reinvestment program will be lower than the costs associated with other sales of its shares. Applicant submits that such savings should be passed on to investors in the form of lower sales charges, and states that it believes the 0.4% sales charge to be sufficient to cover the increase in distribution expenses arising from the program. Applicant further states that its shareholders will benefit from the reinvestment program because an increase in Applicant's cash flow will enable it to meet redemptions without liquidating investments in its portfolio and will enable it to diversify further its securities holdings. Therefore, Applicant submits that the exemption it requests is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 28, 1982, at 5:30 p.m., submit

to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33599 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

December 3, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12 (f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Advest Group, Inc.

Common Stock, \$1 Par Value (File No. 7-6381)

First Bankers Corporation of Florida

Common Stock, \$1 Par Value (File No. 7-6382)

Chase Manhattan Corporation

Series E Floating Rate Cumulative Preferred Stock No Par Value (File No. 7-6383)

Chemical New York Corporation

Adjustable Rate Cumulative Preferred Stock, \$50 Par Value (File No. 7-6384)

Manufacturers Hanover Corporation

Preferred Stock with Cumulative & Adjustable Dividends Series B, \$50 Par Value (File No. 7-6385)

Northwest Bancorporation

Preferred Stock with Cumulative Adjustable Dividends \$50 Par Value (File No. 7-6386)

BankAmerica Corporation

Cumulative Adjustable Preferred Stock, Series A No Par Value (File No. 7-6387)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 27, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33589 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19292; File No. SR-MSRB-82-13]

Municipal Securities Rulemaking Board; Filing of Proposed Rule Change

December 2, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 16, 1982, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends MSRB Rule G-12(e)(v) to permit delivery of tax-exempt notes in denominations smaller than those specified in an inter-dealer trade confirmation if the notes delivered can be aggregated to constitute the denominations specified. Under current MSRB rules, a delivery of notes must be made in the denomination specified on the inter-dealer confirmation and a dealer may reject a delivery of non-conforming denominations. The MSRB states that

the industry, to better facilitate the completion of transactions in notes, informally has developed the practice of accepting deliveries smaller than those specified in the confirmation if the delivered notes can be aggregated to constitute the specified denominations. The MSRB believes it appropriate to codify this widespread practice and avoid unnecessary rejections of such non-conforming deliveries of municipal notes.

The rule change is proposed pursuant to Section 15B(b)(2)(c) of the Act. The MSRB believes that the rule change will promote competition among municipal securities brokers and dealers by removing a technical impediment to the free trading of tax-exempt notes.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-82-13.

Copies of the submission, all subsequent amendment, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and or any subsequent amendments also will be available for inspection and copying at the MSRB's office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33592 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

¹ 17 CFR 200.3C-(a)(12).

**Philadelphia Stock Exchange, Inc.;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing**

December 3, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Cooper Industries, Inc.
Common Stock, \$5 Par Value (File No. 7-6388)
Cray Research, Inc.
Common Stock, \$1 Par Value (File No. 7-6389)
Mitel Corporation
Common Stock, No Par Value (File No. 7-6390)
Noble Affiliates, Inc.
Common Stock, \$3.33 1/2 Par Value (File No. 7-6391)
Southwest Airlines Company
Common Stock, \$1 Par Value (File No. 7-6392)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 27, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33591 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19294; (SR-Phlx-82-10)]

**Philadelphia Stock Exchange, Inc.;
Order Approving Proposed Rule
Change**

December 3, 1982.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, submitted on

October 6, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to require, under Phlx proposed Rule 274, specialists and alternate specialists to file daily reports with the Phlx setting forth the closing position in each Phlx primary issue in which such specialist or alternate specialist is registered, as well as the name of the bank, broker-dealer or clearing corporation carrying and providing financing for any such position. With respect to specialists who clear through a registered clearing corporation or use the service of another broker-dealer to clear their positions, compliance with the rule may be achieved by an arrangement whereby such clearing corporation or broker-dealer automatically provides to the Phlx the information requested by the proposed rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19124, November 1, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulations pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33601 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22758; (70-6827)]

**Public Service Company of Oklahoma,
Ash Creek Mining Company; Proposal
To Extend Short-Term Loans To
Mining Subsidiary**

December 3, 1982.

Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, an electric utility subsidiary of Central and South West Corporation, a registered holding company, and Ash Creek Mining Company ("Ash Creek"), a mining subsidiary of PSO, have filed with this Commission an application-declaration pursuant to Sections 6, 7,

9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 45 thereunder.

By order dated November 30, 1976 (HCAR No. 19777), PSO was authorized to organize and acquire all of the authorized common stock of Ash Creek, and to transfer to Ash Creek all of its existing coal interests in exchange for Ash Creek's common stock having an aggregate par value equal to PSO's capital costs relating to the coal interests. PSO transferred to Ash Creek properties having a cost basis of \$3,839,040 in return for 383,904 shares of Ash Creek's common stock, par value \$10 per share. Additional properties have not yet been transferred and remain in PSO ownership. PSO was also authorized to make short-term loans to Ash Creek, through December 31, 1977, in the form of either open account advances or evidenced by notes, in an aggregate amount not to exceed \$12,500,000 at any one time outstanding, to finance Ash Creek's fuel programs. That authorization has subsequently been extended. In the most recent supplemental order dated December 17, 1981 (HCAR No. 22322), PSO was authorized to continue its financing of Ash Creek through December 31, 1982 up to a principal amount outstanding at any one time of \$1,975,000. It is estimated that the aggregate amount of financing will be \$1,650,000 on December 31, 1982.

Applicants-declarants request an extension of PSO's authorization to finance Ash Creek through December 31, 1983, in the maximum principal amount of \$2,171,500 outstanding at any one time. Said amount includes \$521,500 to cover budgeted expenditures through December 31, 1983.

It is stated that PSO and Ash Creek do not contemplate further development of the coal interests described in this filing and that they continue to hold and maintain them until they can negotiate a satisfactory sale of the interests to a non-affiliate.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the

issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33596 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19301; File No. SR-PSDTC-82-5]

Pacific Securities Depository Trust Co.; Filing of Proposed Rule Change

December 6, 1982.

The Pacific Securities Depository Trust Company ("PSDTC") submitted a proposed rule change on November 16, 1982, pursuant to Rule 19b-4, which authorizes PSDTC to implement a new system called the National Institutional Delivery System ("NIDS"). NIDS permits institutional trades among PSDTC members in PSDTC-eligible securities to be electronically confirmed, affirmed and settled at PSDTC and provides members access to the Institutional Delivery System of the Depository Trust Company ("DTC") for the confirmation, affirmation and settlement of trades with participants of DTC.

Trades that are to be settled at PSDTC may choose one of three settlement methods: Trade for Trade, Continuous Net System ("CNS") or comparison only option. The agent bank determines the method of settlement. If the agent bank selects the CNS method the agent bank or institution has up to 8 days to affirm the trade in order for it to be automatically settled through CNS.

Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the Federal Register. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450, 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-PSDTC-82-5.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 5th Street, N.W.,

Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33596 Filed 12-9-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19289; File No. SR-NASD-82-26]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Changes in the Charges for Qualification Examinations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 24, 1982 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association proposes to amend Schedule C of the bylaws to raise the service charge for failing to keep a previously scheduled examination appointment to \$30.00.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The rule change recognizes an increase in the charge to the Association for persons not appearing for previously-scheduled computer based

administration of qualification examinations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association anticipates no significant burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 2, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33588 Filed 12-9-82; 8:45 am]

BILLING CODE 9010-01-M

[Release No. 34-19295; File No. SR-
PHILADEP-82-8]

**Self-Regulatory Organizations;
Proposed Rule Change by Philadelphia
Depository Trust Co. Relating to
Short-Charge Capability on Dividend
and Bond Interest Claims**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on Nov. 12, 1982, Philadelphia Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

Philadelphia Depository Trust Company (PHILADEP) proposes a new rule and procedures whereby it may change back dividends and bond interest to a participant when deposited securities have missed record date processing into PHILADEP's nominee. The rule also provides that PHILADEP may charge back to a participant any dividend, interest payment, or other distribution which it had previously paid out but was subsequently unable to collect due to the default of the paying corporation. The text of the proposed rule change is attached as Exhibit A. The relevant procedures are attached as Exhibit B.

**II. Self-Regulatory Organization's
Statement of Purpose of, and Statutory
Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements:

**A. Self-Regulatory Organization's
Statement of Purpose of, and Statutory
Basis for, the Proposed Rule Change**

The proposed rule change is being adopted in response to the difficulties encountered by PHILADEP's Dividend Department in claiming dividends and bond interest from individual customers of participants or from companies which are not participants of PHILADEP. The process is time consuming and ultimately unsuccessful in many cases. Therefore, PHILADEP proposes to change back to the participant submitting such securities for its customer or a non-participant any dividends or bond interest which were paid out in error due to the failure of such bonds/shares to be transferred into PHILADEP's nominee by record date. PHILADEP will follow a formal process as outlined in the Procedures before charging back a dividend or interest payment to a participant.

PHILADEP also intends in this rule to clarify its right with regard to dividends or interest it has paid out but which subsequently proves uncollectable due to the default of the paying corporation, or due to outstanding "stop-transfer" orders against the certificates, or which simply was the result of an overpayment error.

The proposed rule change is consistent with the provisions of Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 ("the Act") in promoting the prompt and accurate clearance and settlement of securities transactions. The proposed rule change will enhance PHILADEP's efficiency in settling dividend claims which it otherwise might have difficulty in collecting.

**B. Self-Regulatory Organization's
Statement on Burden on Competition**

PHILADEP does not perceive any impact on competition, negative or positive, resulting from the proposed rule change.

**C. Self-Regulatory Organization's
Statement on Comments on the
Proposed Rule Change**

Comments have not been solicited on the proposed rule change; however, the procedures were developed after consultation with some participants.

**III. Date of Effectiveness of the
Proposed Rule Change and Timing for
Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying in the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 3, 1982.

George A. Fitzsimmons,
Secretary.

**Exhibit A—Short-Charge Capability on
Dividend and Bond Interest Claims**

Proposed PHILADEP Rule

If a participant delivers securities to the Depository prior to record date and within the cut-off dates established in the dividend operating procedures, and PHILADEP, in the exercise of reasonable care and diligence, is not able to have such shares/bonds transferred into its nominee name by the record date, the Depository will charge back the amount of the dividend or distribution with respect to such securities in the manner described in the procedures against any participant in whose account such securities were deposited either in the participant's name, or in the name of its nominee, or in the

name of a person or company which is not a participant of the Depository.

PHILADEP will charge back to participants any dividend, interest payment, or other distribution which it had previously paid out but was subsequently unable to collect due to a default of the paying corporation.

PHILADEP will charge back to participants any dividend, interest payment, or other distribution which it had previously paid out but was subsequently unable to collect due to outstanding "stop-transfer" orders against certificates presented to PHILADEP for deposit.

PHILADEP will charge back to participants any dividend, interest payment, or other distribution which it had previously paid out but was subsequently found to be an overpayment as a result of an error.

Should PHILADEP fail to receive certificates representing a stock dividend, stock split, or similar distribution from any participant for more than 30 days after the payable date, PHILADEP will take necessary steps to obtain such certificates in the manner described in the dividend operating procedures.

Notwithstanding the provisions of this rule, PHILADEP reserves the right to charge back to a participant any overpayment prior to the time period specified in the procedures if such action is deemed necessary by management due to an unusual circumstance.

Exhibit B—Short-Charge Capability on Dividend and Bond Interest Claims

Procedures

Overview

This document describes the procedures that PHILADEP will follow to charge participants' depository accounts for dividend and bond interest distributions on participant, non-participant, or customer registered certificates that miss record date processing. It further describes the procedures that will be followed to charge back dividends or bond interest in the event PHILADEP pays out to a participant but is subsequently unable to collect due to a default of the paying corporation.

Proof of Claim

PHILADEP will notify participants of an overpayment through a formal dividend claim notice that will provide a detailed explanation of the claim and any supporting documentation. Supporting documentation might include the following:

1. A photostate of the certificates held by PHILADEP on the record date.
2. Proof from the transfer agent verifying registration.
3. A photostat of a cancelled check.
4. A photostate of any other relevant documents.

Timing of Claim

Claims may be initiated any time after record date. If a security should miss record date and the PHILADEP Dividend Department is aware of the situation prior to payable date, a new adjusted record date confirmation notice will be prepared and sent to the participant. This adjusted confirm notice will be accompanied by supporting

documentation. The notice will advise the participant that his record date position for a specific security has changed, and will report the new dividend amount that will be paid on the payable date.

Claims sent to participants by PHILADEP after payable date will automatically be charged to the participant's depository account in accordance with the following schedule:

1. Participants' accounts will be charged automatically on the 10th business day after the date the dividend claim is prepared for all claims less than 30 days old based on payable date.

2. Participants' accounts will be charged automatically on the 30th calendar day after the date the dividend claim is prepared for all claims 31 days old, but less than 180 days old based on payable date.

3. Participants' accounts will *not* be charged automatically for any dividend claims that are more than 180 days old based on payable date. Participants will remain liable for the outstanding claims until settled.

4. Participants' accounts will be charged on the date specified on the notice of claim for all dividends or interest previously paid to the participant on which the paying corporation subsequently defaulted.

5. Participants' accounts will be charged on the date specified on the notice of claim for all dividend and interest previously paid to the participant against certificates that are subsequently reported to have "stop transfer orders" against the certificates on the books of the transfer agent.

Rejection of Claim

Participants may reject short-charge claim notices provided they are received by the PHILADEP Dividend Department prior to the charge date. An explanation must accompany the return claim. The name of the person rejecting the claim must be included on the notice for the rejection to be considered valid by the depository.

Cut-off Dates

PHILADEP uses dividend cut-off dates which may differ from actual record date to determine the dividend or interest entitlement for the participant for each security. The purpose of the cut-off dates, which are based on the geographic locations of the transfer agents, is to provide the Depository with sufficient time to forward certificates to transfer agents by the published record date.

[FR Doc. 82-33594 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19293; File No. SR-PHLX 82-12]

Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Net Commission Charges

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 28, 1982, the Philadelphia Stock Exchange, Inc., filed with the Securities and Exchange

Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to adopt amendments to its by-laws and rules pertaining to the imposition of charges against member organizations based on their respective net commissions on transactions effected on the Floor of the Exchange.

II. Purpose of and Statutory Basis for Proposed Rule Change

The by-law and rule changes herein proposed clarify the authority of the Exchange's Board of Governors to impose charges, established prior to the enactment in 1975 of amendments to the Securities Exchange Act, against member organizations based on commissions earned from transactions effected on the Floor of the Exchange.

In addition, the Exchange proposes to promulgate rules which formalize long existing procedures by which member organizations on a monthly basis report commissions earned and pay the appropriate charge to the Exchange. Moreover, to encourage prompt reporting and payment the Exchange also proposes to increase the pertinent late charges. These rule changes are proposed pursuant to Section 6(b)(4) of the Securities Exchange Act consistent with the Exchange's obligation to provide for the equitable allocation of dues, fees and other charges. A detailed explanation of these rule changes follow below.

By-Law Section 14-2 and Rule 714

These sections are being amended so as to restate and clarify the Exchange's long standing authority to impose a charge against its member organizations based on transactions effected on the floor of the Exchange. These amendments are intended to enforce and not displace the charge imposed by the Board of Governors in its Circular No. 91 dated September 10, 1974.

Rule 715

This newly promulgated rule codifies the long existing practice of monthly reporting and payment of the appropriate charges.

Rule 716

This newly promulgated rule increases the charges for the late payment or reporting of floor brokerage commission fees from those charges prescribed by Exchange Rule 50 to \$100 for each week or any part thereof that either a report or a payment is late.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose and basis for the proposed rule change and discussed any comments received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the by-law and rule amendments is to clarify the authority of the Board of Governors to impose charges against member organizations based on commissions earned from the transactions effected on the Floor of the Exchange, to require monthly reporting and payment of such charges and to increase the consequences of tardy reporting or payment. The statutory basis for these amendments lies in Section 6(b)(4) of the Securities Exchange Act of 1934.

B. Self-Regulatory Organization's Statement on Burden on Competition

The rule changes impose no burden on competition. Its purpose is to improve existing disciplinary procedures.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments have been solicited or received on the proposed rule change.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii)

as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 3, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-33587 Filed 12-9-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-5264]

**Evergreen Capital Company, Inc.;
Application for a License To Operate
as a Small Business Investment
Company**

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Evergreen Capital Company, Inc.

The officers, directors and stockholders of the Applicant are as follows:

Shen-Lim Lin, 3307 Ashfield Drive,
Houston, Texas 77082; Chairman of
the Board; 65 percent

Thomas C. H. Chen, 11423 Overbrook,
Houston, Texas 77077; President and
Director; 30 percent

Hsien-Wei Feng, 1723 Crosscoach,
Houston, Texas 77449; Director; 5
percent

Li-Mei Lin, 3307 Ashfield Drive,
Houston, Texas 77082; Secretary and
Treasurer and Director

The Applicant, a Texas corporation, with its principal place of business at 8502 Tybor Drive, Suite 201, Houston, Texas 77074 will begin operations with \$700,000 paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally in the Houston, Texas area.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 8, 1982.

Robert G. Lineberry,
Deputy Associate Administrator for
Investment.

[FR Doc. 82-33676 Filed 12-9-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 238

Friday, December 10, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, December 14, 1982.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street N.W., 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. Interim Regulations with Comment Period Implementing Section 4(g) of the Age Discrimination in Employment Act of 1967, as amended.

Closed:

1. Litigation Authorization; General Counsel Recommendations

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: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued December 7, 1982.

[FR Doc. S-1798-82 Filed 12-8-82; 1:01 pm]

BILLING CODE 6570-06-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., December 15, 1982.

PLACE: Hearing Room One, 1100 L Street NW, Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Matson Navigation Company, Inc., 7.5 percent general rate increase.
2. Agreement No. 9615-35: Modification of the Iberian/U.S. North Atlantic Westbound Freight Conference Agreement to expand its alternate port service and for other purposes.
3. Agreement No. 2848-51: Modification of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference Agreement to expand its European inland rate authority.
4. Agreement No. 93-26: Modification of the North Europe-United States Pacific Freight Conference Agreement to extend its independent action provisions.
5. Agreements Nos. 2744-47 and 7590-32: Modifications of the Atlantic & Gulf/West Coast of South America Conference Agreement and the East Coast Colombia Conference Agreement to change their respective scopes of operations.
6. Agreement No. 3868-27: Modification of the Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference to clarify and restate the language of the existing agreement.
7. Agreement No. 10440: Establishment of the Lykes/Linabol Space Charter and Equal Access Agreement.
8. Agreement No. 10041-9: Proposed six-month extension of the U.S. Atlantic/Peru Pool, and Agreements Nos. 10044-7 and 10044-8: Proposed five-year extension and amendment, respectively, of the U.S. Gulf/Peru Pool.

Portion closed to the public:

1. Agreement No. 10364-1: Proposed three-year extension of the Sea-Land/Hanjin Space Charter.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-2527.

[S-1793-82 Filed 12-7-82; 4:58 pm]
BILLING CODE 6730-01-M

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-2527.

Portion closed to the public:

1. Agreement No. 10364-1: Proposed three-year extension of the Sea-Land/Hanjin Space Charter.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-2527.

[S-1793-82 Filed 12-7-82; 4:58 pm]

BILLING CODE 6730-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-54]

TIME AND DATE: 2:30 p.m., Tuesday, December 21, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
 - a. Certain Crib Toys (Docket No. 893).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1794-82 Filed 12-8-82; 9:09 am]

BILLING CODE 7020-02-M

4

LEGAL SERVICES CORPORATION

Meeting of the Board of Directors

TIME AND DATE:

2:00 p.m., 5:00 p.m., Thursday, December 16, 1982.

9:00 a.m., 5:00 p.m., Friday, December 17, 1982.

PLACE: Hyatt Regency Washington, 400 New Jersey Avenue, N.W., Columbia B Room, Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

- Adoption of agenda
- Approval of minutes
- Introduction of Legal Services Corporation President
- Board action on proposed regulations
- Board action on committee recommendations:
 - A. *Special Committee on Grant and Contract Procedures*
 - i. Grant terms and conditions
 - ii. Funding allocations
 - B. *Committee on Audit and Appropriations*
 - i. 1983 budget recommendations
 - ii. 1983 budget
 - C. *Committee on Operations and Regulations*
 - D. *Inspector General By-Law proposal*
 - E. *Committee on Provisions of Legal Services*

CONTACT PERSON FOR MORE

INFORMATION: LeaAnne Bernstein, Secretary of the Corporation (202) 272-4040.

Dated: November 24, 1982.

William F. Harvey,
Chairman of the Board.

[S-1795-82 Filed 12-8-82; 11:48 am]

BILLING CODE 6820-35-M

5

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, December 16, 1982.

PLACE: Seventh floor board room, 1776 G Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Central Liquidity Facility Reserving Policy.
3. Final Interpretive Ruling and Policy Statement on the Statutory Lien.
4. Proposed change to the membership voting requirements in voluntary liquidations.
5. Proposed field of membership expansion so that community Federal credit unions can include occupational and/or associational type groups located outside of their field of membership boundaries.
6. Proposed community charter of Tri-City Community Federal Credit Union.
7. Proposed conversion to community charter for Lukens Employees Federal Credit Union.
8. Briefing on current activities in the Department of Legal Services.

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Thursday, December 16, 1982.

PLACE: Seventh floor board room, 1776 G Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Field of membership amendments. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Requests from Federally insured credit unions for special assistance under Section [206(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT:

Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1799-82 Filed 12-8-82; 1:01 pm]

BILLING CODE 7535-01-M

6

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL
(Northwest Power Planning Council)

ACTION: Notice of meeting date and place correction.

STATUS: Open.

SUMMARY: The Council meeting scheduled for December 29 and 30, 1982 at the Hilton Hotel in Portland, Oregon has been changed to December 28, 1982, and continuing on December 29, 1982 if necessary, commencing at 9:00 a.m. Notice of this meeting was originally published in the *Federal Register* on December 2, 1982 (47 FR 54409). All other information contained in the original notice remains the same.

FOR FURTHER INFORMATION CONTACT:

Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1797-82 Filed 12-8-82; 8:45 am]

BILLING CODE 9000-00-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 13, 1982, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, December 14, 1982, at 10:00 a.m. An open meeting will be held on Wednesday, December 15, 1982, at 10:00 a.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to

be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8) (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 14, 1982, at 10:00 a.m., will be:

Litigation matters.

Formal order of investigation.

Institution of administrative proceeding of an enforcement nature.

Institution of injunctive actions.

Opinion.

The subject matter of the open meeting scheduled for Wednesday, December 15, 1982, at 10:00 a.m., will be:

1. Consideration of whether to issue a release announcing the adoption of revised Rule 14d-8 under the Securities Exchange Act of 1934, which would provide that if a greater number of shares are deposited pursuant to a partial tender offer than the bidder is bound or willing to take up and purchase, the securities deposited must be taken up pro rata according to the number of securities deposited by each depositor during the period such offer remains open. For further information, please contact Arthur H. Miller at (202) 272-2589.

2. Consideration of whether to permit Vincent Forma to become an associated person in a non-supervisory, non-proprietary capacity with BAP Management Corporation. For further information, please contact Mary Binno at (202) 272-2318.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272-2014.

December 7, 1982.

[S-1796-82 Filed 12-8-82; 8:45 am]

BILLING CODE 8010-01-M

Federal Register

**Friday
December 10, 1982**

Part II

Department of Labor

**Employment Standards Administration,
Wage and Hour Division**

**Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions**

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large

volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the *Federal Register* without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedes
Decisions to General Wage
Determination Decisions

Modifications and supersedes decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedes decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedes decisions are effective from their date of publication in the *Federal Register* without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage
Determination Decision

The numbers of the decisions being modified and their dates of publication in the *Federal Register* are listed with each State.

Illinois:	
IL82-2001	Jan. 15, 1982
IL82-2003	Mar. 5, 1982
IL82-2031	May 7, 1982
Louisiana:	
LA82-4053	Nov. 5, 1982
LA82-4022	May 7, 1982
Tennessee: TN82-2056	Nov. 11, 1982
Maine: ME80-2009	Mar. 14, 1980
Massachusetts: MA81-3054	Sept. 4, 1981
New York: NY81-3039	June 12, 1981
Utah: UT82-5121	Sept. 3, 1982

Supersedes Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the *Federal Register* are listed with each State. Supersedes decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL77-1067(AL82-1087)	May 13, 1977
Maryland: MD79-3048(MD82-3036)	Nov. 2, 1979
Minnesota: MN81-2046(MN82-2067)	July 17, 1981

Signed at Washington, D.C. this 3rd day of December 1982.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. IL82-2001 - MOD. #5 (47 FR 2459 - January 15, 1982) Alexander, Champaign, ... White & Williamson Cos., Illinois	DECISION NO. LA82-4053 - MOD. #3 (47 FR 50421-11/5/82) Statewide, Louisiana	DECISION NO. ME80-2009 - MOD. #2 (44 FR 16817 - March 14, 1980) YORK COUNTY, MAINE	DECISION NO. NY81-3039 - MOD. #2 (46 FR 31189 - June 12, 1981) Monroe County, New York
Change: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons: Area 6 Area 8	Change: Elevator Constructors: Zone 1: Mechanics Helpers Helpers (Prob) Add: Roofers Zone 1: Roofers helpers remove old roofing, hustle material & cleanup under supervision of a journeyman	CHANGE: ELECTRICIANS: ZONE 1 ZONE 2 ELECTRICIANS ZONES DEFINI- TIONS: ZONE 1 - Alfred, Berwick, Eliot, Kittery, Lebanon, N. Berwick, Sanford, S. Berwick, York and Wells County ZONE 2 - Remainder of County	Change: PAINTERS: Basic Wiper Drywall Stiles (drywall only), Epoxy (brush & roll), Wasp Covering Swing Scaffold, Win- dow Brackets, Struc- tural (up to 40'), Cherry Pickers Mechanical Lift, Aerial Lift Regular Spray, Water Hydro-blasting, Me- chanical, Mechanical Taper Spray (epoxy), Struc- tural Steel (over 40') Sandblasting (from solid platform) Sandblasting (any hanging platform), Steeple Jack Bridges
Basic Hourly Rates \$16.95 16.95 1.65 1.65	Basic Hourly Rates \$14.46 70%JR 50%JR 2.69+a 2.69+a	Basic Hourly Rates 14.05 14.25	Basic Hourly Rates \$13.77 13.97 14.02 3.82 3.82
Fringe Benefits 1.65 1.65	Fringe Benefit 2.69+a 2.69+a	Fringe Benefits 3%+ 1.47 3%+ 1.07	Fringe Benefits 3.82 3.82 3.82 3.82 3.82
DECISION NO. IL82-2003 - MOD. #4 (47 FR 9659 - March 5, 1982) Adams, Bond, ... Winnebago, & Woodford Cos., Illinois	DECISION NO. LA82-4022 - MOD. #8 (47 FR 19877-5/7/82) Calcasieu Par., Louisiana	DECISION NO. MA81-3054 - MOD. #6 (46 FR 44631 - Sept. 4, 1981) Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth & Suffolk Cos., Massachusetts	DECISION NO. UT82-5121 - Mod. #4 (47 FR 39085 - September 3, 1982) Statewide, Utah
Change: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons: Area 2 Area 6	CHANGE: Elevator Constructors: Mechanics Helpers Helpers (Prob) Add: Roofers helpers remove old roofing, hustle material & cleanup under supervision of a journeyman	CHANGE: Electricians: Suffolk Co.; Middlesex (Remainder of County); Norfolk (all except Avon, Hallowell, Randolph, Stoughton & Plainville); Essex (Lynn, Lynnfield, Nahant, Saugus, Swamp- scott); & Plymouth (Hingham, Hull)	Omit: Bricklayers Add: Bricklayers: Industrial All other work
Basic Hourly Rates 16.95 16.95 1.65 1.65	Basic Hourly Rates 14.46 70%JR 50%JR 2.69+a 2.69+a	Basic Hourly Rates 14.46 70%JR 50%JR 2.69+a 2.69+a	Basic Hourly Rates \$13.25 \$1.57 13.25 10.00 1.57 1.57
Fringe Benefits 1.65 1.65	Fringe Benefit 2.69+a 2.69+a	Fringe Benefits 3%+ 1.47 3%+ 1.07	Fringe Benefits 3.82 3.82 3.82 3.82 3.82
DECISION NO. IL82-2031 - MOD. #1 (47 FR 19873 - May 7, 1982) Madison & St. Clair Cos., Illinois	DECISION NO. TN82-2056 - MOD. #1 (47 FR 51311 - November 11, 1982 Hamilton, Marion, Polk and Rhea Cos., Tennessee	DECISION NO. MA81-3054 - MOD. #6 (46 FR 44631 - Sept. 4, 1981) Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth & Suffolk Cos., Massachusetts	DECISION NO. UT82-5121 - Mod. #4 (47 FR 39085 - September 3, 1982) Statewide, Utah
Change: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons: Madison Co. St. Clair Co. Plumbers & Steamfitters: Granite City; Southern & of Madison Co., & E. St. Louis & Vic. in St. Clair Co. Belleville & Vic.	CHANGE: Elevator Constructors: Mechanics Helpers Helpers (Prob) Add: Roofers helpers remove old roofing, hustle material & cleanup under supervision of a journeyman	CHANGE: Electricians: Suffolk Co.; Middlesex (Remainder of County); Norfolk (all except Avon, Hallowell, Randolph, Stoughton & Plainville); Essex (Lynn, Lynnfield, Nahant, Saugus, Swamp- scott); & Plymouth (Hingham, Hull)	Omit: Bricklayers Add: Bricklayers: Industrial All other work
Basic Hourly Rates 16.95 16.95 1.65 1.65	Basic Hourly Rates 14.46 70%JR 50%JR 2.69+a 2.69+a	Basic Hourly Rates 14.46 70%JR 50%JR 2.69+a 2.69+a	Basic Hourly Rates \$13.25 \$1.57 13.25 10.00 1.57 1.57
Fringe Benefits 1.65 1.65	Fringe Benefit 2.69+a 2.69+a	Fringe Benefits 3%+ 1.47 3%+ 1.07	Fringe Benefits 3.82 3.82 3.82 3.82 3.82

MODIFICATION PAGE 2

SUPERSEDEAS DECISION

STATE: ALABAMA

COUNTIES: BLOUNT, CHEROKEE, CLAY, CLEBURNE, COLBERT, CULLMAN, DeKALB, FAYETTE, FRANKLIN, JACKSON, LAMAR, LAUDERDALE, LAWRENCE, LIMESTONE, MADISON, MARION, MARSHALL, MORGAN, RANDOLPH, & WINSTON.

DATE: Date of Publication
May 13, 1977 in 42 FR 24554.

DECISION NUMBER: AL82-1087
Supersedes Decision No.: AL77-1067 dated May 13, 1977 in 42 FR 24554.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION.

	Basic Hourly Rates	Fringe Benefits
ROILERMAKERS	\$ 9.50	\$ 1.77
CARPENTERS	8.01	1.55
ELECTRICIANS	8.75	2% .60
LABORERS	4.54	.50
PAINTERS	9.53	
PLUMBERS & PIPEFITTERS	9.45	1.00
SHEET METAL WORKERS	9.50	1.20
WELDERS-Rate for Craft		
POWER EQUIPMENT OPERATORS:		
Air Compressor	5.30	.65
Backhoe	6.40	
Bulldozer	8.55	.65
Crane, Derrick, Dragline	7.66	
Drilling Machine	8.55	.65
Front End Loader	5.50	
Gradall	6.36	
Graders	8.55	.65
Hoists	8.78	.60
Mechanics	8.55	.65
Motor Patrol	5.50	
Others, Greasers	5.88	

POWER EQUIPMENT OPERATORS

cont't:

Pumps
Rollers
Scrapers
Shovels
Tractors

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

	Basic Hourly Rates	Fringe Benefits
	\$ 5.30	.65
	8.78	.60
	8.55	.65
	5.26	

SUPERSEDEAS DECISION

STATE: MARYLAND

COUNTIES: HARFORD
DECISION NO.: MD82-3036
Supersedes Decision No. MD79-3048 dated November 2, 1979 in 44 FR 63430
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	13.98	2.07
CARPENTERS	9.47	
CEMENT MASONS	9.50	
ELECTRICIANS	10.69	
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	15.08	2.465+ a+b
Elevator Constructors' Helpers	10.56	2.465+ a+b
Elevator Constructors' Helpers (Probationary)	7.54	
IRONWORKERS	9.25	
LABORERS	6.25	
PAINTERS	7.30	
PLUMBERS	9.43	
POWER EQUIPMENT OPERATORS:		
Backhoe	9.00	
Bulldozer	8.50	
Crane	9.00	
Loader	8.00	
Pan (Scraper)	6.50	
ROOFERS	9.62	
SHEET METAL WORKERS	9.21	
SPRINKLER FITTERS	8.16	
STEAMFITTER	12.62	
TILE SETTER	13.86	2.07
TILE SETTER FINISHER	9.90	.90
TRUCK DRIVER	7.36	

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

b. Employer contributes 8% of basic hourly rate for 5 years of service or more and 6% of basic hourly rate for 6 months to 5 years of service as vacation Pay Credit.

*CARLTON, COOK, ITASCA, KOCHICHING, LAKE, & ST. LOUIS

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits
Building Construction: Carlton, Cook, Itasca (E. of T.H. 6), Lake, & St. Louis Cos.:	\$13.45 13.10	\$1.95 1.95
Boom Truck Operator		
Ready Mix Tractor Trailer		
Fork Lift Operator;		
Mechanic; & Tandem or 3 Axles	12.95	1.95
Dumpster; Farm Tractor; & Single or 2 Axles	12.45	1.95
Itasca (Rem. of Co.) & Koochiching Cos.:	10.40	
Landscaping & Sod Layer for all work, exclu. Residential of 4 units or less	6.80	1.00
Building Construction: Carlton, Cook, Lake, & St. Louis (S. of T 55N) Cos.:	9.85	1.45
Common		
Burning Torch-Demolition;		
Carpenter Tender; Concrete Buster; Concrete Saw - Core Drill; Concrete Vibrator Op.;		
Dump Proofer - below grade;		
Handling Cements; Jack-Hammer Op.; Mason Tender;		
Mortar Mixer; Nozzelman on Concrete Pump; & Power Buggy Op.	9.95	1.45
Itasca, Koochiching, & St. Louis (N. of T 55N) Cos.:		
Class 1	10.40	.65
Class 2	10.50	.65
Class 3	10.60	.65
Class 4	10.65	.65
Class 5	10.75	.65
Class 6	10.80	.65

LABORERS:	Basic Hourly Rates	Fringe Benefits
Site Preparation, Excavation, & Incidental Paving: Carlton, Cook, Lake, & St. Louis (S. of T 55N) Cos.:	\$11.88 12.03 12.08 12.23 12.33 12.58	\$2.14 2.14 2.14 2.14 2.14 2.14
Class 1		
Class 2		
Class 3		
Class 4		
Class 5		
Class 6		
Itasca & St. Louis (N. of T 55N) Cos.:	12.68 12.83 12.88 13.03 13.13 13.33	1.60 1.60 1.60 1.60 1.60 1.60
Class 1		
Class 2		
Class 3		
Class 4		
Class 5		
Class 6		
Koochiching Co.:		
Class 1	10.00	.95
Class 2	10.15	.95
Class 3	10.20	.95
Class 4	10.35	.95
Class 5	10.45	.95
Class 6	10.70	.95
POWER EQUIPMENT OPERATORS: Building Construction:		
Class 1	17.57	1.90
Class 2	17.26	1.90
Class 3	16.52	1.90
Class 4	15.96	1.90
Class 5	15.65	1.90
Class 6	15.50	1.90
Class 7	14.26	1.90
Class 8	13.22	1.90
Class 9	12.70	1.90

POWER EQUIPMENT OPERATORS: Site Preparation, Excavation, & Incidental Paving: Carlton, Cook, Itasca (E. of T.H. 6), Lake, & St. Louis Cos.:	Basic Hourly Rates	Fringe Benefits
Western right-of-way of Minn. Hwy 6), & Koochiching (E. of a N-S line from the Canadian border to Pelland, the S. Western right-of-way of U. S. Hwy 71, from Pelland to Big Falls & Minn. Hwy 6) Cos.:	\$15.33 14.82 14.67 14.55 12.60 11.90	\$1.90 1.90 1.90 1.90 1.90 1.90
Group 1		
Group 2		
Group 3		
Group 4		
Group 5		
Group 6		
Cook, Lake, & St. Louis Cos.:		
Group 1	15.85	1.90
Group 2	15.35	1.90
Group 3	15.18	1.90
Group 4	15.07	1.90
Group 5	13.11	1.90
Group 6	12.40	1.90
Itasca (Rem. of Co.) & Koochiching (Rem. of Co.) Cos.:		
Group 1	13.67	1.90
Group 2	12.81	1.90
Group 3	12.63	1.90
Group 4	12.53	1.90
Group 5	11.22	1.90
Group 6	10.74	1.90

TRUCK DRIVERS:

Site Preparation, Excavation, & Incidental Paving:

Carlton, Cook, Itasca (E. of T.H. 6), Lake, & St. Louis Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.), & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

Group 3

Group 4

Itasca (Rem. of Co.) & Koochiching Cos.:

Group 1

Group 2

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LABORERS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):

- CLASS 1:** Unskilled; Bituminous Batcherman (stationary plant); Blacksmith Tenders; Cement Coverman Batch Truck; Cement Handler - Bulk, Bag; Carpenter Tender; Concrete Batchman; Concrete Handler, Caisson, Footings, Columns, Piling, Slabs, etc.; Concrete Shovelers, Temper & Puddler (paving); Concrete Longitudinal Floorman (manual bullfloat on paving); Dump Precaster below grade; Drill Runner Tender; Dumpman (dirt, paver, dumping batchtrucks, etc.); Hydrant & Valve Setter; Joint Filler (concrete pavement); Kottelman (bituminous or lead); Labor Wrecking Demolition; Landscape Gardener, sod, etc.; Pipe Derricksman (tripod, manual); Pipe Handler; Power Buggy Operator; Powder Monkey; Reinforced Steel Laborer; Reinforced Steel Setter (paving); Service Connection Maker (water, gas); Squeegeman; Stabilizing Batcherman (stationary plant); Temporary Heater & Blower Tender; Tool Crib Checker; Top Man (sewer, water or gas trench); Winch Handler (manual)
- CLASS 2:** Bituminous Worker - Shovelers, Raker, Floater, Squeegee, Utility; Brick Tender; Compaction Equipment (hand operated); Conduit Layer; Curb Setter; Mortar Mixer; Sand Cushion Bedmaker; Torchman - gas, electric, thermal or similar device
- CLASS 3:** Chain Saw; Concrete Drilling; Concrete Mixer Operator; Concrete Sawyer; Concrete Vibrator; Ditch & other work more than 8 ft. below starting level of manual work; Formsetter; Joint Saver, Mortar; Pneumatic Tools, Jackhammer, Paving Buster, Chipping Hammer, etc.; Stone Tender; & Mason Tender
- CLASS 4:** Bottom Man (sewer, water or gas trench) (more than 8 ft. below starting level of manual work); Brick or Block Paving Setter; Caisson Work; Cofferdam Work; Tunnel Laborer; Underground Laborer; & Underpinning
- CLASS 5:** Cement Gun Operator ($1\frac{1}{2}$ " or over); Driller - Air Track or similar; Nozzelman (gunite, sandblasting, cement); & Pipelayer, Laser Beam (sewer, water, gas)
- CLASS 6:** Blaster Powder Man (dynamite or substitute products); Tunnel Miner (atmospheric); & Tunnel Miner Tender

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building Construction):

- CLASS 1 - Helicopter Operator:** Truck & Crawler Cranes with 300' of Boom and over, including jib; Tower Crane 300' & over
- CLASS 2 - Truck & Crawler Crane w/200' of Boom, up to and not including 300' of Boom, including jib:** Tower Crane 250' & over
- CLASS 3 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib:** Tower Crane 200' & over
- CLASS 4 - Traveling Tower Crane; Master Mechanic; Pile Driving Operator;** Tower Crane 150' & over
- CLASS 5 - Truck & Crawler Cranes up to & not including 150' of Boom, including jib;** Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (inside building perimeter); Tower Cranes - Stationary 100' & over; Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License.
- CLASS 6 - Air Compressor Operator, 450 CFM or over, Pump Operator and/or Conveyor Operator (2 or more machines); Hoist Engineer (2 drums); Mechanic or Welder; Pumpcrete or Comploco-type Machine Operator; Forklift; Boom Truck Operator; Concrete Mixer Op.; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator**
- CLASS 7 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.**

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building Construction) CONT'D:

- CLASS 8 - Air Compressor Operator, 450 CFM or over, Pump and/or Conveyor Operator; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Operator**
- CLASS 9 - Mechanical Space Heater (temporary heat); Oiler or Greaser; Elevator Operator**
- POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Site Preparation, Excavation & Incidental Paving):**
- CLASS 1:** Helicopter Pilot; Crane with over 135' Boom, excluding jib; Dragline and/or other similar equipment with Shovel-type controls 3 cu. yds. & over Mfg. rated cap.; Pile Driving when 3 drums are in use
- CLASS 2:** Cableway; Concrete Mixer, Stationary Plant over 342; Derrick (Guy or Stiffleg) (Power); (Skids or stationary); Dragline and/or similar equipment with Shovel-type controls, up to 3 cu. yds. Mfg. rated cap.; Dredge or Engineers; Dredge (power); Engineer; Front End Loader, 5 cu. yds. & over; Grader or Motor Patrol, Finishing Earthwork & Bituminous; Locomotive Crane; Master Mechanic; Mixer (Paving); Concrete Paving, Road; Mole, inclu. Power Supply; Nucking Machine, inclu. Nucking Operations, Convey or similar type; Pile Driving; Refrigeration Plant Engineer; Tandem Scraper; Tractor - Boom type; Truck Crane - Crawler Crane; & Tugboat - 100 HP & over
- CLASS 3:** Dual Tractor; Elevating Grader; Pumpcrete; Scraper - Struck Cap. 32 cu. yds. & over; Self-propelled Traveling Soil Stabilizer
- CLASS 4:** Air Track Rock Drill; Asphalt Bituminous Stabilizer Plant; Automatic Road Machine (CM or similar); Backfiller; Batch Plant (Concrete); Bituminous Spreader & Finishing (Power); Boom Truck (Power operated Boom); Cat Tractors with Rock Wagons or similar types; Chip Harvester & Tree Cutter over 150 HP; Concrete Mixer on jobsite over 143; Concrete Mobile; Crushing Plant (gravel & stone) or Gravel Washing, Crushing & Screening Plant; Curb Machine; Dope Machine (Pipeline); Drill Rigs, Heavy Rotary or Churn or Cable Drill; Fork Lift or Straddle Carrier; Fork Lift or Lumber Stacker; Front End Loader, over 1 cu. yd.; Hoist Engineer (power); Launchman (Tankman or Pilot License); Lead Greaser; Locomotive; Mechanic or Welder; Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps; Paving Breaker or Tamping Machine (Power Driven) Mighty Mite or similar type; Paving Milling Machine; Pickup Sweeper, 1 cu. yd. & over Hopper cap.; Pipeline Wrapping, Cleaning or Bending Machine; Power Plant Engineer, 100 K.W.H. & over; Power Actuated Horizontal Boring Machine, over 6"; Pugmill; Roller, 8 tons & over; Rubber-tired Farm Tractor, Backhoe Attach.; Sheep Foot Rollers; Slip Form (Power Driven) (paving); Tie Tamper & Ballast Machine; Tractor, over D2, T06 or similar HP with Power Take-off; Tractor, over 50 HP without Power Take-off; Trenching Machine (sewer, water, gas); Turnapull (or similar type); Well Point Installation, Dismantling or Repair Mechanic;
- CLASS 5:** Air Compressor, 450 CFM or over; Bituminous Spreader & Bituminous Finishing Machine (Tender) (Power); Concrete Distributor & Spreader Finishing Machine; Longitudinal Float, Joint Machine, & Spray; Concrete Mixer on jobsite 14S & under; Concrete Saw (multiple blade) (power operated); Form Trench Digger (power); Front End Loader, up to & inclu. 1 cu. yd.; Grader (motor patrol); Gunite Gunall; Hydraulic Log Splitter; Loader (Barber Greene or similar type); Payhauler or similar type; Power Actuated Augers & Boring Machine; Power Actuated Jacks; Pump; Roller; Self-propelled Chip Spreader (flakerty or similar); Shouldering Machine (Power) Apso or similar type inclu. self-propelled Sand & Chip Spreader; Stump Chipper; Tractor, D2, T06 or similar HP without power take-off; & Tree Farmer
- CLASS 6:** Conveyor; Dredge Deck Hand; Fireman or Tank Car Heater; Gravel Screening Plant (portable not crushing or washing); Greaser (Truck or Tractor); Leverman; Mechanic Tender; Mechanic, Space Heater (Temporary Heat); Oiler (Power Shovel, Crane, Dragline); Self-propelled Vibrating Packer (Pad type) (35 HP & over); Tractor, 50 HP or less w/o Power take-off; & Truck Crane Oiler

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TRUCK DRIVERS CLASSIFICATIONS (Site Preparation, Excavation & Incidental Paving):
GROUP 1: Truck Driver (Operation of Hand & Power Operated winches); Truck Trains;
Mechanic-Welder; Tractor Trailer; & Off Road
GROUP 2: Tri Axle (Inclu. 4 Axles)
GROUP 3: Bituminous Distributor; & Tandem Axle
GROUP 4: Bituminous Distributor Spray Operator (Rear End Oiler); Dumpman; Tank
Truck Tender (gas, oil, road oil & water); Teamster & Stableman; Tractor Operator
(wheel type used for any purpose); Pilot Car; Self-propelled Packer; Slurry
Operator; Single Axle; Dump; Dry Batch Hauler; Boom & "A" Frame; & Ready-Mix
Concrete

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the
classifications listed may be added after award only as provided in the labor
standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 82-33393 Filed 12-8-82; 8:45 am]

BILLING CODE 4510-27-C

Secret Federal Register

Friday
December 10, 1982

Part III

Department of State International Development Cooperation Agency

Agency for International Development

United States Information Agency

Security Information Regulations

DEPARTMENT OF STATE

INTERNATIONAL DEVELOPMENT
COOPERATION AGENCY

Agency for International Development

UNITED STATES INFORMATION
AGENCY

22 CFR Part 9

[Dept. Reg. 108.826]

Security Information Regulations

AGENCY: Department of State.

ACTION: Final rule; request for
comments.

SUMMARY: These regulations revise security information regulations for the Department of State, the Agency for International Development (AID), and the U.S. Information Agency (USIA). The revisions are necessary to conform to E.O. 12356 of April 2, 1982 entitled National Security Information.

DATES: Effective date: August 1, 1982. Comments must be received on or before December 30, 1982.

ADDRESSES: Send comments to: For Department of State: John R. Burke, Deputy Assistant Secretary for Classification/Declassification, Department of State, 2201 C Street, N.W., Washington, D.C. 20520; for AID: Richard R. Miller, Director, Office of Public Affairs, Agency for International Development, 2201 C Street, N.W., Washington, D.C. 20523; and for USIA: Director, Office of Public Liaison, U.S. Information Agency, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Ely Maurer, Assistant Legal Adviser, Department of State, 2201 C Street, N.W., Washington, D.C. 20520, telephone 202-632-2682; Rhea Johnson, Acting Chief, Public Inquiries Division, AID, Washington, D.C. 20523, telephone 202-632-9614; or Charles Jones, Jr., Freedom of Information/Privacy Act Coordinator, Office of Public Liaison, USIA, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547, telephone 202-724-9103.

Regulations dealing with internal procedures will be published in the Foreign Affairs Manual. Copies of these regulations are available upon written request to the Policy Development and Coordination Staff, Classification/Declassification Center, Room 2811, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

List of Subjects in 22 CFR Part 9

Administrative practice and procedure, Classified information.
Dated: August 3, 1982.

Richard T. Kennedy,
*Under Secretary for Management,
Department of State.*

Dated: July 28, 1982.

Herbert L. Beckington,
*Inspector General, Agency for International
Development.*

Dated: August 12, 1982.

James T. Hackett,
*Associate Director for Management, U.S.
Information Agency.*

Part 9 of Title 22, CFR is revised to read as set forth below.

The regulations implement Executive Order 12356, dated April 2, 1982 (47 FR 14874, April 6, 1982), entitled "National Security Information" hereinafter referred to as the Order.

PART 9—SECURITY INFORMATION
REGULATIONS

Sec.

- 9.1 General policy.
- 9.2 Implementation and oversight responsibilities.
- 9.3 Responsibility for safeguarding classified information.
- 9.4 Classification.
- 9.5 Classification designations.
- 9.6 Requirements for classification.
- 9.7 Classification authority.
- 9.8 Limitations on classification.
- 9.9 Duration of classification.
- 9.10 Derivative classification.
- 9.11 Derivative classification guides.
- 9.12 Identification and markings.
- 9.13 Transferred material.
- 9.14 Declassification and downgrading.
- 9.15 Systematic review for declassification guidelines.
- 9.16 Mandatory review.
- 9.17 Schedule of fees.
- 9.18 Access by Presidential appointees.

Appendix A—Definitions.

Authority: E.O. 12356, National Security Regulations of April 2, 1982 (47 FR 14874, April 6, 1982); Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982).

§ 9.1 General policy.

(a) E.O. 12356 (hereinafter called "the Order") recognizes that it is essential that the public be informed concerning the activities of its government, but that the interests of the United States and its citizens require that certain information concerning the national defense and foreign relations be protected against unauthorized disclosure. With this object, the Order prescribes a uniform system for classifying, declassifying, and safeguarding national security information.

(b) The purpose of these regulations is to assist in the implementation of the Order and Information Security Oversight Office (hereinafter referred to as ISOO), Directive No. 1, (hereinafter called "the Directive"), and users of these regulations may refer to the Order and Directive for additional guidance.

§ 9.2 Implementation and oversight responsibilities.

The Order requires each agency that originates or handles classified information to promulgate implementing regulations. The Order further requires that each agency originating or handling classified material shall designate a senior official to direct and administer its information security program. This official shall be responsible for actively overseeing the agency's program, including a security education program, to ensure effective implementation of the Order.

(a) In addition, this official shall have the following responsibilities:

(1) To establish and monitor agency policies and procedures to prevent over or under classification, to ensure the protection from unauthorized disclosure of properly classified information, including intelligence information, and to ensure orderly and effective declassification of agency documents which no longer require protection, in accordance with the terms of the Order.

(2) To review proposed classified disclosures of an exceptional nature bearing upon issues of concern to the Congress and the public.

(3) To issue any needed guidelines for classification or declassification.

(4) To recommend to the agency head the following:

(i) Proposals for reclassification in accordance with Section 1.6(c) of the Order;

(ii) Other categories of information, as defined in Section 1.3(a)(10) of the Order, which require protection against unauthorized disclosure but which are not specifically protected by Section 1.3(a) (1) through (9) of the Order;

(iii) Waivers, for specified classes of documents or information of the requirement to indicate which portions of documents are classified and which are not, as provided by Section 1.5(b) of the Order; and

(iv) Waivers for specified classes of documents or information, of the requirement to prepare derivative classification guides, as provided by Section 2.2(c) of the Order.

(5) To prepare a list of officials, by name or position, delegated Top Secret, Secret, and Confidential classification authority.

(6) To receive, and if necessary act on, suggestions and complaints with respect to that agency's administration of its information security program.

(7) To provide guidance concerning corrective or disciplinary action in unusually important cases involving unauthorized disclosure or refusal to declassify.

(8) To maintain liaison with the Director of ISOO and to furnish reports and information as required by Section 5.2 of the Order.

(b) *Department of State.* Within the Department of State, the senior official is the Deputy Assistant Secretary, Classification/Declassification Center, hereinafter referred to as (DAS/CDC).

(c) *AID.* Within AID (a component of the International Development Cooperation Agency), the senior official is the Inspector General.

(d) *USIA.* Within USIA, the senior official is the Director, Office of the Public Liaison.

§ 9.3 Responsibility for safeguarding classified information.

(a) *Primary.* The specific responsibility for the maintenance of the security of classified information rests with each person having knowledge or physical custody thereof, no matter how obtained.

(b) *Individual.* Each employee is responsible for becoming familiar with and adhering to all security regulations.

(c) *Supervisory.* The ultimate responsibility for safeguarding classified information rests upon each supervisor to the same degree that the supervisor is charged with functional responsibility for the organizational unit. While certain employees may be assigned specific security responsibilities, such as Top Secret Control Officer or Unit Security Officer, it is nevertheless the basic responsibility of supervisors to ensure that classified material entrusted to their organizational units is handled in accordance with the procedures prescribed in these regulations. Each supervisor should ensure that no one employee is assigned unreasonable security responsibilities in addition to usual administrative or functional duties.

(d) *Organizational.* The Offices of Security in State, AID, and USIA are responsible for physical, procedural, and personnel security in their respective agencies. In the Department of State, the Office of Communications (COMSEC) is responsible for communications security.

§ 9.4 Classification.

(a) When there is reasonable doubt about the need to classify information,

the information shall be safeguarded as if it were "Confidential" pending a determination about its classification by an original classification authority.

When there is reasonable doubt about the appropriate classification level, the information shall be safeguarded at the higher level pending the determination of its classification level by an original classification authority. Determinations hereunder shall be made within 30 days.

(b) Information may not be classified unless its disclosure reasonably could be expected to cause damage to the national security. Information may not be classified to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

(c) The President or an agency head or official designated under Sections 1.2 (a)(2), 1.2 (b)(1), or 1.2 (c)(1) of the Order may reclassify information previously declassified and disclosed if it is determined in writing that (1) the information requires protection in the interest of national security, and (2) the information may reasonably be recovered. These reclassification actions shall be reported promptly to the Director of ISOO.

(d) It is permitted to classify or reclassify information after an agency has received a request for it under the Freedom of Information Act or the Privacy Act, or the mandatory review provisions of the Order, provided that such classification meets the requirements of the Order and is accomplished personally and on a document-by-document basis by the agency head, the deputy agency head, the senior official, or an official with original Top Secret classification authority. Every effort should be made to classify properly at the time of origin. When a determination is made that a document requires classification or reclassification, however, all holders of the document should be notified and, in the Department of State, a copy of the classification or reclassification memorandum should be sent to the Foreign Affairs Information Management Center (FAIM). In addition, if the classification or reclassification was done in any office other than the DAS/CDC, that office should send a copy of the pertinent memorandum to the CDC.

(e) For the Department of State, these functions will be performed by the DAS/CDC.

(f) For AID, the function will be performed by the Administrator.

(g) For USIA, the function will be performed by the Director of Public Liaison.

(h) Information classified in accordance with these regulations shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

§ 9.5 Classification designations.

(a) Only three (3) designations of classification are authorized: "Top Secret," "Secret," and "Confidential."

(1) *Top Secret.* Information may be classified "Top Secret" if its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. This classification should be used with the utmost restraint. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security.

(2) *Secret.* Information may be classified "Secret" if its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. This classification should be used sparingly. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security.

(3) *Confidential.* Information may be classified "Confidential" if its unauthorized disclosure could reasonably be expected to cause damage to the national security. Except as otherwise provided by statute, no other terms shall be used to identify classified information. Terms or phrases such as "For Official Use Only" or "Limited Official Use" shall not be used to identify national security information. No other term or phrase shall be used in conjunction with these national security information designations, such as "Secret Sensitive" or "Agency Confidential" to identify national security information.

(b) *Foreign government information.* If classified by the foreign government, the information shall either retain its original classification or be assigned a U.S. classification designation which will ensure a degree of protection at least equivalent to that required by the entity that furnished the information. If not given a specific classification by the foreign government, the information will be assigned an appropriate classification dependent on the sensitivity of the subject matter and the degree of damage its unauthorized disclosure could reasonably be expected to cause to the national security. Classification designations assigned by the U.S. agency shall be marked on the foreign government information in accordance with the provisions of Section 9.12.

§ 9.6 Requirements for classification.

With the exception of the Atomic Energy Act of 1954, as amended, these regulations are the only basis for classifying information in the agencies named herein. To be eligible for classification, information must meet the two following requirements:

(a) First, it must deal with one of the following criteria:

- (1) Military plans, weapons, or operations;
- (2) The vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;
- (3) Foreign government information;
- (4) Intelligence activities (including special activities), or intelligence sources or methods;
- (5) Foreign relations or foreign activities of the United States;
- (6) Scientific, technological, or economic matters relating to the national security;
- (7) U.S. Government programs for safeguarding nuclear materials or facilities;
- (8) Cryptology;
- (9) Confidential sources; or
- (10) Other categories of information

that are related to the national security and that require protection against unauthorized disclosure as determined by the President or by agency heads or other officials who have been delegated original classification authority by the President. In the Department of State, the DAS/CDC, as the senior official, shall recommend such other categories of information to the Secretary. Any determination made under this subsection shall be reported promptly to the Director of ISOO.

(b) Second, an official with original classification authority must determine that the unauthorized disclosure of the information, either by itself or in the

context of other information, reasonably could be expected to cause damage to the national security. Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security.

(c) Certain information which would otherwise be unclassified may require classification when combined or associated with other classified or unclassified information. Classification on this basis shall be supported by a written explanation that, at a minimum, shall be maintained with the file or record copy of the information.

§ 9.7 Classification authority.

(a) In the Department of State authority for original classification of information as "Top Secret" may be exercised only by the Secretary of State and those officials delegated this authority in writing, by position or by name, by the Secretary or the DAS/CDC, as the senior official, on the basis of their frequent need to exercise such authority. Normally these will not be below the level of Deputy Assistant Secretary in the Department; or Chief of Mission, Charge d'Affairs, or principal officer at an autonomous consular post overseas.

(b) Authority for original classification of information as "Secret" may be exercised by officials with Top Secret authority, the Administrator of AID, and the Director of USIA. This authority may be delegated to such subordinate officials as the senior official in the Department, the administrator of AID or the Director of USIA may designate in writing, by position or by name, on the basis of their frequent need to exercise such authority. Normally, these will not be below the level of office director, section head (in a mission abroad), country public affairs officer, or equivalent.

(c) Authority for original classification of information as "Confidential" may be exercised by officials with Top Secret or Secret classification authority, and the President of the Overseas Private Investment Corporation; and may be delegated to such subordinate officials as the senior official in the Department, the Administrator of AID, the Director of USIA, or the President of OPIC may designate in writing, by position or by name, on the basis of their frequent need to exercise such authority.

(d) Delegated original classification authority at any level may not be redelegated.

(e) In the absence of an authorized classifier, the person designated to act

for that official may exercise the classifying authority.

(f) In the Department of State the Classification/Declassification Center, and in AID and USIA the Office of Security, shall maintain a current listing, by classification designation, of the positions or officials carrying original classification authority. The listing shall be reviewed as needed to ensure that such delegations have been held to a minimum, and that officials so designated have a continuing need to exercise such authority.

§ 9.8 Limitations on classification.

A reference to classified documents which does not directly or indirectly disclose classified information may not be classified or used as a basis for classification.

§ 9.9 Duration of classification.

(a) Information shall be classified for as long as is required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Information classified under predecessor orders that is not subject to automatic declassification or that is marked for review before declassification shall remain classified until reviewed for declassification.

(c) Automatic declassification determinations under predecessor orders shall remain valid unless the classification is extended by an authorized official of the originating agency. These extensions may be by individual documents or categories of information. The agency shall be responsible for notifying holders of the information of such extensions as soon as possible. The authority to extend the classification of information subject to automatic declassification under predecessor orders is limited to those officials who have classification authority over the information and are designated in writing to have original classification authority at the level of the information to remain classified. Any decision to extend this classification on other than a document-by-document basis shall be reported to the Director of the ISOO.

§ 9.10 Derivative classification.

(a) Derivative classification is made by a person, not necessarily having original classification authority, based on an originally classified document or as directed by a classification guide. The derivative classifier may be one

who reproduces, extracts, restates, paraphrases, or summarizes classified materials, or applies markings in accordance with source material or a classification guide.

(b) Derivative classifiers must respect original classification markings. Only if the derived document, by means of paraphrasing, excising, etc., has clearly lost the original grounds for classification, may its original classification be removed or lowered.

(c) Subject to paragraph (b) of this section, markings on derivatively classified material, including declassification instructions, shall be carried forward from the original material, or shall be as directed by the classification guide.

§ 9.11 Derivative classification guides.

(a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information, except as provided in paragraph (e) of this section.

(b) Each guide shall be approved personally and in writing by an official who:

(1) Has program or supervisory responsibility over the information or is the senior agency official who directs and administers the information security program; and

(2) Is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Classification guides shall, at a minimum:

(1) Identify or categorize the elements of information to be protected;

(2) State which classification level applies to each element or category of information; and

(3) Prescribe declassification instructions for each element or category of information in terms of (i) a period of time, (ii) the occurrence of an event, or (iii) a notation that the information shall not be automatically declassified without the approval of the originating agency.

(d) Classification guides shall be reviewed at least every two years and updated as necessary. Each agency shall maintain a list of its classification guides in current use.

(e) Agency heads may, for good cause, grant and revoke waivers of the requirement to prepare classification guides for specified classes of documents or information. In the Department of State, the DAS/CDC, as senior official, shall make recommendations to the Secretary concerning such waivers. In AID, the Inspector General shall make

recommendations to the Administrator concerning such waivers. In USIA, the Director of the Office of Public Liaison shall make recommendations to the Director concerning such waivers. The Director of ISOO shall be notified of any waivers. The decision to waive the requirement to issue classification guides for specific classes of documents or information should be based, at a minimum, on an evaluation of the following factors:

(1) The ability to segregate and describe the elements of information;

(2) The practicality of producing or disseminating the guide because of the nature of the information;

(3) The anticipated usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for derivatively classifying the information in a uniform manner.

§ 9.12 Identification and markings.

Except in extraordinary circumstances as provided in section 1.5(a) of the Order, or as indicated herein, the marking of paper documents shall not deviate from the following prescribed formats. These markings shall also be affixed to material other than paper documents, or the originator shall provide holders or recipients of the information with written instructions for protecting the information. These markings include one of the three (3) classification levels defined in Section 9.5, the identity of the original classification authority (except as noted under 9.12(b)(ii) below) the agency and office of origin (except as noted under 9.12(b)(ii) below) and the date or event for declassification or the notation "Originating Agency's Determination Required" (OADR).

(a) *Classification level.* The markings "Top Secret," "Secret," and "Confidential" are used to indicate: That information requires protection as national security information under the Order; the highest level of classification contained in a document; and the classification level of each page and, in abbreviated form, each portion of a document.

(1) *Overall marking.* The highest level of classification of information in a document shall be marked in such a way as to distinguish it clearly from the informational text. These markings shall appear at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any).

(2) *Page marking.* Each interior page of a classified document shall be marked at the top and bottom either according to the highest classification of

the content of the page, including the designation "UNCLASSIFIED" when it is applicable, or with the highest overall classification of the document.

(3) *Portion-marking.* Agency heads may waive the portion marking requirement for specified classes of documents or information only upon a written determination that (i) there will be minimal circulation of the specified documents or information and minimal potential usage of these documents or information as a source for derivative classification determination; or (ii) there is some other basis to conclude that the potential benefits of portion marking are clearly outweighed by the increased administrative burdens. Unless this requirement has been waived, each portion of a document, including subjects and titles, shall be marked by placing a parenthetical designation immediately preceding or following the text to which it applies. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used for this purpose. If the application of these symbols is not practicable, the document shall contain a statement sufficient to identify the information that is classified and the level of such classification, and the information that is not classified. If all portions of a document are classified at the same level, it may be marked with a statement to that effect, e.g., "Confidential—Entire Text." If a subject or title requires classification, an unclassified identifier may be assigned to facilitate reference.

(A) For the Department of State, the Secretary has waived the portion marking requirement for the following classes of documents under Section 2001.5(a)(3)(i) of the Directive—documents which will have minimal circulation and minimal potential usage as a source for derivative classification:

(1) Documents containing Top Secret information;

(2) Action/informational memoranda prepared for Assistant Secretaries and above;

(3) Instructions to posts and negotiating delegations;

(4) In-house research studies; and

(5) Inter and intra-office memoranda.

(B) The Secretary has also waived the portion marking requirement for documents, both telegraphic and non-telegraphic, containing foreign government information, under Section 2001.5(a)(3)(ii) of the Directive.

(4) *Omitted markings.* Information assigned a level of classification under predecessor orders shall be considered as classified at the level of classification despite the omission of other required

markings. Omitted markings may be inserted on a document by the officials specified in Section 3.1(b) of the Order.

(b) *Classification authority.* If the original classifier is other than the signer or approver of the document, the identity shall be shown as "CLASSIFIED BY" ("identification of original classification authority").

(c) *Agency and office of origin.* If the identity of the originating agency and office is not apparent on the face of the document, it shall be placed below the "CLASSIFIED BY" line.

(d) *Declassification and downgrading instructions.* Declassification and, as applicable, downgrading instructions shall be shown as follows:

(1) For information to be declassified automatically on a specific date or event: "DECLASSIFY ON: (date)" or "DECLASSIFY ON: (description of event)".

(2) For information not to be automatically declassified: "DECLASSIFY ON: Originating Agency Determination Required or OADR".

(3) For information to be downgraded automatically on a specific date or upon occurrence of a specific event: "DOWNGRADE TO (classification level) ON (date or description of event)".

(e) *Special markings.*—(1) *Transmittal documents.* A transmittal document shall indicate on its face the highest classification of any information transmitted by it. It shall also include the following or similar instructions:

(i) For an unclassified transmittal document: "Unclassified When Classified Enclosure is Removed;" or

(ii) For classified transmittal document: "Upon Removal of Attachments This Document Is (classification level of the transmittal document standing alone)."

(2) *Restricted Data or Formerly Restricted Data.* Restricted Data and Formerly Restricted Data information shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended.

(3) *Intelligence sources or methods.* Documents that contain information relating to intelligence sources or methods shall include the following markings unless otherwise prescribed by the Director of Central Intelligence: "WARNING NOTICE—INTELLIGENCE SOURCES OR METHODS INVOLVED."

(4) *Foreign government information (FGI).* Documents that contain FGI shall include either the marking "FOREIGN GOVERNMENT INFORMATION", or a marking that otherwise indicates that the information is foreign government information. If the fact that information is foreign government information must

be concealed, the marking shall not be used and the document shall be marked as if it were wholly of U.S. origin.

(5) *Electrically transmitted information (messages, cables).* National security information that is transmitted electrically shall be marked as follows:

(i) The highest level of classification shall appear before the first line of text;

(ii) A "Classified By" line is not required; i.e., name and office of classifier may be omitted; and

(iii) The duration of classification shall appear as follows:

(A) For information to be declassified automatically on a specific date or event: "DECL: (date)" or "DECL: (description of event)."

(B) For information not to be automatically declassified which requires the originating agency's determination: "DECL: OADR."

(C) For information to be automatically downgraded: "DNG (abbreviation of classification level to which the information is to be downgraded and date or description of event on which downgrading is to occur)."

(iv) Portion marking shall be as prescribed in Section 9.12(a)(3).

(v) Special markings as prescribed in Section 2001.5(e) 2, 3, & 4 of the Directive shall appear after the marking for the highest level of classification. These include:

(A) *Restricted Data or Formerly Restricted Data:* Electrically transmitted information containing Restricted Data or Formerly Restricted Data shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended.

(B) *Information concerning intelligence sources and methods:* "WNINTEL," unless proscribed by the Director of Central Intelligence.

(C) *Foreign government information:* "FGI" or a marking that otherwise indicates that the information is foreign government information. If the fact must be concealed, the marking shall not be used and the message shall be marked as if it were wholly of U.S. origin.

(vi) Paper copies of electrically transmitted messages shall be marked as provided in 9.12 (a) through (e).

(6) *Changes in classification markings.* When a change is made in the level or the duration of classified information, all holders of record shall be promptly notified. Holders shall alter the markings to conform to the change, citing the authority for it. If the remarking of large quantities of information is unduly burdensome, the holder may attach a change of classification notice to the storage unit

in lieu of the marking action otherwise required. Items withdrawn from the collection for purposes other than transfer for storage shall be marked promptly in accordance with the change notice.

§ 9.13 Transferred material.

(a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of the Order.

(b) In the case of classified information that is not officially transferred as described in Section 3.2(a) of the Order, but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purpose of the Order. Such information may be declassified or downgraded by the agency in possession after consultation with any other agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives of the United States shall be declassified or downgraded by the Archivist of the United States in accordance with the Order, the Directive, and agency guidelines.

§ 9.14 Declassification and downgrading.

(a) *General.* Information should be declassified or downgraded as soon as national security considerations permit. Information will be protected in accordance with the provisions of the Order for as long as it meets the classification requirements prescribed by these regulations. Agencies shall coordinate their review of classified information with other agencies or foreign governments that have a direct interest in the subject matter.

(b) *Authority to declassify or downgrade.* Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the agency head or the senior agency official designated pursuant to Section 5.3(a)(1) of the Order. In addition, if the Director of ISOO determines that information is classified in violation of the Order, the Director may require the agency which classified the information to declassify it. Any such decision by the Director

may be appealed to the National Security Council. The information shall remain classified until a decision has been made on the appeal.

(c) The agency shall maintain a current, unclassified, listing of officials delegated declassification and downgrading authority.

§ 9.15 Systematic review for declassification guidelines.

(a) The agency may schedule classified records of permanent historical or other value for bulk review for declassification and may either perform such review itself, or may refer the records, together with guidelines for declassification, to the Archivist of the United States for review.

(b) For records of the Department of State, a sampling of classified records of permanent value for a given period will be selected by the Office of the Historian (PA/HO), and reviewed by the Systematic Review Office of the Classification/Declassification Center. The Systematic Review Office will prepare guidelines, which will be transmitted by the Secretary of State to the Archivist of the United States, not later than February 1, 1983, for use in reviewing the remainder of the permanently valuable classified records of the given period when these records are accessioned to the National Archives.

(c) AID will prepare guidelines, and transmit them to the Archivist of the United States not later than February 1, 1983, for use in reviewing permanently valuable classified records that have been accessioned to the National Archives. The Records Management Branch, Communications and Records Management Division, (M/SER/MO), is designated as the office responsible for systematic review matters within the agency. The Branch Staff will provide assistance to the Archivist in the systematic review process.

(d) For information concerning records of ICA, contact the agency's Declassification Officer, Office of Administration.

(e) The agency guidelines will identify categories of information which cannot be automatically declassified but must be reviewed item-by-item to determine if there is a need for continued protection.

(f) These guidelines may be authorized by the agency head for use by other agencies, in addition to the National Archives, having custody of the originating agency's classified information of the period covered.

(g) These guidelines shall be reviewed and updated every five years, unless earlier review is requested by the Archivist.

(h) For foreign government information, the agency will prepare by February 1, 1983, specific guidelines for systematic review of foreign government information in records accessioned to the National Archives, and will revise such guidelines every five years or earlier as requested by the Archivist.

(i) *Special procedures.* The agency shall be bound by the special procedures for systematic review of classified cryptologic records and classified records pertaining to intelligence activities (including special activities) sources or methods issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

§ 9.16 Mandatory review.

Each agency shall review for declassification any classified information requested, under the Mandatory Review provisions of the Order except as noted in paragraph (d) of this section, provided that: The requester is a U.S. citizen, resident alien, Federal agency, or state or local government; the request describes the information with sufficient specificity to enable the agency to locate the records containing the information with a reasonable amount of effort; and the agency receiving the request is the agency that originated the information. When an agency receives a request for information in its custody which was originated by another agency, it shall refer the information and request to the originating agency for its review and direct response to the requester.

(a) *Foreign government information.* Except as provided in this paragraph, agencies shall process mandatory review requests for classified records containing foreign government information in accordance with § 2001.32(a) of the ISOO Directive. The agency that initially received or classified the foreign government information shall be responsible for making a declassification determination after consultation with concerned agencies. If the agency receiving the request is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

(b) Information requested shall be declassified if it no longer requires protection under the provisions of the Order. It will then be released to the requester unless withholding is otherwise authorized under applicable law, such as the Freedom of Information

or Privacy Act. If the information requested cannot be declassified in its entirety, the agency will make reasonable efforts to release those declassified portions that constitute a coherent segment. Upon the denial of an initial request, the agency shall also notify the requester of the right of administrative appeal, which must be filed within 60 days of receipt of the denial, and shall enclose a copy of the agency's regulations governing the appeal process.

(c) Initial requests may be addressed to:

(1) Department of State: The Information and Privacy Coordinator, Room 1239, Bureau of Administration, Department of State, Washington, D.C. 20520, with the envelope clearly marked MANDATORY REVIEW REQUEST;

(2) AID: Director, Office of Public Affairs for AID; Room 4899, 2201 C Street, N.W., Washington, D.C. 20523; or

(3) USIA: Freedom of Information and Privacy Act Coordinator, Office of Administration, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

(d) In responding to mandatory review requests, agencies shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the case. Agencies shall make a final determination in one year from the date of receipt, except in unusual circumstances.

(e) Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from mandatory review. However, the Archivist of the United States has the authority to review, downgrade, and declassify such information which is under the control of the Administrator of General Services or the Archivist, for example in Presidential Libraries, pursuant to sections 2107, 2107 note, or 2203 of title 44, United States Code. The Archivist will consult with agencies having primary subject matter interest concerning the declassification of the requested material. Any decision by the Archivist may be appealed to the Director of ISOO, with the right of further appeal to the National Security Council. The information shall remain classified pending a prompt decision on the appeal.

(f) Requests for classified information not specifically identified as being made under the Mandatory Review provisions of the Order will be processed under the

terms of the FOIA, the Privacy Act, or other appropriate procedures.

(g) In considering requests for mandatory review, the agency may decline to review again any request for material which has been recently reviewed and denied, unless the request constitutes an appeal of an initial denial.

(h) Mandatory review requests for cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

(i) In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of the Order, an agency shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under these regulations.

(j) For detailed regulations for the internal processing of mandatory review initial requests and appeals see:

(1) Department of State: 5 FAM 900, 22 CFR Sections 171.22 and 171.60;

(2) AID: AID Handbook 18, Part III, Chapter 11; or

(3) USIA: 22 CFR Part 503.

§ 9.17 Schedule of fees.

For State, see 22 CFR 171.6 and 171.13; For AID, see 22 CFR 212/35; or For USIA, see 22 CFR 503.6(c).

§ 9.18 Access by presidential appointees.

For procedures of the Department of

State, see 22 CFR 171.25; For procedures of AID, see 22 CFR 171.25; or For procedures of USIA, see 22 CFR Part 503.

Appendix A—Definitions

For the purpose of these security regulations, the following definitions of terms shall apply.

Agency. A Federal agency, including department, agency, commission etc., as defined in 5 U.S.C. 552(e).

Original classification. The initial determination that, in the interest of national security, information requires protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

Original classification authority. The authority vested in an executive branch official to make a determination of original classification. A person having original classification authority may also have the authority to prolong or restore classification.

Originating agency. The agency responsible for the initial determination that particular information is classified.

Information. Any information or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the U.S. Government.

National security information. Information that has been determined pursuant to this Order or any predecessor Order to require protection against unauthorized disclosure and that is so designated.

Foreign government. Includes foreign governments and international organizations of governments.

Foreign government information. Foreign government information is: (1) Information provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or (2)

Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

National security. The national defense or foreign relations of the United States.

Confidential source. Any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both, be held in confidence.

Classification guide. A document issued by an authorized original classifier that prescribes the level of classification and appropriate declassification instructions for specified information to be classified derivatively.

Derivative classification. A determination that information is in substance the same as information currently classified, together with the designation of the level of classification.

Special access program. Any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program may include, but is not limited to, special clearance, adjudication, or investigative requirements, special designations of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know." It does not include special captions such as NODIS, LIMDIS.

Intelligence activity. An activity that an agency within the Intelligence Community is authorized to conduct pursuant to the Order.

Unauthorized disclosure. A communication or physical transfer of classified information to an unauthorized recipient.

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Register

Federal

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Part IV

Office of Management and Budget

Cumulative Report on Deferrals

**OFFICE OF MANAGEMENT AND
BUDGET****Cumulative Report on Deferrals****To the Congress of the United States:**

I hereby withdraw my message transmitted on December 6, 1982 (H. Doc. 97-261) under the Impoundment Control Act of 1974 by which 11 deferrals were reported, and I report herewith 13 new deferrals of fiscal year 1983 funds totaling \$1,569,870,000 and three revisions to existing deferrals increasing the amounts deferred by \$1,173,257,000.

The deferrals are for programs in International Security Assistance and the Departments of Defense-Military, Energy, Housing and Urban Development, Interior, and Treasury, the National Aeronautics and Space Administration, the Veterans' Administration, and the Interstate Commission on the Potomac River Basin.

The details of each deferral are contained in the attached reports.
Ronald Reagan.

The White House,
December 7, 1982.

BILLING CODE 3110-01-M

SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

Second special message	Rescissions	Deferrals
New items.....	---	1,569,870
Changes to amounts previously submitted.....	---	1,173,257
Effects of Second special message...	---	2,743,127
Previous special message.....	---	598,780
Total, Deferrals.....	---	3,341,907

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
D83-21	Funds Appropriated to the President	
D83-22	International Security Assistance	
D83-6A	Economic support fund.....	165,000
D83-23	Department of Defense - Military	554,720
	Military construction - all services.....	1,230,478
	Department of Defense - Military	
	Family housing.....	161,640
D83-24	Department of Energy	
	Energy Programs	
	Energy Impact Assistance Fund.....	22,803
D83-25	Department of the Interior	
	Bureau of Reclamation	
	Office of Water Research and Technology,	
	Salaries and expenses.....	2,545
D83-15A	Department of the Treasury	
D83-16A	Office of Revenue Sharing	
D83-26	State and local government fiscal	
D83-27	assistance trust fund.....	106,779
	State and local government fiscal	
	assistance trust fund.....	14,446
	National Aeronautics and Space Administration	
	Research and development.....	34,500
	Veterans Administration.....	
	Construction, major projects.....	4,000
D83-28	Other Independent Agencies	
	Contribution to Interstate Commission on the	
	Potomac River Basin.....	12
D83-29	Funds Appropriated to the President	
	International Security Assistance	
	Military assistance.....	11,650
	Department of Housing and Urban Development	
	Housing Programs	
	Payments for operation of low income housing	
D83-30	projects.....	150,000
D83-31	Community planning and development	
D83-32	Community development grants.....	221,000
D83-33	Urban development action grants.....	234,000
	Urban homesteading.....	8,000
	Total, Deferrals.....	2,921,573

Deferral No: D83-21

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President Bureau International Security Assistance Appropriation title & symbol Foreign Military Sales Credit I/ 1131082	New budget authority (P.L. 97-276) \$ 165,000,000 Other budgetary resources 165,000,000 Total budgetary resources 165,000,000 Amount to be deferral: Part of year 165,000,000 Entire year
OMB identification code: 11-1037-0-1-152	Legal authority (in addition to sec 1013): ☐ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	

Justification

Pursuant to the Arms Export Control Act, the President is authorized to sell or finance by credit or guarantee defense articles and defense services for friendly countries. Public Law 97-276 makes continuing appropriations of \$165,000,000 for fiscal year 1983 to enable the President to carry out those authorities. Under section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for continuous supervision and general direction of sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order 11958 of January 18, 1977, delegated certain of the President's functions under the Arms Export Control Act to the Secretary of State and concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guaranty transactions that are based upon national security and financial policies.

These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds.

Estimated Effect

This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

Outlay Effect

There is no outlay effect of this deferral because funds will be released as loans are approved.

I This account was the subject of a similar deferral in FY 1982 (D82-222).

Deferral No: D83-22

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President(AID) Bureau International Security Assistance Appropriation title & symbol Economic Support Fund I/ 1131037	New budget authority (P.L. 97-276) \$ 566,720,000 Other budgetary resources 566,720,000 Total budgetary resources 566,720,000 Amount to be deferral: Part of year \$ 554,720,000 Entire year
OMB identification code: 11-1037-0-1-152	Legal authority (in addition to sec 1013): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. PL 97-276 provides continuing appropriations of \$566,720,000 of grant and loan Economic Support Funds to enable the President to carry out those authorities. Under part II, Chapter 4 of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order No. 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4 to the Secretary of State insofar as they relate to policy decisions and justifications for economic support programs. These functions will be exercised in cooperation with the Administrator of the Agency for International Development.

The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds.

Estimated Effect: This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

Outlay Effect: There is no outlay effect of this deferral because funds will be released as loans and grants are approved.

I This account was the subject of a similar deferral in FY 1982 (D82-219).

D83-6A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(C) of Public Law 93-344

This report updates Deferral No. D83-6 transmitted to the Congress on October 1, 1982.

This revision to a deferral of Department of Defense military construction funds increases the amount previously reported as deferred from \$64,062,500 to \$1,230,477,500. This net increase of \$1,166,415,000 primarily results from an increase in budgetary resources made available by the Military Construction Appropriation Act, 1983 (Public Law 97-323).

Deferral No: D83-6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense - Military	New budget authority (P.L. 97-323)	\$4,512,112,000
Bureau	Other budgetary resources	2,699,167,222
Appropriation title & symbol	Total budgetary resources	7,211,279,222
See Coverage Section below	Amount to be deferred:	
	Part of year	\$1,230,477,500
	Entire year	
OMB identification code:	Legal authority (in addition to sec. 1013):	
See Coverage Section below	☒ Antideficiency Act	
Grant program ☐ Yes ☐ No	☐ Other	
Type of account or fund:	Type of budget authority:	
☐ Annual	☒ Appropriation	
☒ Multiple-year	☐ Contract authority	
☒ No-year	☐ Other	
Coverage: 1/		

Appropriation	Symbol	OMB Identification Code	Amount Deferred*
Military construction, Army	213/72050	21-2050-0-1-051	\$274,510,000
Military construction, Army	212/62050	21-2050-0-1-051	
Military construction, Army	211/52050	21-2050-0-1-051	
Military construction, Army	210/42050	21-2050-0-1-051	
Military construction, Army	219/32050	21-2050-0-1-051	
Military construction, Navy	173/71205	17-1205-0-1-051	\$220,575,000
Military construction, Navy	172/61205	17-1205-0-1-051	
Military construction, Navy	171/61205	17-1205-0-1-051	
Military construction, Navy	170/41205	17-1205-0-1-051	
Military construction, Navy	179/31205	17-1205-0-1-051	
Military construction, Air Force	573/73300	57-3300-0-1-051	\$423,148,000
Military construction, Air Force	572/63300	57-3300-0-1-051	13,924,500
Military construction, Air Force	571/53300	57-3300-0-1-051	
Military construction, Air Force	570/43300	57-3300-0-1-051	
Military construction, Air Force	579/33300	57-3300-0-1-051	

*Revised from previous report.

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These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effect:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effect:

These deferrals have no effect on FY 1983 outlays.

Military construction, Defense Agencies	973/70500	97-0500-0-1-051	\$ 18,200,000
Military construction, Defense Agencies	972/60500	97-0500-0-1-051	8,000,000
Military construction, Defense Agencies	971/50500	97-0500-0-1-051	538,000
Military construction, Defense Agencies	970/40500	97-0500-0-1-051	
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	
Military construction, Army National Guard	213/72085	21-2085-0-1-051	\$ 25,842,000
Military construction, Army National Guard	212/62085	21-2085-0-1-051	
Military construction, Army National Guard	211/52085	21-2085-0-1-051	
Military construction, Army National Guard	210/42085	21-2085-0-1-051	
Military construction, Army National Guard	219/32085	21-2085-0-1-051	
Military construction, Air National Guard	573/73830	57-3830-0-1-051	\$ 77,340,000
Military construction, Air National Guard	572/63830	57-3830-0-1-051	1,750,000
Military construction, Air National Guard	571/53830	57-3830-0-1-051	
Military construction, Air National Guard	570/43830	57-3830-0-1-051	
Military construction, Air National Guard	579/33830	57-3830-0-1-051	
Military construction, Army Reserve	213/72086	21-2086-0-1-051	\$
Military construction, Army Reserve	212/62086	21-2086-0-1-051	
Military construction, Army Reserve	211/52086	21-2086-0-1-051	
Military construction, Army Reserve	210/42086	21-2086-0-1-051	
Military construction, Army Reserve	219/32086	21-2086-0-1-051	
Military construction, Naval Reserve	173/71235	17-1235-0-1-051	\$ 4,200,000
Military construction, Naval Reserve	172/61235	17-1235-0-1-051	4,850,000
Military construction, Naval Reserve	171/51235	17-1235-0-1-051	
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	
Military construction, Air Force Reserve	573/73730	57-3730-0-1-051	\$ 7,600,000
Military construction, Air Force Reserve	572/63730	57-3730-0-1-051	
Military construction, Air Force Reserve	571/53730	57-3730-0-1-051	
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	
North Atlantic Treaty Organization Infrastructure	97X0804	97-0804-0-1-051	\$ 150,000,000
Military construction, Reserve Components, Generally	972/50805	21-2086-0-1-051	\$
			<u>\$1,230,477,500</u>

These accounts were the subject of a similar deferral during FY 1982 (D82-68).

Justification:

The above amounts in the listed five-year and no-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

Deferral No: D83-24

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Energy	New budget authority (P.L. 97-276)	\$ 97,747,000
Bureau Energy Programs	Other budgetary resources	71,277,747
Appropriation title & symbol	Total budgetary resources	169,024,747
ENERGY CONSERVATION 1/ 89X0215	Amount to be deferred: Part of year	22,803,200
	Entire year	
OMB identification code: 89-0215-0-1-272		
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act		
Grant program	☒ Yes ☐ No	
Type of account or fund:	Type of budget authority:	
☐ Annual	☒ Appropriation	
☐ Multiple-year (expiration date)	☐ Contract authority	
☒ No-year	☐ Other	

Justification: The energy impact assistance program being deferred provides assistance through the Farmers Home Administration to areas experiencing significantly higher unemployment as a result of energy supply development. These funds are deferred in accord with congressional instructions to delay expenditures for energy impact assistance until action has been taken for the program during the "lame duck" session of Congress due to start on November 29. The \$22.8 million being deferred includes:

- \$14.3 million requested for reprogramming from the energy impact assistance to the weatherization assistance programs in September, 1982;
- \$7.7 million Farmers Home Administration deobligations in September, 1982;
- \$740,000 in other unobligated funds.

This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

1/ This account was the subject of a similar deferral in FY 1982 D82-106.

Deferral No: D83-23

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense - Military	New budget authority (P.L. 97-323)	\$ 337,686,000
Bureau	Other budgetary resources	
Appropriation title & symbol	Total budgetary resources	337,686,000
Family Housing, Army Family Housing, Navy and Marine Corps Family Housing, Air Force	Amount to be deferred: Part of year	\$ 161,640,000
	Entire year	
OMB identification code: 21-0702-0-1-051		
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act		
Grant program	☐ Yes ☒ No	
Type of account or fund:	Type of budget authority:	
☐ Annual	☒ Appropriation	
☒ Multiple-year September 30, 1987 (expiration date)	☐ Contract authority	
☐ No-year	☐ Other	

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Family housing, Army	213/70702	21-0702-0-1-051	\$ 50,270,000
Family housing, Navy and Marine Corps	173/70703	17-0703-0-1-051	58,370,000
Family housing, Air Force	573/70704	57-0704-0-1-051	53,000,000
			\$161,640,000

Justification:

The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves or contingencies.

These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effect:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effect:

These deferrals have no effect on FY 1983 outlays.

1/ This account was the subject of a deferral during FY 1982 (D82-7).

Deferral No: D83-23

DEFERRAL OF BUDGET AUTHORITY Report Pursuant to Section 1013 of P.L. 92-344

Agency Department of the Interior	New budget authority (P.L. 97-276)	\$ 2,545,000
Bureau Bureau of Reclamation	Other budgetary resources	1,018,000
Appropriation title & symbol	Total budgetary resources	3,563,000
Salaries and Expenses	Amount to be deferred:	
Office and Water Research & Technology 1/	Part of year	\$ 2,545,000
1430115	Entire year	
142/30115		
143/40115		
140115		
OMB identification code:	Legal authority (in addition to sec. 1013):	
14-0115-0-1-301	☐ Antideficiency Act	
Grant program	☐ Other	
Type of account or fund:	Type of budget authority:	
☒ Annual	☒ Appropriation	
September 30, 1983	☐ Contract authority	
☒ Multiple-year	☐ Other	
(expiration date)		
September 30, 1984		

Justification: The programs affected by this deferral are directed at identifying and developing technological improvements in the use of water, particularly brackish water, seawater and water of impaired quality. Deferral of these funds is necessary to preserve all options for subsequent appropriation actions by the Congress, especially with regard to the President's request that no new funding be appropriated for these activities. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration date of the Continuing Resolution or any extensions thereof.

Estimated Effects: This deferral action will restrain obligations that might otherwise occur under the Continuing Resolution (P.L. 97-276). The impact on the programs will be to defer initiation of new research and development activities.

Outlay Effect: This deferral action--by--itself--has no significant effect on fiscal year 1983 outlays, due to its short duration. However, if the Congress concurs with the President's request for these activities, \$2,545,000 of the savings achieved could be attributed to this action.

1/ This account was subject of a similar deferral in FY 1982 D82-120.

D83-24

Estimated Effects: The effect of this deferral proposal would be to delay grants to state and local governments under the Energy Impact Assistance Program for 78 days in order to preserve Congressional options in this matter.

Outlay Effect: This deferral will have no impact on 1983 outlays.

D83-15A

Deferral No: D 83-15A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral Number D83-15, transmitted in the first special message of FY 1983 to the Congress on October 1, 1982.

This revised deferral report for the State and Local Government Fiscal Assistance Trust Fund in the Office of the Secretary of the Treasury increases the previously reported deferral from \$106,473,429 to \$106,779,429. The net increase of \$305,573 results from payments to recipient governments and adjustments to the reserve of \$1,464,102 offset by \$1,769,675 added to the reserve from the FY 1983 appropriation.

Agency Department of the Treasury		New budget authority: (P.L. 94-488)		\$	
Bureau Office of Revenue Sharing		Other budgetary resources		\$	106,779,429
Appropriation title & symbol		Total budgetary resources		\$	106,779,429
State and Local Government Fiscal Assistance Trust Fund		Amount to be deferred:		\$	2,500,000
20X 8111 1/ 2/		Part of year		\$	104,279,429
		Entire year		\$	
OMB Identification codes: 20-8111-0-7-851		Legal authority (in addition to sec. 1013): ☒ Antideficiency Act P.L. 92-512, P.L. 94-488 (Sec. 6) ☐ Other P.L. 95-604			
Grant program ☒ Yes ☐ No		Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other			
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ Bi-year		Justification *			

The Secretary of the Treasury must hold in reserve an amount to meet valid claims from local governments that their previous general revenue sharing payments were computed incorrectly. Because the total amount appropriated for all governments is fixed, the attempt to such a reserve is recurring recomputations of the entitlements of 39,332 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated (exclusive of noncontinguous States adjustment funds) for each entitlement period through FY 1975. In addition, one-half of one percent of the \$4,988 million (exclusive of noncontinguous States adjustment funds) appropriated for general revenue sharing in the Economic Stimulus Appropriations (exclusive of noncontinguous States adjustment funds - P.L. 95-119, P.L. 96-103) were also withheld from obligation. An additional amount of approximately \$1,769,675 is projected to be held in reserve from the FY 1983 appropriation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods.

- 1/ This account is the subject of another deferral (D 83-16A).
2/ This account was the subject of a similar deferral during FY 1982.
3/ FY 1983 unobligated reserve (includes carryover from FY 1982).

* Revised from previous submission.

D83-15A

After adjusting for such releases from the reserve, the deferred amount projected to carryover in FY 1984 is \$104.3 million. The unobligated amount of \$104.3 million retained in the Trust Fund at the end of FY 1983 will be further reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of the regular distribution.

Estimated Effect:

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified thus avoiding substantial confusion and complexities in the administration of the program.

Outlay Effect:*

This deferral has the effect of shifting an estimated \$104.3 million in outlays: \$52.2 million from FY 1983 into FY 1984 and \$52.1 million from FY 1984 into FY 1985.

D 83-16A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises the previous Deferral Number D-83-16, transmitted in the first special message of FY 1983 to the Congress on October 1, 1982.

This revised deferral report for the State and Local Government Fiscal Assistance Trust Fund in the Office of the Secretary of the Treasury increases the previously reported deferral from \$7,908,900 to \$14,445,599. The increase of \$6,536,699 results from withholding payments from various governments for reasons of non-compliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Deferral No: D 83-16A

Deferral No: D83-26

DEFERRAL OF BUDGET AUTHORITY Report Pursuant to Section 1013 of P.L. 93-344

DEFERRAL OF BUDGET AUTHORITY Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury Bureau Office of Revenue Sharing	New budget authority (P.L. 97-272) \$ 4,566,700,000 Other budgetary resources 104,871,826 Total budgetary resources 4,671,571,826
Appropriation title & symbol State and Local Government Fiscal Assistance Trust Fund 20X 8111 1/ 2/	Amount to be deferred: \$ 14,445,399 Part of year Entire year
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act P.L. 95-161 Sections 121 & 123 ☒ Other P.L. 94-488 P.L. 96-604
Grant program ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification

The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of non-compliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect

The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect

There is no outlay effect of this deferral, because the funds are expected to be disbursed during FY 1983.

1/ This account is subject to another deferral.

2/ This account was the subject of similar deferrals during FY 1982 and FY 1981.

3/ Carryover into FY 1983 - unobligated reserve.

4/ Deferral of outlays only.

* Revised from previous submission.

Agency National Aeronautics and Space Administration Bureau	New budget authority (P.L. 97-272) \$ 5,542,800,000 Other budgetary resources 1,017,500,000 Total budgetary resources 6,560,300,000
Appropriation title & symbol Research and Development 803/40108	Amount to be deferred: \$ 34,500,000 Part of year Entire year
OMB identification code: 80-0108-0-1-999	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1984 (expiration date) ☐ No-year	

Justification

The NASA Research and Development account includes programs in basic and applied research, and development. NASA is proposing to proceed with a change in contractual arrangements regarding the planned lease of the Tracking and Data Relay Satellite System (TDRSS). The new contractual arrangements are expected to result in greater operational flexibility, longer system lifetime to meet government needs, and cost savings to the Government. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

The amount of \$34.5 million is deferred in anticipation of expected additional reimbursements from the sale of part of a 1984 Space Shuttle flight that would no longer be needed to support the TDRSS program and the delayed requirement for additional interim upper stage (IUS) vehicles.

Estimated Effects

This deferral action will hold in reserve new 1983 obligational authority expected to be offset by increased reimbursements from the sale of an additional Shuttle flight and obligational authority no longer needed in 1983 to purchase IUS upper stage vehicles.

Outlay Effect

The effect of this deferral will be to shift \$30 million in 1983 outlays into 1984.

Deferral No: D83-27

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Veterans Administration	New budget authority (P.L. 97-272)	\$ 407,392,000
Bureau		Other budgetary resources (estimated unobligated balance brought forward)	833,739,101
Appropriation title & symbol Construction, Major Projects 1/ 36X0110		Total budgetary resources	1,241,131,101
Amount to be deferred: Part of year		Entire year	\$ 4,000,000
OMB identification code: 36-0110-0-1-703		Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program	☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year			

Justification: This account provides for the construction and renovation of V.A. facilities where the project costs exceed \$2 million. Amounts shown reflect a decision to defer contract awards through FY 1983 for the Phase II development of Indian Gap National Cemetery. This amount is deferred because a change in gravesite sizing has increased the yield of the first phase, making award of this work now at least a year too early. This deferral is taken under the Antideficiency Act (31 USC 665).

Estimated Effects: This deferral action will avoid unnecessary operations and maintenance costs by delaying the project until actually required.

Outlay Effects: This deferral action will have the effect of shifting outlay, by fiscal year as follows: 1983 into 1984: none; 1984 into 1985: \$2,000,000; 1985 into 1986: \$1,600,000.

1/ This account was subject of similar deferrals in FY 1982.
D82-140 and D82-141

Deferral No: D83-28

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Interstate Commission on the Potomac River Basin	New budget authority (P.L. 97-276)	\$ 12,000
Bureau		Other budgetary resources	-0-
Appropriation title & symbol Contribution to Interstate Commission on the Potomac River Basin 4620446		Total budgetary resources	12,000
Amount to be deferred: Part of year		Entire year	\$ 12,000
OMB identification code: 46-0446-0-1-304		Legal authority (in addition to sec. 1013): ☐ Antideficiency Act	
Grant program	☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☐ No-year			

JUSTIFICATION

The membership of the Interstate Commission on the Potomac River Basin (INCPOT) is Maryland, Pennsylvania, Virginia, and the District of Columbia. It coordinates the Federal, State, local, and private activities related to the water resources of the Potomac River Basin. It is not a Federal agency. It is funded by contributions from its members, plus project grants from Federal and State sources. The 1983 President's Budget proposed no direct appropriations to INCPOT. Nevertheless, the general language of the continuing resolution authorizes \$12,000 as an interim amount. Since the Commission has other sources of interim funds, the continuing resolution amounts are deferred to preserve the options of the Congress for 1983.

ESTIMATED EFFECTS

Will defer \$12,000 in Federal obligations that would otherwise occur under continuing resolution.

OUTLAY EFFECTS

This deferral action--by--itself-- has no significant effect on fiscal year 1983 outlays, due to its short duration. However, if the Congress concurs with the President's request for these activities, \$12,000 of savings achieved could be attributed to this action.

Deferral No: D83-29

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Funds Appropriated to the President	New budget authority (P.L. 97-276)	\$ 23,650,000
Bureau	International Security Assistance	Other budgetary resources	—
Appropriation title & symbol		Total budgetary resources	23,650,000
Military Assistance 113/41080		Amount to be deferred: Part of year	11,650,000
		Entire year	—
OMB identification code: 11-1080-0-1-152		Legal authority (in addition to sec. 1013): ☐ Antideficiency Act	
Grant program ☒ Yes ☐ No		Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☒ Annual ☐ Multiple-year September 30, 1984 (expiration date) ☐ No-year			

Justification: Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Public law 97-276 makes continuing appropriations of \$23,650,000 of grant military assistance (MAP) funds available to enable the President to carry out this authority. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain of the President's functions under the FAA to the Secretaries of State and Defense. Pending approval of specific country programs by the Departments of State, Treasury, and Defense, \$11,650,000 was temporarily deferred. Consultation among these Departments ensured that each approved program is consistent with the foreign, national security and financial policies of the United States and did not exceed the limit of available funds. The country programs were approved and funds released before the withholding could be reported to the Congress. The purpose of this report is to notify the Congress of the temporary withholding.

Estimated Effect: This deferral is not restrictive in nature and will have no programmatic or budgetary impact.

Outlay Effect: There is no outlay effect in FY 1983.

Deferral No: D81-30

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Department of Housing and Urban Development	New budget authority (P.L. 97-272)	\$ 1,350,000,000
Bureau	Housing Programs	Other budgetary resources	—
Appropriation title & symbol		Total budgetary resources	1,350,000,000
Payments for Operation of 1/ Low-income Housing Projects 863-0163		Amount to be deferred: Part of year	\$ 150,000,000
		Entire year	—
OMB identification code: 86-0163-0-1-272		Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☒ Yes ☐ No		Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year			

Justification: This appropriation is used by the Department of Housing and Urban Development (HUD) to make operating subsidy payments to public housing agencies (PHAs). Operating subsidies are necessary because rental income and other revenues are insufficient to cover the costs of operating low rent public housing projects. Subsidies are calculated and distributed on the basis of a formula which projects the costs of operating a PHA's housing units. Subsidies for a fiscal year are largely distributed during the corresponding calendar year.

At this time, there is insufficient information upon which to estimate total FY 1983 subsidy requirements. However, it is known that utility costs increased more slowly, and PHA revenues increased more rapidly, than initially projected for FY 1982. This resulted in a reduction in total operating subsidy requirements in FY 1982. A follow-on reduction in 1983 requirements is therefore expected. Preliminary estimates indicate that FY 1983 requirements will be at least \$150 million below estimates done as recently as June 1982. Therefore, that amount is being deferred until a more precise estimate of both operating subsidy requirements and resources available for this program in FY 1983 can be made. It is expected that this determination will be made by the time the President's 1984 budget is transmitted to the Congress in January 1983. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

1/ This account was the subject of a similar deferral in FY 1982 D82-183.

Deferral No: D83-31

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Estimated Effects: This deferral action is expected to have no effect upon the amount of operating subsidies obligated by HUD during FY 1983. If it is determined that they are needed, funds will be released. If it is determined that funds are not needed, they will be proposed for rescission or alternative use.

Outlay Effect: Current year operating subsidies will be disbursed during calendar year 1983. Therefore, this deferral action is not expected to have any effect upon outlays.

Agency Department of Housing and Urban Development	New budget authority	\$3,456,000,000
Bureau Community Planning and Development	(P.L. 97-272)	
Appropriation title & symbol	Other budgetary resources	437,000,000
Community Development Grants 1/	Total budgetary resources	3,893,000,000
861/30162	Amount to be deferred:	
862/40162	Part of year	
863/50162 2/	Entire year	221,000,000
ME identification code:	Legal authority (in addition to sec. 1013):	
86-0162-0-1-451	☐ Antideficiency Act	
Grant program ☒ Yes ☐ No	☐ Other	
Type of account or fund:	Type of budget authority:	
☐ Annual September 30, 1983	☒ Appropriation	
☒ Multiple-year September 30, 1985	☐ Contract authority	
(expiration date)	☐ Other	
☐ No-year		

Justification: Community Development Grants provide funding by formula and through competition to States, localities, Indian tribes, Alaskan natives, and U.S. Territories for locally determined community and economic development projects. When the President transmitted his FY 1983 Budget to Congress, no carryover balances from FY 1982 into FY 1983 were anticipated and FY 1983 budget authority of \$3,456 million was requested, with which Congress agreed. However, contrary to our earlier estimates, an estimated \$426 million in unobligated resources will now be carried forward from FY 1982 into FY 1983, \$221 million of which is unreserved and unobligated. Therefore, in order to be more consistent with the levels proposed and approved for the FY 1983 Budget, this action defers \$221 million of the FY 1983 appropriation for the remainder of FY 1983.

Estimated Effects: This deferral action will result in a program level and new grants during FY 1983 more consistent with the proposed and approved 1983 Budget. This may result in new grants being, on the average, about six percent less than they otherwise would be without this deferral, assuming all available resources could be used in FY 1983.

Outlay Effect: This deferral action will shift an estimated \$4 million in FY 1983 outlays to FY 1984, \$84 million in FY 1984 outlays to FY 1985, \$117 million in FY 1985 outlays to FY 1986, and \$16 million in FY 1986 outlays to FY 1987.

- 1/ This account was subject of a deferral in FY 1982, D82-112.
2/ The deferral applies to this account.

Deferral No: D83-33

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Department of Housing and Urban Development	New budget authority (P.L. 97-272)	\$ 12,000,000
Bureau	Community Planning and Development	Other budgetary resources	5,000,000
Appropriation title & symbol	Urban Homesteading	Total budgetary resources	17,000,000
86-0170		Amount to be deferred:	
		Part of year	\$ 8,000,000
		Entire year	
OMB identification code:	86-0170-0-1-451	Legal authority (in addition to sec. 1013):	
Grant program	☒ Yes ☐ No	☐ Antideficiency Act	
Type of account or fund:		☐ Other	
☐ Annual		Type of budget authority:	
☐ Multiple-year	(expiration date)	☒ Appropriation	
☒ No-year		☐ Contract authority	
		☐ Other	

Justification: Urban Homesteading reimburses the Federal Housing Administration, the Farmers Home Administration, and the Veterans Administration for properties transferred to localities for use in approved single-family urban homesteading programs. Funds were deferred for this account for 31 days pending a review of budgetary resource requirements for FY 1983. Upon completion of the review, all deferred funds were released.

Estimated Effects: There were no programmatic or budgetary effects associated with this deferral due to its short duration.

Outlay Effect: This deferral action had no effect on FY 1983 outlays.

Deferral No: D83-32

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Department of Housing and Urban Development	New budget authority (P.L. 97-272)	\$ 440,000,000
Bureau	Community Planning and Development	Other budgetary resources	360,000,000
Appropriation title & symbol	Urban Development Action Grants 1/	Total budgetary resources	800,000,000
862/30170		Amount to be deferred:	
862/30170		Part of year	
862/30170 2/		Entire year	234,000,000
OMB identification code:	86-0170-0-1-451	Legal authority (in addition to sec. 1013):	
Grant program	☒ Yes ☐ No	☐ Antideficiency Act	
Type of account or fund:		☐ Other	
☐ Annual	September 30, 1983	Type of budget authority:	
☒ Multiple-year	September 30, 1985	☒ Appropriation	
☐ No-year	(expiration date)	☐ Contract authority	
		☐ Other	

Justification: Urban Development Action Grants provide localities with discretionary funding to be used in conjunction with private and other public funds to promote local economic development. When the President transmitted his FY 1983 Budget to Congress, no carryover balances from FY 1982 into FY 1983 were anticipated and FY 1983 Budget authority of \$440 million was requested, with which Congress agreed. However, contrary to our earlier estimates, an estimated \$324 million in unobligated resources will now be carried forward from FY 1982 into FY 1983, \$234 million of which is unreserved and unobligated. Therefore, in order to be more consistent with the levels proposed and approved for the FY 1983 Budget, this action defers \$234 million of the FY 1982 appropriation for the remainder of FY 1983.

Estimated Effects: This deferral action will result in a program level and new grant announcements during FY 1983 more consistent with the projected and approved 1983 budget. This could result in approximately 185 fewer grant announcements being made in FY 1983 than would otherwise be announced without this deferral, if all available resources were in fact used in FY 1983.

Outlay Effect: This deferral action will shift an estimated \$12 million in FY 1983 outlays to FY 1984, \$48 million in FY 1984 outlays to FY 1985, and \$58 million in each FY 1985, 1986, and 1987 to FY 1986, 1987, and 1988.

1/ This account was subject of a deferral in FY 1982, D82-113.

2/ The deferral applies to this account.

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 5 new deferrals of fiscal year 1983 funds totaling \$624,650,000.

The deferrals are for programs in International Security Assistance and the Department of Housing and Urban Development.

The details of each deferral are contained in the attached reports.

Ronald Reagan.

The White House,

December 8, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No: D83-21

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
	International Security Assistance	
D83-21	Foreign military sales credit.....	165,000
D83-22	Economic support fund.....	554,720
D83-6A	Military construction - Military	
D83-23	Department of Defense - Military	1,230,478
	Family housing.....	161,640
	Department of Energy	
	Energy Programs	
D83-24	Energy Impact Assistance Fund.....	22,803
	Department of the Interior	
	Bureau of Reclamation	
D83-25	Office of Water Research and Technology,	
	Salaries and expenses.....	2,545
	Department of the Treasury	
	Office of Revenue Sharing	
	State and local government fiscal	
D83-15A	assistance trust fund.....	106,779
D83-16A	State and local government fiscal	
	assistance trust fund.....	14,446
D83-26	National Aeronautics and Space Administration	
	Research and development.....	34,500
D83-27	Veterans Administration	
	Construction, major projects.....	4,000
	Other Independent Agencies	
D83-28	Contribution to Interstate Commission on the	
	Potomac River Basin.....	12
	Total, Deferrals.....	2,296,923

SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Second special message		
New items.....	---	945,220
Changes to amounts previously submitted.....	---	1,173,257
Effects of Second special message...	---	2,118,477
Previous special messages.....	---	598,780
Total amount proposed in special message	---	2,717,257

Agency Bureau International Security Assistance Appropriation title & symbol Foreign Military Sales Credit 1/ 1131082	Appropriated to the President.	New budget authority (P.L. 93-276) Other budgetary resources Total budgetary resources Amount to be deferred: Part of year Entire year
OMB identification code:	Grant program ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	

Justification

Pursuant to the Arms Export Control Act, the President is authorized to sell or finance by credit or guarantee defense articles and defense services for friendly countries. Public Law 97-276 makes continuing appropriations of \$165,000,000 for fiscal year 1983 to enable the President to carry out those authorities. Under section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for continuous supervision and general direction of sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof; Executive Order 11958 of January 18, 1977, delegated certain of the President's functions under the Arms Export Control Act to the Secretary of State and concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guaranty transactions that are based upon national security and financial policies.

These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds.

Estimated Effect

This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

Outlay Effect

There is no outlay effect of this deferral because funds will be released as loans are approved.

This account was the subject of a similar deferral in FY 1982 (D82-222).

D83-6A

Deferral No: D83-22

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(C) of Public Law 93-344

Agency Funds Appropriated to the President(AID)	New budget authority (P.L. 97-276)	\$ 566,720,000
Bureau, International Security Assistance	Other budgetary resources	
Appropriation title & symbol	Total budgetary resources	566,720,000
Economic Support Fund 1/	Amount to be deferred:	
1131037	Part of year	\$ 554,720,000
	Entire year	
OMB identification code: 11-4037-00-1-152	Legal authority (in addition to sec. 1013):	
	☐ Antideficiency Act	
	☐ Other	
Grant program ☒ Yes ☐ No	Type of budget authority:	
	☒ Appropriation	
	☐ Contract authority	
	☐ Other	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Justification:	

Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. PL 97-276 provides continuing appropriations of \$566,720,000 of grant and loan Economic Support Funds to enable the President to carry out those authorities. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order No. 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4 to the Secretary of State insofar as they relate to policy decisions and justifications for economic support programs. These functions will be exercised in cooperation with the Administrator of the Agency for International Development.

The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds.

Estimated effect: This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

Outlay Effect: There is no outlay effect of this deferral because funds will be released as loans and grants are approved. This account was the subject of a similar deferral in FY82 (D82-219).

This revision to a deferral of Department of Defense military construction funds increases the amount previously reported as deferred from \$64,062,500 to \$1,230,477,500. This net increase of \$1,166,415,000 primarily results from an increase in budgetary resources made available by the Military Construction Appropriation Act, 1983 (Public Law 97-323).

D83-6A
p.2

Deferral No.: D83-6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-144

Agency Department of Defense - Military	New budget authority (P.L. 97-323)	\$4,512,112,000
Bureau	Other budgetary resources	2,699,167,221
Appropriation title & symbol	Total budgetary resources	7,211,279,221
See Coverage Section below	Amount to be deferred: Part of year	\$1,230,477,500
	Entire year	
OMB identification code: See Coverage Section below	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority	
Type of account or fund: ☐ Annual ☒ Multiple-year ☐ No-year	Other	
Coverage: ☒ September 30, 1981 September 30, 1982 September 30, 1983 September 30, 1984 September 30, 1985 September 30, 1986 September 30, 1987 (expiration date)		

Appropriation	Symbol	Identification Code	Amount Deferred
Military construction, Army	213/72050	21-2050-0-1-051	\$274,510,000
Military construction, Army	212/62050	21-2050-0-1-051	
Military construction, Army	211/52050	21-2050-0-1-051	
Military construction, Army	210/42050	21-2050-0-1-051	
Military construction, Army	219/32050	21-2050-0-1-051	
Military construction, Navy	173/71205	17-1205-0-1-051	\$220,575,000
Military construction, Navy	172/61205	17-1205-0-1-051	
Military construction, Navy	171/51205	17-1205-0-1-051	
Military construction, Navy	170/41205	17-1205-0-1-051	
Military construction, Navy	179/31205	17-1205-0-1-051	
Military construction, Air Force	573/73300	57-3300-0-1-051	\$423,148,000
Military construction, Air Force	572/63300	57-3300-0-1-051	13,924,500
Military construction, Air Force	571/53300	57-3300-0-1-051	
Military construction, Air Force	570/43300	57-3300-0-1-051	
Military construction, Air Force	579/33300	57-3300-0-1-051	

*Revised from previous report.

Military construction, Defense Agencies 973/70500 97-0500-0-1-051 \$ 18,200,000
 Military construction, Defense Agencies 972/60500 97-0500-0-1-051 8,000,000
 Military construction, Defense Agencies 971/50500 97-0500-0-1-051 538,000
 Military construction, Defense Agencies 970/40500 97-0500-0-1-051
 Military construction, Defense Agencies 979/30500 97-0500-0-1-051
 Military construction, Army National Guard 213/72085 21-2085-0-1-051 \$ 25,842,000
 Military construction, Army National Guard 212/62085 21-2085-0-1-051
 Military construction, Army National Guard 211/52085 21-2085-0-1-051
 Military construction, Army National Guard 210/42085 21-2085-0-1-051
 Military construction, Army National Guard 219/32085 21-2085-0-1-051
 Military construction, Air National Guard 573/73830 57-3830-0-1-051 \$ 77,340,000
 Military construction, Air National Guard 572/63830 57-3830-0-1-051 1,750,000
 Military construction, Air National Guard 571/53830 57-3830-0-1-051
 Military construction, Air National Guard 570/43830 57-3830-0-1-051
 Military construction, Air National Guard 579/33830 57-3830-0-1-051
 Military construction, Army Reserve 213/72086 21-2086-0-1-051 \$
 Military construction, Army Reserve 212/62086 21-2086-0-1-051
 Military construction, Army Reserve 211/52086 21-2086-0-1-051
 Military construction, Army Reserve 210/42086 21-2086-0-1-051
 Military construction, Army Reserve 219/32086 21-2086-0-1-051
 Military construction, Naval Reserve 173/71235 17-1235-0-1-051 \$ 4,200,000
 Military construction, Naval Reserve 172/61235 17-1235-0-1-051 4,850,000
 Military construction, Naval Reserve 171/51235 17-1235-0-1-051
 Military construction, Naval Reserve 170/41235 17-1235-0-1-051
 Military construction, Naval Reserve 179/31235 17-1235-0-1-051
 Military construction, Air Force Reserve 573/73730 57-3730-0-1-051 \$ 7,600,000
 Military construction, Air Force Reserve 572/63730 57-3730-0-1-051
 Military construction, Air Force Reserve 571/53730 57-3730-0-1-051
 Military construction, Air Force Reserve 570/43730 57-3730-0-1-051
 Military construction, Air Force Reserve 579/33730 57-3730-0-1-051
 North Atlantic Treaty Organization 97X0804 97-0804-0-1-051 \$ 150,000,000
 Infrastructure
 Military construction, Reserve Components, Generally 972/50805 21-2086-0-1-051 \$
 \$1,230,477,500

These accounts were the subject of a similar deferral during FY 1982 (082-68).

Justification:

The above amounts in the listed five-year and no-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

Deferral No: D83- 23

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effect:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effect:

These deferrals have no effect on FY 1983 outlays.

Agency	Department of Defense - Military	New budget authority (P.L. 97-323)	\$ 337,686,000
Bureau		Other budgetary resources	
Appropriation title & symbol		Total budgetary resources	337,686,000
Family Housing, Army			
Family Housing, Navy and Marine Corps			
Family Housing, Air Force			
Amount to be deferred:			
Part of year			\$ 161,640,000
Entire year			
OMB identification code:		Legal authority (in addition to sec. 1013):	
Grant program ☐ Yes ☒ No		☒ Antideficiency Act	
Type of account or fund:		Type of budget authority:	
☐ Annual		☒ Appropriation	
☒ Multiple-year September 30, 1987 (expiration date)		☐ Contract authority	
☐ No-year		☐ Other	
Coverage: <u>1/</u>			

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Family housing, Army	213/70702	21-0702-0-1-081	\$ 50,270,000
Family housing, Navy and Marine Corps	173/70703	17-0703-0-1-081	\$8,370,000
Family housing, Air Force	573/70704	57-0704-0-1-081	\$3,000,000
Justification:			\$161,640,000

The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves or contingencies.

These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated Effect:

These deferrals have no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effect:

These deferrals have no effect on FY 1983 outlays.

1/ This account was the subject of a deferral during FY 1982 (D82-7).

D83-24

Deferral No: 083-24

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-544

Agency Department of Energy	New budget authority (P.L. 97-276)	\$ 97,747,000
Bureau Energy Programs	Other budgetary resources	71,277,747
Appropriation title & symbol ENERGY CONSERVATION 1/ 89X0215	Total budgetary resources	169,024,747
	Amount to be deferred: Part of year	22,803,200
	Entire year	
XB identification code: 89-0215-0-1-272	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ 5-year	Justification: The energy impact assistance program being deferred provides assistance through the Farmers Home Administration to areas experiencing significantly higher unemployment as a result of energy supply development. These funds are deferred in accord with congressional instructions to delay expenditures for energy impact assistance until action has been taken for the program during the "lame duck" session of Congress due to start on November 29. The \$22.8 million being deferred includes:	

-- \$14.3 million requested for reprogramming from the energy impact assistance to the weatherization assistance program; September, 1982;

-- \$7.7 million Farmers Home Administration deobligations in September, 1982;

-- \$740,000 in other unobligated funds.

This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

1/This account was the subject of a similar deferral in FY 1982 D82-106.

Estimated Effects: The effect of this deferral proposal would be to delay grants to State and local governments under the Energy Impact Assistance Program for 78 days in order to preserve Congressional options in this matter.

Outlay Effect: This deferral will have no impact on 1983 outlays.

D83-15A

Deferral No: D83- 25

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior		New budget authority (P.L. 97-276)	\$ 2,545,000
Bureau Bureau of Reclamation		Other budgetary resources	1,018,000
Appropriation title & symbol Salaries and Expenses Office and Water Research & Technology 1/ 1430115 142/30115 143/40115 1420115		Total budgetary resources	3,563,000
		Amount to be deferred:	
		Part of year	\$ 2,545,000
		Entire year	
OMB identification code: 14-0115-0-1-301		Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other	
Grant program ☒ Yes ☐ No		Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☒ Annual ☒ Multiple-year ☒ No-year		September 30, 1983 September 30, 1984 (expiration date)	

Justification: The programs affected by this deferral are directed at identifying and developing technological improvements in the use of water, particularly brackish water, sewerage and water of impaired quality. Deferral of these funds is necessary to preserve all options for subsequent appropriation actions by the Congress, especially with regard to the President's request that no new funding be appropriated for these activities. This deferral will remain in effect until final congressional action on the President's request is completed, but not beyond the expiration date of the Continuing Resolution or any extensions thereof.

Estimated Effects: This deferral action will restrain obligations that might otherwise occur under the Continuing Resolution (P.L. 97-276). The impact on the programs will be to defer initiation of new research and development activities.

Outlay Effect: This deferral action--by--itself-- has no significant effect on fiscal year 1983 outlays, due to its short duration. However, if the Congress concurs with the President's request for these activities, \$2,545,000 of the savings achieved could be attributed to this action.

1/ This account was subject of a similar deferral in FY 1982 D82-120.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral Number D83-15, transmitted in the first special message of FY 1983 to the Congress on October 1, 1982.

This revised deferral report for the State and Local Government Fiscal Assistance Trust Fund in the Office of the Secretary of the Treasury increases the previously reported deferral from \$106,473,429 to \$106,779,429. The net increase of \$305,573 results from payments to recipient governments and adjustments to the reserve of \$1,464,102 offset by \$1,769,675 added to the reserve from the FY 1983 appropriation.

D83-15A

D83-15A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 95-144

Agency Department of the Treasury		New budget authority (P.L. 95-144)		\$ 106,779,429
Bureau Office of Revenue Sharing		Other budgetary resources		106,779,429
Appropriation title & symbol		Total budgetary resources		106,779,429
State and Local Government Fiscal Assistance Trust Fund		Amount to be deferred:		2,500,000
20X 8111 1/ 2/		Part of year		106,279,429*
		Entire year		
OMB identification code:		Legal authority (in addition to sec. 1013):		
20-8111-0-7-851		☒ Antideficiency Act P.L. 92-512, P.L. 94-488 (Sec. 6)		
Grant program ☒ Yes ☐ No		☐ Other P.L. 96-604		
Type of account or fund:		Type of budget authority:		
☐ Annual		☒ Appropriation		
☐ Multiple-year (expiration date)		☐ Contract authority		
☒ No-year		☐ Other		

Justification *

The Secretary of the Treasury must hold in reserve an amount to meet valid claims from local governments that their previous general revenue sharing payments were computed incorrectly. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of the entitlements of 39,332 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated (exclusive of noncontiguous States adjustment funds) for each entitlement period through FY 1975. In addition, one-half of one percent of the \$4,988 million (exclusive of noncontiguous States adjustment funds) appropriated for general revenue sharing in the Economic Stimulus Appropriations (exclusive of noncontiguous States adjustment funds - P.L. 95-119, P.L. 96-103) were also withheld from obligation. An additional amount of approximately \$1,769,675 is projected to be held in reserve from the FY 1983 appropriation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods.

- 1/ This account is the subject of another deferral (D 83-16A).
 2/ This account was the subject of a similar deferral during FY 1982.
 3/ FY 1983 unobligated reserve (includes carryover from FY 1982).

* Revised from previous submission.

After adjusting for such releases from the reserve, the deferred amount projected to carryover in FY 1984 is \$104.3 million. The unobligated amount of \$104.3 million retained in the Trust Fund at the end of FY 1983 will be further reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of the regular distribution.

Estimated Effect:

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified thus avoiding substantial confusion and complexities in the administration of the program.

Outlay Effect: *

This deferral has the effect of shifting an estimated \$104.3 million in outlays; \$52.2 million from FY 1983 into FY 1984 and \$52.1 million from FY 1984 into FY 1985.

D 83-16A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises the previous Deferral Number D-83-16, transmitted in the first special message of FY 1983 to the Congress on October 1, 1982.

This revised deferral report for the State and Local Government Fiscal Assistance Trust Fund in the Office of the Secretary of the Treasury increases the previously reported deferral from \$7,908,900 to \$14,445,599. The increase of \$6,536,699 results from withholding payments from various governments for reasons of non-compliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Deferral No: D 83-16A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority: \$ 4,566,700,000
Bureau Office of Revenue Sharing	(P.L. 97-272) 3/ *
Appropriation title & symbol	Other budgetary resources 104.871.826 *
State and Local Government Fiscal Assistance Trust Fund	Total budgetary resources 4,671,571.826 *
20X 8111 1/ 2/	Amount to be deferred: \$ 14,445,599
	Part of year
	Entire year
OMB identification code:	Legal authority (in addition to sec. 1013):
20-8111-0-7-851	☒ Antideficiency Act
Grant program ☒ Yes ☐ No	P.L. 92-512 Sections 121 & 123
Type of account or fund:	☒ Other P.L. 94-488 P.L. 96-404
☐ Annual	Type of budget authority:
☐ Multiple-year (expiration date)	☒ Appropriation
☒ No-year	☐ Contract authority
	☐ Other

Justification

The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of non-compliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect

The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect

There is no outlay effect of this deferral, because the funds are expected to be disbursed during FY 1983.

- 1/ This account is subject to another deferral.
 2/ This account was the subject of similar deferrals during FY 1982 and FY 1981.
 3/ Carryover into FY 1983 - unobligated reserve.
 4/ Deferral of outlays only.

* Revised from previous submission.

Deferral No: D83-26

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency National Aeronautics and Space Administration	New budget authority (P.L. 97-272)	\$ 2,542,800,000
Bureau	Other budgetary resources	1,017,500,000
Appropriation title & symbol Research and Development 803/40108	Total budgetary resources	\$ 3,560,300,000
	Amount to be deferred: Part of year	\$ 34,500,000
	Entire year	
CMS identification code: 80-0108-0-1-999	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1984 (expiration date) ☐ No-year		

Justification

The NASA Research and Development account includes programs in basic and applied research, and development. NASA is proposing to proceed with a change in contractual arrangements regarding the planned lease of the Tracking and Data Relay Satellite System (TRSS). The new contractual arrangements are expected to result in greater operational flexibility, longer system lifetime to meet Government needs, and cost savings to the Government. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 665). The amount of \$34.5 million is deferred in anticipation of expected additional reimbursements from the sale of part of a 1984 Space Shuttle flight that would no longer be needed to support the TRSS program and the delayed requirement for additional interim upper stage (IUS) vehicles.

Estimated Effects

This deferral action will hold in reserve new 1983 obligational authority expected to be offset by increased reimbursements from the sale of an additional Shuttle flight and obligational authority no longer needed in 1983 to purchase IUS upper stage vehicles.

Outlay Effect

The effect of this deferral will be to shift \$30 million in 1983 outlays into 1984.

Deferral No: D83-27

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Veterans Administration	New budget authority (P.L. 97-272)	\$ 407,392,000
Bureau	Other budgetary resources	833,739,101
Appropriation title & symbol Construction, Major Projects 1/ 36X0110	Total budgetary resources	\$ 1,241,131,101
	Amount to be deferred: Part of year	\$ 4,000,000
	Entire year	
CMS identification code: 36-0110-0-1-703	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
Type of account or fund: ☐ Annual ☒ Multiple-year (expiration date) ☐ No-year		

Justification: This account provides for the construction and renovation of V.A. facilities where the project costs exceed \$2 million. Amounts shown reflect a decision to defer contract awards through FY 1983 for the Phase II development of Indianom Gap National Cemetery. This amount is deferred because a change in gravesite siting has increased the yield of the first phase, making award of this work now at least a year too early. This deferral is taken under the Antideficiency Act (31 USC 665).

Estimated Effects: This deferral action will avoid unnecessary operations and maintenance costs by delaying the project until actually required.

Outlay Effects: This deferral action will have the effect of shifting outlay by fiscal year as follows: 1983 into 1984: none; 1984 into 1985: \$2,000,000; 1985 into 1986: \$1,600,000.

1/ This account was subject of similar deferrals in FY 1982, D82-140 and D82-141

Deferral No: D83-28	
DEFERRAL OF BUDGET AUTHORITY Report Pursuant to Section 1013 of P.L. 93-344	
Agency Interstate Commission on the Potomac River Basin	
Bureau	
Appropriation title & symbol Contribution to Interstate Commission on the Potomac River Basin 4620446	
New budget authority (P.L. 97-276)	\$12,000
Other budgetary resources	-0-
Total budgetary resources	12,000
Amount to be deferred: Part of year	\$12,000
Entire year	
OMB identification code: 46-0446-0-1-304	
Legal authority (in addition to sec. 1013): ☐ Antideficiency Act	
Grant program ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	
JUSTIFICATION	
The membership of the Interstate Commission on the Potomac River Basin (INCPOT) is Maryland, Pennsylvania, Virginia, and the District of Columbia. It coordinates Federal, State, local, and private activities related to the water resources of the Potomac River Basin. It is not a Federal agency. It is funded by contributions from its members, plus project grants from Federal and State sources. The 1983 President's Budget proposed no direct appropriations to INCPOT. Nevertheless, the general language of the continuing resolution authorizes \$12,000 as an interim amount. Since the Commission has other sources of interim funds, the continuing resolution amounts are deferred to preserve the options of the Congress for 1983.	
ESTIMATED EFFECTS	
Will defer \$12,000 in Federal obligations that would otherwise occur under continuing resolution.	
OUTLAY EFFECTS	
This deferral action--by--itself-- has no significant effect on fiscal year 1983 outlays, due to its short duration. However, if the Congress concurs with the President's request for these activities, \$12,000 of savings achieved could be attributed to this action.	

[FR Doc. 82-33685 Filed 12-9-82; 8:45 am]

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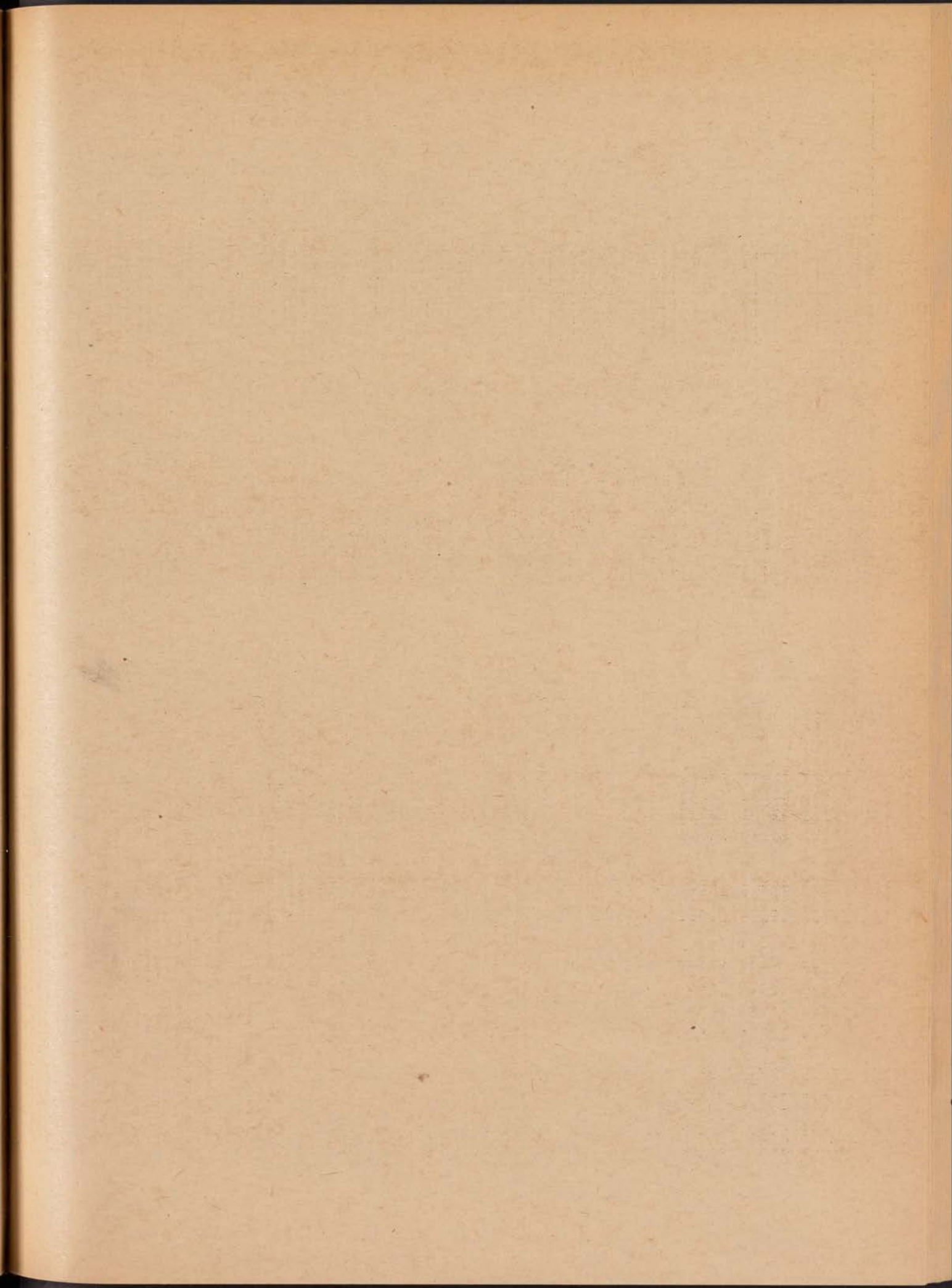
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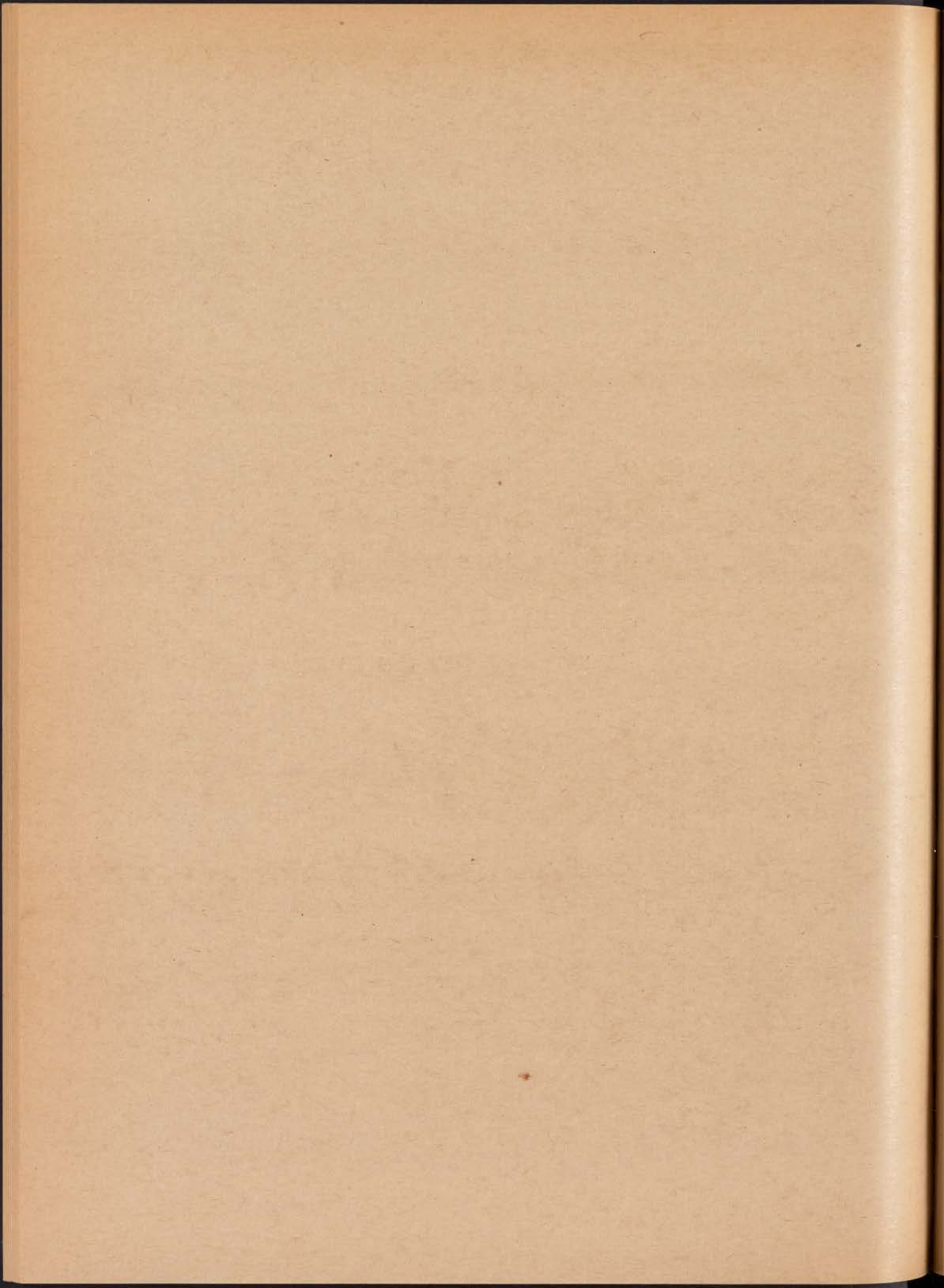
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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