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Wednesday
December 15, 1982

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Civil Aeronautics Board
Health Care Financing Administration
National Oceanic and Atmospheric Administration
Treasury Department

Authority Delegations (Government Agencies)
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Environmental Protection Agency

Rent Subsidies
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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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2—Amdt. 24]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Regional Administrator in Region III proposed a change increasing the 8(a) contracting authority for the Assistant District Director for Minority Small Business and Capital Ownership Development (ADD/MBS–COD) in the Washington District Office.

This change was approved and, after publication in the **Federal Register,** will provide more efficient treatment of 8(a) contracts in the Washington district.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended, following the index terms, as set forth below:

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

13 CFR 101.3–2 is amended as follows:

§101.3–2 [Amended]

1. Part VII, Section B, paragraph 1., subparagraphs i. and j. are revised as follows:

i. Assistant District Director for MSB/COD Columbia and Washington D.O.'s only, 500,000.

j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Richmond, Philadelphia and Baltimore D.O's only, 100,000.

2. Part VII, Section B, paragraph 2., subparagraphs i. and j. are revised as follows:

i. Assistant District Director for MSB/COD, Columbia and Washington D.O.'s only, 500,000.

j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Richmond, Philadelphia and Baltimore D.O.'s only, 100,000.

3. Part VII, Section B. paragraph 3., subparagraphs i. and k. are revised as follows:

i. Assistant District Director for MSB/COD, Columbia and Washington D.O.'s only, 500,000.

k. Assistant District Director for MSB/COD, Richmond, Philadelphia and Baltimore D.O.'s only, 100,000

Dated: December 7, 1982

James C. Sanders,

Administrator.

[FR Doc. 82–33846 Filed 12–14–82, 8:45 am]
BILLING CODE 8025–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

[PR–252; Procedural Regs. Amdt. 68 to Part 302]

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB extends the time period to determine completeness of applications for certificate authority under expedited processing procedures from 14 to 21 days. This additional time is necessary to ensure adequate review of each application.

DATES: Adopted: December 9, 1982. Effective: December 15, 1982.

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

SUPPLEMENTARY INFORMATION: Under the provisions of 14 CFR 302.1713, any application for certificate authority filed under Subpart Q must be reviewed for completeness within 14 days after filing. Incomplete applications may be rejected or their processing deferred until requisite information is submitted to the Board.

There has been a large increase in the number of Subpart Q applications. With its reduced staffing levels, the Board is finding it difficult to meet the 14-day deadline. An extension of the period to 21 days after filing will enable the Board to provide adequate review, without impairing its ability to meet the statutory deadline for final action. If applications are complete when filed, this extension of the preliminary review period will not affect the time of their final processing. Incomplete applications that require further information will be delayed 1 week at most.

Since this amendment involves a rule of agency procedure, and imposes no substantial burden on any person, the Board finds notice and comment unnecessary and finds good cause to make this rule effective upon publication in the **Federal Register.**

List of Subjects in 14 CFR Part 302

Administrative practice and procedures, Air rates and fares, Authority delegations (Government agencies), Postal service.

PART 302—[AMENDED]

Accordingly, in 14 CFR Part 302, *Rules of Practice in Board Proceedings,* the Civil Aeronautics Board amends § 302.1713 as follows:

1. The authority for 14 CFR 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85–726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91–90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402, unless otherwise noted.

2. Section 302.1713 is amended by changing "14 days" to "21 days", the section is revised to read:

§ 302.1713 Preliminary procedures for rejection or deferral of nonconforming applications.

Within 21 days after the filing of any application under this subpart (including an application which is sought to be consolidated or a conforming application), the Bureau of Domestic Aviation or the Bureau of International Aviation, as appropriate, may, on behalf of the Board, (a) reject any application that does not comply with this subpart, or (b) defer further processing of the application until information necessary to process the application is submitted. Applications will not be processed, and the time periods contained in this subpart shall not begin to run, until the application is complete. In addition, the Bureau of International Aviation may, on behalf of the Board, defer action on a foreign air carrier permit application for foreign policy reasons. Petitions for review of the staff action taken under this section may be filed in accordance with Subpart C of Part 385 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor

Secretary.

[FR Doc. 82-34010 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 387

[Reg. OR-203; Organization Reg. Amdt. 7 to Part 387]

Organization and Operation During Emergency Conditions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule

SUMMARY: The CAB is amending its rule for operation during a time of national emergency. Because of recent staff reorganizations, the order of succession to the Chairman and the Board is changed. This rule is adopted at the Board's own initiative so as to reflect accurately the CAB's order of succession.

DATES: Effective: December 15, 1982. Adopted: December 9, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In 14 CFR Part 387, the Board has set forth its plan for organization and operation during a time of national emergency. It states the plan for relocation of the Board if necessary and for the order of succession of Board Members, the Chairman, and the Managing Director. The provisions of Part 387 would take effect upon the declaration of a national emergency by the President in accordance with the National Emergencies Act (Pub. L. 94-412).

Section 387.4 describes the order of succession in the event no Member of the Board is capable of acting. The order of succession up to now has been as follows: the Managing Director, the Director of the Bureau of Domestic Aviation, the General Counsel, and the Director of the Bureau of Consumer Protection.

The Bureau of Consumer Protection was eliminated in a reorganization of the Board's staff this year, and the position of the Director, Bureau of Consumer Protection, was abolished. Its functions were split between the newly created Office of Congressional, Community, and Consumer Affairs, the Bureau of Carrier Audits and Accounts, and the Office of the General Counsel.

The Board has decided not to replace the Director, Bureau of Consumer Protection, in the order with another staff position. It is, however, hereby moving the General Counsel to a position immediatley after the Managing Director, and adding the Director, Bureau of International Aviation, after the General Counsel.

In addition, the Board is removing an obsolete reference to Public Notice PN-15 in § 387.4(a). Originally adopted in 1965, PN-15 is an obsolete statement of organization and staff delegations. In its place, the section now includes a reference to the Board's organization regulations in Title 14, Code of Federal Regulations.

Because this is a rule of the Board's organization and procedure, the Board finds that notice and public comment is unnecessary, and because of the need to have an accurate set of emergency organizational plans in place, finds good cause to make this rule effective immediately upon publication in the **Federal Register.**

List of Subjects in 14 CFR Part 387

Authority delegations (Government Agencies) and Civil defense.

PART 387—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 387, *Organization and Operation During Emergency Conditions*, as follows:

1. The authority for Part 387 is:

Authority: Secs. 204, 1001, Pub. L. 85-726 as amended, 72 Stat. 743, 781; 49 U.S.C. 1324, 1481. Sec 201, Pub L. 94-412, 90 Stat. 1255; 50 U.S.C. 1621, Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).

2. All other authority citations are removed.

3. The introductory text and paragraphs (a), (c), and (d) of § 387.4 are revised to read:

§ 387.4 Organization and delegations of authority.

During a national emergency:

(a) The respective functions and responsibilities of the Board, individual Board Members, and Board staff members, and the delegations of authority, shall to the extent possible be as set forth in the several parts of the Board's published regulations in Title 14, Chapter II, Code of Federal Regulations, unless otherwise modified or revoked by authority of the Chairman, Board, or other requirements of law.

* * * * *

(c) In the event no Board Member is capable of acting, actions in the name and authority of the Board shall be taken by the following: The Managing Director; the General Counsel; the Director, Bureau of International Aviation; the Director, Bureau of Domestic Aviation. If one or more of them cannot act, their deputies or staff in line of succession as provided in paragraph (g) of this section shall act. The authority of the above designees, or their successsors, shall mean and include the designated authority to act for the Board.

(d) The authority of the Chairman, in the event of inability to act, shall be exercised by the Vice Chairman, and in the event of the Vice Chairman's inability to act, the other Members of the Board in order of seniority. If no Board Member is able to act as Chairman, then members of the Board's staff shall act as Chairman in the following order: the Managing Director; the General Counsel; the Director, Bureau of International Aviation; the Director, Bureau of Domestic Aviation; their respective deputies or staff in line of succession to the preceding staff members.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34009 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

[Docket No. 21129-237]

Financial Compensation of Participants in Administrative Proceedings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; revocation.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is revoking its regulations which establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings conducted by NOAA. This action is the result of a recent federal court decision which raises a serious question as to NOAA's authority to implement these regulations. This notice is intended to revoke 15 CFR Part 904 Subpart G—Financial Compensation of Participants in Administrative Proceedings.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Phyllis W. Jackson, Staff Attorney, 254-8350.

SUPPLEMENTARY INFORMATION:

Background

On Wednesday, April 26, 1978, the National Oceanic and Atmospheric Administration (NOAA) published a notice of final rulemaking on financial compensation of participants in administrative proceedings. These rules went into effect on May 26, 1978. These rules established criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA.

On November 27, 1981, the United States Court of Appeals for the Fourth Circuit held a similar regulation of the Food and Drug Administration (FDA) invalid in the case of *Pacific Legal Foundation* v. *Goyan*, 664 F. 2d 1221. The FDA regulation was established to provide "payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical service, travel, studies, demonstrations, and other reasonable and necessary costs of participation incurred by a participant * * * in an agency proceeding * * * that results in a hearing * * *" Congress had not authorized the payment program, but the FDA considered that it held implied power to fund the program because it had broad regulatory powers and was required to hold frequent hearings. The court held that in the absence of specific statutory authorization an agency may not disburse funds to participants in its proceedings. In reviewing the FDA regulation, the Court relied on *Green County Planning Board* v. *Federal Power Commission*, 559 F. 2d 1227 (2d Cir. 1976) cert. denied 434 U.S. 986 (1978). In *Green County*, a Comptroller General's finding that the Federal Power Commission had implied authority to reimburse legal fees of intervenors was held to be insufficient without "appropriate Congressional action," 559 F.2d at 1240.

NOAA, like FDA, does not have express congressional authorization to spend funds for various costs incurred by participants in agency proceedings. The *Goyan* decision raises a serious question as to NOAA's authority. Therefore, pursuant to its authority under 31 U.S.C. 628, NOAA issued an interim rule suspending its regulations in 15 CFR Part 904, Subpart G, which govern financial compensation of participants in NOAA's administrative proceedings. This interim rule was published March 8, 1982, at pages 9820-9821 of the **Federal Register.**

Concurrently with the publication of the interim rule suspending 15 CFR Part 904, Subpart G, a Notice of Proposed Rulemaking was published at pages 9861-9862 of the **Federal Register.** That rulemaking proposed to revoke 15 CFR 904, Subpart G. Comments on this proposal were invited for a sixty (60) day period ending May 7, 1982. Comments were received from or on behalf of: (1) The Pacific Legal Foundation (PLF); (2) Conoco, Inc.; (3) Friends of the Earth; and (4) Carl Tobias. The following summarizes the comments, suggestions and actions taken.

Pacific Legal Foundation (PLF) is a nonprofit, tax-exempt corporation organized and existing under the laws of California for the purpose of engaging in matters affecting the broad public interest. PLF supports NOAA's proposal to revoke its rule entitled "Financial Compensation of Participants in Administrative Proceedings," 15 CFR Part 904 Subpart G.

PLF suggests that NOAA, like FDA in the *Goyan* case, lacks the requisite statutory authorization to implement a program to reimburse participants in its proceedings and that NOAA thus properly suspended its reimbursement rule. PLF further cited the Consumer Product Safety Commission (CPSC) as having revoked a similar regulation and the U.S. Department of Agriculture (USDA) as having proceeded to revoke a similar program. Therefore, PLF concludes that until such time as Congress grants NOAA express statutory authorization for a reimbursement regulation it should also comply with the *Goyan* decision and implement a final rule revoking its reimbursement program.

Conoco Inc., North American Production Department, agrees that NOAA was not granted express Congressional authorization to spend funds for various cases incurred by participation in agency proceedings. In brief comments, Conoco endorses the proposal to revoke 15 CFR Part 904, Subpart G.

The Northwest Regional Office of Friends of the Earth opposes the proposed rulemaking to revoke 15 CFR Part 904 Subpart G. Friends of the Earth comments that the *Goyan* case was brought against the Food and Drug Administration and not against NOAA. In the absence of a specific court ruling, Friends of the Earth believes that NOAA should retain and reinstate 15 CFR Part 904, Subpart G. They further cite two Comptroller General Rulings (B-180224 and B-92288) and one court case (*Chamber of Commerce of the U.S.* v. *Department of Agriculture* 459 F. Supp. 216 (D. D.C. 1978)) in support of the concept of agencies funding the costs of participation in their proceedings even in the absence of an explicit authorization from Congress. Friends of the Earth concluded that rulemaking participation funding is a valid and necessary program to insure that NOAA receives a wide range of comments on its proposed rules and that there were no grounds for the revocation of NOAA's program.

NOAA does not believe that a court ruling specifically against it is a prerequisite to the proposed rulemaking. We have carefully analyzed the *Goyan* case and have concluded that the material facts depicting the FDA program and the basis of authority for such a program so closely parallel the NOAA program that a serious question as to NOAA's authority is raised which justifies the suspension of NOAA's regulations. The Comptroller General's decision No. 180224 dated May 10, 1976, cited by Friends of the Earth, is not pertinent. The other Comptroller General's Opinion No. B-92288 is considered below.

Mr. Carl Tobias, Associate Professor of Law at the University of Montana, submitted extensive comments. Mr. Tobias' comments were said not to reflect the views of the University of Montana or the Food and Drug

Administration for which Mr. Tobias is a legal consultant. Mr. Tobias believes that participant reimbursement is a sound administrative practice which better enables NOAA to fulfill its statutory mandates and that NOAA does possess reimbursement authority and should not revoke its regulations. On the general question of agency authority, Mr. Tobias comments that NOAA possesses reimbursement authority based upon its broad substantive statutory mandates as well as its residual appropriations legislation. He states that if NOAA determined that the participation of the public in its proceedings were necessary to performance of agency functions (especially administrative decisionmaking), then NOAA would have the requisite authority to spend money appropriated "for necessary expenses" of public participation. The bases of Mr. Tobias' conclusions are opinions of the Comptroller General in which that official concludes that agencies possess the requisite authority. Mr. Tobias states that the same conclusion was reached by NOAA when NOAA issued its reimbursement regulations and he refers to the argument for agency reimbursement authority contained in NOAA's April 26, 1978, and August 11, 1977, **Federal Register** notices.

Mr. Tobias contends that the *Goyan* case is not dispositive or binding on the issue of NOAA's authority. Mr. Tobias refers to the **Federal Register** notice of April 26, 1978 (43 FR 17807) and claims that NOAA addressed the very question presented by *Goyan* and concluded nonetheless that the agency possessed reimbursement authority. Mr. Tobias further claims that NOAA found that the "Greene County decision" was not a legal obstacle to implementation of its then proposed financial assistance program. He asserts that NOAA based this determination upon an opinion of the Office of Legal Counsel (OLC) of the Department of Justice, dated 1 March 1978; 78–14 Memorandum of Opinion for the General Counsel, Department of Transportation (Vol. 2, Opinions of the Office of Legal Counsel 1978), which stated that Greene County "involved only a construction of the Federal Power Act and that as a result no department or agency [other than FERC] was bound by the decision."

Other distinctions were asserted between the Green County decision and NOAA's rulemaking action. In summary, Mr. Tobias' comments: (1) Distinguish the FPC's actions in the Greene County decision and those of NOAA implementing its participant reimbursement program on the grounds that the FPC had found that public participation *was not necessary* to its decisionmaking whereas NOAA had determined that such participation *was necessary*; (2) interpreted the OLC opinion to have advised that each agency was "required to interpret its own organic statute and any other relevant statutory provisions and determine whether Congress had authorized it, explicitly or implicitly, to provide compensation; (3) assert that opinions of the Second Circuit as to FPC reimbursement authority and of the Fourth Circuit as to FDA authority are not binding upon NOAA (which should look more properly to decisions of Federal courts in the District of Columbia Circuit); (4) propose that the majority opinions in *Greene County* and *Goyan* were poorly reasoned and that the dissenting opinions were more pursuasive; (5) claim that the revocation notice seems to state that 31 U.S.C. 628 mandates revocation and that such an interpretation of this statutory provision is incorrect; (6) claim that NOAA's prior determination that it has authority remains correct and that the *Goyan* case does not compel rescission of its regulation; (7) present policy reasons (e.g. effective means of improving agency decisionmaking) That argue against rescission of NOAA's regulations.

NOAA recognizes that a number of Comptroller General Opinions (among them B–92288) and at least one court case (*Chamber of Commerce of the U.S.* v. *Department of Agriculture* 459 F. Supp. 216 (D. D.C. 1978) support the concept of agencies funding the costs of participation in their proceedings even in the absence of an explicit authorization from Congress. On the other hand, there are a number of recent cases that have held that there can be no authority to reimburse participants in the absence of a specific statutory provision. (*Alyeska Pipeline Service Company* v. *Wilderness Society*, 421 U.S.C. 240 (1975); *Turner* v. *Federal Communications Commission*, 514 F. 2d 1354 (D.C. Cir. 1975); and *Green County Planning Board* v. *Federal Power Commission*, 455 F. 2d 412 (2d Cir. 1972). In view of the recent case of *Pacific Legal Foundation* v. *Goyan* (664 F. 2d 1221) (November 27, 1981), the judicial trend seems to favor a finding of no reimbursement authority. NOAA finds this trend and the *Goyan* case to be persuasive. Other Federal agencies have had similar responses. (See 47 FR 22071 wherein in the U.S. Department of Agriculture published a final rule rescinding similar regulations.)

Of course NOAA agrees that 31 U.S.C. 628 should be interpreted with a degree of flexibility that would allow NOAA to effectively execute its legislative mandates. However, it is questionable that this principle provides authority for the subsidization of individual participation in administrative proceedings even when the same information can be obtained by more efficient means by Agency employees, through a contract or grant to persons best able to provide the information, or through public comment.

NOAA has made a total of eight (8) awards pursuant to its participation reimbursement program. A review of the information and materials gathered pursuant to this program, reveals that in no case was unique and significant information obtained that could not have been otherwise obtained.

In several comments, a Department of Justice/Office of Legal Counsel (DOJ/OLC) opinion is raised in defense of agency authority on this issue. NOAA had relied to some extent on this OLC opinion when first implementing the public participant reimbursement regulations. This March 1, 1978, opinion of the Office of Legal Counsel in part stated in its review of the *Greene County* case as follows:

> "The Second Circuit could have based its decision on a broader ground; for example, it could have taken the position that no compensation for expenses such as attorney's fees could be paid absent explicit statutory authority. Had it done so, its decision would have created doubt as to whether other Departments and Agencies could construe their respective organic statutes as providing power to compensate where such authority was not explicit."

This OLC opinion construed the *Green* decision very narrowly and simply stated that no department or agency other than the successor to the Federal Power Commission was bound by the decision because the *Green* case merely construed the Federal Power Act. However, the *Goyan* case *did* base its decision on the broader ground that no compensation for expenses such as those of public participants in administrative proceedings under 15 CFP Part 904, Subpart G could be paid absent explicit statutory authority. NOAA has carefully considered the question of *its* authority to reimburse public participants in administrative proceedings. In view of the recent *Goyan* decision, NOAA concludes that its authority to promulgate these regulations is undermined to such an extent as to require the revocation of its regulations.

E.O. 12291

This notice was determined not to be a major rule as defined in Section 1(b) of E.O. 12291 and as such was not the subject of a Regulatory Impact Analysis.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This **Federal Register** notice simply revokes regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings. Only a small number of persons have participated in the NOAA program to date. Therefore, it has been determined that this action does not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of Section 605(b) of the Regulatory Flexibility Act, the General Counsel of the Department of Commerce certified in the Notice of Proposed Rulemaking that the proposed action affecting National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR Part 904 Subpart G governing "Financial Compensation of Participants in Administrative Proceedings", did not appear to have a significant economic impact on a substantial number of small entities. At that time he provided a certification to that effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, it was determined that this proposed action was not subject to the Regulatory Flexibility Analysis requirements of Sections 603 and 604 of the Regulatory Flexibility Act. To avoid duplicative action, pursuant to Section 605(c) of the Regulatory Flexibility Act, NOAA considers the related notice of proposed rulemaking and this final rule as one for the purposes of satisfying Regulatory Flexibility Act requirements. [The text of the Regulatory Flexibility Act Certification may be found at 47 FR 9862 (1982).]

Paperwork Reduction Act of 1980

This suspension action does not generate any information collection request or paperwork burden or otherwise result in activities which are subject to the requirements of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

NOAA has determined that this regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 15 CFR Part 904

Compensation to public participants.

For the reasons set out in the preamble, 15 CFR Part 904 Subpart G is revoked.

PART 904—CIVIL PROCEDURES

Subpart G—Financial Compensation of Participants in Administrative Proceedings [Removed]

15 CFR Part 904, Subpart G is removed as of January 14, 1983.

Anthony J. Calio,

Acting Administrator, NOAA.

[FR Doc. 82-33993 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-82-1028]

Section 8 Housing Assistance Payments Program Fair Market Rent Schedules, Existing Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: In compliance with Section 8(c)(1) of the United States Housing Act of 1937, HUD is announcing the Fair Market Rent (FMR) schedules for the Section 8 Existing Housing and Moderate Rehabilitation Programs (24 CFR Part 882) and for space rentals by owners of manufactured (mobile) homes under the Section 8 Existing Housing Program (24 CFR Part 882, Subpart F).

DATE: Comments Due Date: February 14, 1983.

EFFECTIVE DATE: Upon expiration of the first period of 30 calender days of continuous session of Congress after publication, subject to waiver. Further notice of the effective date of this interim rule will be published in the **Federal Register.**

ADDRESS: Interested persons are invited to submit comments to Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-5433. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The last Fair Market Rents (FMR), which were published in the **Federal Register** on March 18, 1981, 46 FR 17367 were calculated in accordance with the criteria and procedure set forth in the **Federal Register** on July 26, 1979, 44 FR 43902.

In the interest of cost containment, the Department has been considering alternate criteria and procedures for establishing FMRs, and considered publishing new FMRs for 1982 using these new criteria and procedures. The effect of such publication would have been to set the 1982 FMRs for many areas below the FMRs established in 1981. After considering the potential impact, the Department determined that it would be in the public interest to publish and to solicit comments on FMR schedules based on different criteria and procedures in a proposed rule (proposed rule scheduled to be published as Part IV to the December 13 issue of the **Federal Register**). The comments received in response to the new criteria and FMR level will be considered in drafting a final rule which is expected to become effective on March 29, 1983. Accordingly, while the proposed rule is being published and public comments are being solicited, the Department is hereby extending by reference the FMRs schedules that were published in 1981, thereby extending the applicability of the FMRs provided in those schedules. These FMRs will remain in effect until the publication of the above final rule.

The Secretary has determined that prior notice is unnecessary. The Department received and considered public comments on these FMRs at the time of original publication. The Department's decision to extend the same FMRs in effect pending publication of FMRs computed under the new

method represents a policy decision on which additional public comment may be appropriate. However, this does not alter the FMRs which would have been in effect in the absence of such publication.

A Finding of No Significant Impact with respect to the environment is unnecessary since the Section 8 Existing Housing Program is categorically excluded from the National Environmental Policy Act procedures under 24 CFR 50.21(a)(4).

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because FMRs reflect the rents which are charged for similar quality units in an area. Therefore, FMRs do not change the rent from that which would be charged if the units were not in the Section 8 program.

This rule was listed as item C (24. H-36-81) under the Office of Housing in the Department's Semi-Annual Agenda of Regulations published on August 17, 1981 (46 FR 41719) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.156. Lower-Income Housing Assistance program (Section 8).

List of Subjects in 24 CFR Part 888

Rent subsidies.

Accordingly, Part 888, Subpart A, Schedule B and Schedule D as published at 46 FR 17367-17524, March 18, 1981, are hereby extended. They shall continue to be in effect until the next publication for effect of revised FMRs.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), Section 8, United States Housing Act of 1937 (42 U.S.C. 1437f)).

Dated: September 21, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-34003 Filed 12-14-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

Control, Custody, Care, Treatment, and Instruction of Inmates

Correction

In FR Doc. 82-33308, beginning on page 55128, on Tuesday, December 7, 1982, make the following changes:

1. On page 55128, in the third column, in the second paragraph, in the fifth line "facilitating activity:" should read "facilitating criminal activity:".

2. On page 55129, in the first column, in the third line from the bottom, "is a threat" should read "is threat".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning January 1, 1983. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after January 1, 1983, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effext until PBGC publishes an amendment revising them.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") issued a final regulation (46 FR 9492) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). Appendix B to the regulation, which contains formulas for valuing different types of benefits, sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before December 1, 1982 (46 FR 26765, 46 FR 31257, 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757, 47 FR 40541, 47 FR 46273).

On November 15, 1982, the PBGC published rates for plans that terminate on or after December 1, 1982 (47 FR 51393). At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after January 1, 1983. This interest rate and these factors will remain in effect until such time as PBGC

publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates will be published in the **Federal Register**, normally by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 38 of Appendix B is revised and Rate Set 39 of Appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to comput the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date on or—		Immediate annuity rate	Deferred annuities				
	After	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	* *	*	*	*		
38	12-1-82	1-1-83	10.25	1.0950	1.0825	1.0400	7	8
39	1-1-83	.....	10.00	1.0925	1.0800	1.0400	7	8

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-33984 Filed 12-14-82; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1E2529/R503; PH-FRL 2266-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

EFFECTIVE DATE: Effective on December 15, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of October 27, 1982 (47 FR 47609) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 1E2529 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Michigan and Ohio.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmestic Act, propose the establishment of a tolerance for combined residues of the insectide chlorpyrifos [*O,O*-diethyl-*O*(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol (TCP) in or on the raw agricultural commodity cherries at 1.5 parts per million (ppm). The petition was later amended to increase the tolerance level to 2.0 ppm combined residues.

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought.

In the **Federal Register** issue of July 2, 1981 (46 FR 34586), tolerances for the

commodity group seed and pod vegetables were listed as two tolerances; one for "seed vegetables" and one for "pod vegetables" both at 0.1 ppm. The tolerances should have been for the commodity group "seed and pod vegetables" at 0.1 ppm.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: December 6, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by removing the entries for pod vegetables and seed vegetables and adding the commodities cherries and seed and pod vegetables to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cherries	2.0
* * * * *	
Pod vegetables	0.1 [Removed]
* * * * *	
Seed vegetables	0.1 [Removed]
Seed and pod vegetables	0.1
* * * * *	

[FR Doc. 82-33886 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2646/R501; PH-FRL 2264-3]

Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity blueberries. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on December 15, 1982.

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

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

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of October 20, 1982 (47 FR 46720) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2646 to EPA on behalf on the IR-4 Technical Committee and the Agricultural Experiment Station of Maine.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity blueberries at 0.1 part per million (ppm).

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the establishment of the tolerance will protect the public health and is established as set forth below.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: December 1, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.198 is amended by adding and alphabetically inserting the raw agricultural commodity blueberries to read as follows:

§ 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Blueberries	0.1
* * * * *	

[FR Doc. 82-33787 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9F2163/R506; PH-FRL 2262-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide glyphosate and its metabolite in or on certain commodities. This regulation to establish the maximum permissible level for the combined residues of glyphosate was requested, pursuant to a petition, by Monsanto Company.

DATE: Effective on December 15, 1982.

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

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 28, 1979 (44 FR 11269) that announced that the Monsanto Agricultural Products Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166, had submitted pesticide petition 9F2163 proposing to amend 40 CFR 180.364 by establishing tolerances for the combined residues of the herbicide glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the crop groupings cucurbits, fruiting vegetables, small fruits, stone fruits, and the individual commodity hops at 0.1 part per million (ppm) resulting from the use of irrigation water following applications of said herbicide on or around aquatic sites; shellfish and crustaceans at 2.0 ppm, and fish at 0.2 ppm.

The petitioner subsequently amended the petition by withdrawing the tolerance of 2.0 ppm on crustaceans and shellfish, and proposing establishment of tolerances for the combined residues of the herbicide glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the crop groupings citrus, cucurbits, forage grasses, forage legumes, fruiting vegetables, grain crops, leafy vegetables, nuts, pome fruits, root crop vegetables, seed and pod vegetables, small fruit, stone fruit, cottonseed, hops, and avocados at 0.1 ppm resulting from the use of irrigation water following applications on or around aquatic sites and fish at 0.25 ppm. Where tolerances are established at higher levels from other uses of glyphosate on the subject crops, the higher tolerance should also apply to residues from the aquatic uses cited above.

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

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated included a rat acute oral toxicity study with LD_{50} greater than 5,000 milligram/kilogram/bodyweight (mg/kg/bw); a rat teratology study negative for teratogenic effects at 3,500 mg/kg/day and a fetotoxic NOEL of 100 mg/kg/day; a rabbit teratology study negative at 350 mg/kg/day with a fetotoxic NOEL of 175 mg/kg/day; a 3-generation rat reproduction study with a NOEL of 10 mg/kg; a 26-month rat feeding study with a NOEL of 31 mg/kg/day and no observed oncogenic effects at 300 ppm (highest dose tested); a rec-assay (*B. subtillis*) which was not mutagenic up to 2,000 micrograms test material/disk, a reverse mutation study (negative for mutagenicity); an Ames test (*Salmonella*-negative for mutagenicity); and a dominant mouse lethal assay which was negative at 2,000 mg/kg.

Data currently lacking are a chronic oral toxicity study in a non-rodent species and an oncogenic study on a second species. The company has been notified of the above deficiencies, and has agreed to perform the above studies and to remove the use from the label should the results of the studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established on a variety of commodities at levels ranging from 0.1 to 30 ppm. The tolerances on the irrigated crop groupings cucurbits (0.1 ppm); fruiting vegetables (0.1 ppm); small fruit (0.1 ppm); the individual irrigated crop hops (0.1 ppm); and fish (0.25 ppm) as well as the residues in potable water (an acceptable residue level of 0.05 ppm) will contribute 1.0425 mg/day (1.5 kg) to the current theoretical maximal residue contribution (TMRC) for a total of 1.3928 mg/day (1.5 kg) or 23.21 percent of the allowable daily intake (ADI). Due to a change in procedures, the Agency is not establishing food additive regulations for pesticides which are directly added to potable water. (47 FR 25746, June 15, 1982.) Rather, the Agency will evaluate the safety of such residues under the authority of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and the Safe Drinking Water Act (SDWA) assure that an acceptable residue level is not exceeded and that the provisions of the SDWA are met. The residue data support an acceptable residue level of 0.5 ppm in drinking water. An approved, but unpublished tolerance on tea (4.0 ppm), will contribute only 0.00429 mg/day (1.5 kg) to the TMRC or only 0.07 percent of the ADI for a total of 23.28 percent of the ADI. The ADI is based on a NOEL of 10 mg/kg/day (rat reproduction study) and a safety factor of 100. There are currently no regulatory actions pending against the pesticide and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded.

The nature of the residues is adequately understood. No detectable residues of *N*-nitrosoglyphosate, a contaminant of glyphosate, are expected to be present in the raw agricultural commodities for which tolerances are being established. Adequate analytical methods for determining residues in water, fish, and crops, gas liquid chromatography using a phosphorous-specific flame photometric detector, are available for enforcement purposes. Residues in meat, milk, poultry, and eggs resulting from the aquatic use will be covered under existing tolerances for these commodities.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

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

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: November 26, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.364 is amended by adding and alphabetically inserting the commodity fish in paragraph (b) and establishing a new paragraph (c) to read as follows:

§180.364 Glyphosate; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
* * * * *	
Fish	0.25
* * * * *	

(c) Tolerances are established for the combined residues of glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid, resulting from the use of irrigation water containing residues of 0.5 ppm following applications on or around aquatic sites, at 0.1 ppm on the crop groupings citrus, cucurbits, forage grasses, forage legumes, fruiting vegetables, grain crops, leafy vegetables, nuts, pome fruits, root crop vegetables, seed and pod vegetables, stone fruit, and the individual commodities cottonseed, hops, and avocados. Where no tolerances are established at higher levels from other uses of glyphosate in or on the subject crops, the higher tolerance should also apply to residues from the aquatic uses cited in this paragraph.

[FR Doc. 82-33371 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13, Amdt. 12; Docket No. 80-54]

Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Clarification of final rule.

SUMMARY: The Commission's rule authorizing use of time/volume rates is clarified insofar as it pertains to the need for an executed time/volume contract and the effect of filing a specimen time/volume contract. The purpose and effect of the clarification is to remove uncertainty expressed by petitioner in this matter.

DATE: Effective December 15, 1982.

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

SUPPLEMENTARY INFORMATION:

On July 8, 1982, the Commission issued a final rule in the above-referenced proceeding which sets forth uniform procedures concerning the use of time-volume rates (47 FR 29671). The rule permits the offering of time-volume rates by common carriers by water in the United States foreign commerce, or conferences of such carriers, subject, however, to several conditions, including the requirements that time/volume rates and related contracts be published in tariffs on file with the Commission and that time/volume contracts contain certain minimum provisions.

Sea-Land Service, Inc. has filed a Petition seeking clarification of certain aspects of the rule. Sea-Land contends that the rule should be clarified to expressly provide that time/volume rates may not be implemented without an executed contract between the parties, which contract must be retained by the designated recordkeeper. In addition, Sea-Land seeks clarification from the Commission that the filing of a specimen time/volume contract complies with the tariff filing requirement contained in the rule (46 CFR 536.7(a)).

The Commission believes that the rule as it presently stands is sufficiently clear on the point that a time/volume rate cannot be implemented without an executed time/volume contract. The definition of a time/volume rate clearly indicates that such a rate can only be implemented "pursuant to the terms of a time/volume contract". 46 CFR 536.2(p). That contract must be one executed between the offeror of the time/volume rate and the individual shipper or consignee accepting the rate and shipping its goods pursuant to it.

The rule does not, however, require that the designated recordkeeper for "time/volume shipment records" also maintain a copy of the executed time/volume contract. While such a requirement has a certain appeal, the Commission believes that this is a matter better left to the parties' discretion. They are, of course, free to stipulate in their contract that the recordkeeper will maintain a copy of it.

The Commission further believes that the fact that the filing of a specimen time/volume contract does comply with the requirement that time/volume contracts be published in tariffs on file with the Commission is reasonably apparent from a reading of the rule. Section 536.7(a) states that "[t]ime/volume rates and related contracts shall be published in tariffs on file with the Commission and made available to all shippers or consignees under the same terms and conditions * * *" 46 CFR 536.7(a). The contract to be published in the tariff and made available to all shippers could only be a specimen contract, and not an executed contract between the offeror and one shipper or consignee. There is no need, therefore, to amend the rule to make this fact clearer.

List of Subjects in 46 CFR Part 536

Rates, Maritime carriers.

Therefore, it is ordered, That the Petition for Clarification filed by Sea-Land Service, Inc. is granted to the extent discussed above and is denied in all other respects.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-33948 Filed 12-14-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21210-248]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule which imposes a 3,000 pound limit per vessel per trip on landings of sablefish taken in the Pacific coast groundfish fishery is in effect through December 11, 1982. NOAA extends this rule through December 31, 1982, to avoid complete closure of the fishery. This action is taken under the authority of section 305(e) of the Magnuson Act. The intended effect of this action is to continue allowing fishing of sablefish on

a reduced level, rather than closing the fishery, for economic and social benefits to fishery participants.

DATE: This extended interim rule is effective 0845 EST, December 14, 1982 through 2400 PST, December 31, 1982.

ADDRESSES: H. A. Larkins, Director Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and implementing regulations were published on October 5, 1982 (47 FR 43964). The regulations at 50 CFR 663.21(b) authorize the Secretary of Commerce (Secretary) to prohibit retention or landing of a species when the optimum yield (OY) of that species is reached. Section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) authorizes the Secretary to promulgate emergency regulations to amend regulations implementing an FMP if he finds that an emergency involving a fishery resource exists.

At its September 29–30 meeting, the Pacific Fishery Management Council (Council) heard testimony that the OY for sablefish had been exceeded. However, accuracy of the sablefish OY estimate was questioned by both industry and the Council insofar as no adverse effects to the sablefish stock had been documented. The Secretary may adjust OY only after receiving a recommendation from the Council, but the Council had insufficient information to recommend adjusting OY at its September meeting. Therefore, the Secretary was obligated to close the sablefish fishery according to § 663.21(b).

The Secretary imposed an emergency interim rule under the authority of section 305(e) of the Magnuson Act, prohibiting the catch and retention or landing in excess of 3,000 pounds of sablefish (round weight) per vessel per trip (47 FR 49620, November 1, 1982). This emergency interim rule became effective October 28, 1982, for the 45-day period through December 11, 1982, and could be extended (but not beyond December 31, 1982), modified, or terminated earlier if conditions warranted. The trip limit was considered preferable to complete closure of the sablefish fishery for several reasons: The accuracy of the OY estimate was questionable; stress to the stock was not documented; incidentally caught sablefish would be wasted if they could not be landed; and the industry had had no warning that a potential closure was imminent. A more thorough discussion of the reasons for this trip limit is included in the preamble to the emergency interim rulemaking.

This notice extends the emergency interim rule through 2400 PST, December 31, 1982.

Classification

The NOAA Administrator determined that this rule is not major under Executive Order 12291, but does constitute an emergency situation under section 8(a)(i) of the Executive Order and under section 305(e) of the Magnuson Act. This action does not require a supplement to the FMP's Final Environmental Impact Statement (FEIS), which is on file with the Environmental Protection Agency. The Regulatory Flexibility Act and Paperwork Reduction Act do not apply to this emergency interim rule. A more complete discussion of the classification is included in the preamble to the emergency interim rule.

List of Subjects in 50 CFR Part 663

Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: December 13, 1982.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 82-34208 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 612

Personnel Administration

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, publishes for comment proposed amendments to its regulation concerning standards of conduct for directors, officers, and employees of Farm Credit System institutions. These amendments revise and clarify the existing regulations. Existing provisions have been reorganized and consolidated to facilitate understanding by affected parties. Certain prohibitions in existing regulations have been eliminated or revised in recognition of the changing operational circumstances of Farm Credit System institutions. Other areas of concern have been revised to provide Farm Credit banks and service organizations with greater flexibility and responsibility for monitoring employee activities and determining appropriate standards of employee conduct. This decentralization is intended to promote greater efficiency and to ensure that each institution will promote the highest standards of conduct for its directors, officers, and employees.

DATE: Written comments must be received on or before February 14, 1983.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all correspondence received will be available for inspection by interested persons in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

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

SUPPLEMENTARY INFORMATION: For purposes of this proposed rule, certain terms are designated as follows: Farm Credit Administration (FCA); Federal Farm Credit Board (Federal Board); Farm Credit System (System); farm Credit Act of 1971, as amended, 12 U.S.C. 2001, *et seq.*, (Act).

List of Subject in 12 CFR Part 612

Agriculture, Banks, banking, Conflict of Interest.

For the convenience of the reader, a redesignation table showing the former sections of Part 612, Subpart B, and the new sections is shown below.

PART 612—PERSONNEL ADMINISTRATION

SUBPART B.—STANDARDS OF CONDUCT FOR DIRECTORS, OFFICERS, AND EMPLOYEES

Section	Title	Previous section
612.2130	Definitions	New.
612.2135	Director and employee responsibilities and conduct.	612.2130.
612.2140	Directors—prohibited conduct—disclosure.	612.2240 and 612.2290.
612.2150	Employees—prohibited acts.	612.2210 and 612.2250.
612.2160	Bank and service organization policies and procedures.	New.
612.2170	Reports—Designated officer.	612.2230.
612.2180	Enforcement	612.2300.
612.2190	Devotion of time to official duties.	612.2180.
612.2200	Soliciting support in election polls for association, district, service, organization, or Federal Farm Credit Board membership.	612.2150.
612.2220	Political activity (number change only).	612.2170.
612.2230	Nepotism	612.2190 and 612.2200.
612.2240	Gifts or favors from subordinates or borrowers.	Same.
612.2250	Improper use of official property.	612.2260.
612.2260	Standards of conduct for agents.	New.
612.2270	Prohibited purchase of System obligations.	New.

Therefore, it is proposed to amend 12 CFR, Chapter VI, by revising and recodifying Part 612, Subpart B, to read as follows:

PART 612—PERSONNEL ADMINISTRATION

* * * * *

Subpart B—Standards of Conduct for Directors, Officers, and Employees

Sec.

612.2130 Definitions.
612.2135 Director and employee responsibilities and conduct generally.
612.2140 Directors—prohibited conduct—disclosure.
612.2150 Employees—prohibited acts.
612.2160 Bank and service organization policies and procedures.
612.2170 Reports—designated officer.
612.2180 Enforcement.
612.2190 Devotion of time to official duties.
612.2200 Soliciting support in election polls for association, district, service, organization, or Federal Farm Credit Board membership.
612.2220 Political activity.
612.2230 Nepotism.
612.2240 Gifts or favors.
612.2250 Improper use of official property.
612.2260 Standards of conduct for agents.
612.2270 Prohibited purchase of System obligations.

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

Subpart B—Standards of Conduct for Directors, Officers, and Employees

§ 612.2130 Definitions.

For purposes of this subpart, the following terms are defined:

(a) "Agent" means any person, other than a director or employee, who represents the System institution in contacts with third parties or who provides professional services to a system institution, such as legal, accounting, appraisal consulting, and other similar services.

(b) The term "board of directors" applies, within the appropriate context, to the governing body of each System institution.

(c) "Business relationship" or "transacts business" means the relationship of an individual (or an entity controlled by the individual) with another person which involves: the purchase, sale, lease, ownership, or management of real or personal property; services as a real estate agent or broker; the sale or placement of insurance; sales barn activities; appraisal services; the borrowing or lending of money or other things of value; providing or receiving financial, professional, or other services; and any other similar transaction. The term does not include relationships associated

with personal, family, or household matters.

(d) A "conflict of interest" exists when a person has an interest in a transaction, relationship, or activity which:

(1) Actually or potentially affects the person's ability or perceived ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the employing institution, or

(2) Results in such person being unable to devote required time to official duties.

(e) "Controlled entity" and "entity controlled by" mean an entity in which the individual, directly or indirectly, or acting through or in concert with one or more persons:

(1) Owns 5 percent or more of the equity;

(2) Owns, controls, or has the power to vote 5 percent or more of any class of voting securities; or

(3) Has the power to exercise a controlling influence over the management or policies of such entity.

(f) "Director" means a member of a board of directors.

(g) "Employee" means any salaried officer or part-time, full-time, or temporary salaried employee and, for purposes of section 612.2230 regarding nepotism, includes agents.

(h) "Entity" means a corporation, company, association, firm, joint venture, partnership (general or limited), society, joint stock company, trust (business or otherwise), fund, or other organization or institution, except System institutions.

(i) "Family" means parents, spouse, son, daughter, sibling, stepparents, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, nephew, niece, grandparents, grandson, granddaughter, and each person having any such relationship by marriage.

(j) "Interested" bank, service organization, association or institution means, within the appropriate context, the bank, service organization, association, or institution or whose board a director serves or for whom an employee works.

(k) "Mineral interest" means any interest in minerals, oil, or gas, including, but not limited to, any right derived directly or indirectly from a mineral, oil, or gas lease, deed, or royalty conveyance.

(l) "OFI" means other financing institutions which have established an access relationship with a Federal intermediate credit bank under section 2.3(a)(2) of the Act.

(m) "Officer" means the salaried president, vice president, secretary, treasurer, and general counsel of each System institution, and any person not so designated who holds a similar position of authority.

(n) "Person" means individual or entity.

(o) "Relative" means any member of the family.

(p) "Service organization" means the Fiscal Agency, each service corporation authorized by section 4.25 of the Act, and each unincorporated service organization formed pursuant to agreements authorized by section 5.6(a) of the Act.

(q) "Supervised institution" is a term which only applies within the context of a System bank or an employee of a System bank and refers to each association supervised by that bank.

(r) "Supervising institution" is a term which only applies within the context of an association or an employee of an association and refers to the bank which supervises that association.

(s) "System institution" and "institution" mean any bank, association, or service organization in the Farm Credit System, including the Federal land banks, Federal intermediate credit banks, banks for cooperatives, Central Bank for Cooperatives, Federal land bank associations, production credit associations, and the Fiscal Agency and other service organizations.

§ 612.2135 Director and employee responsibilities and conduct—generally.

(a) The maintenance of high standards of industry, honesty, integrity, impartiality, and conduct by directors and employees of all System institutions is essential to ensure the proper performance of System business and continued public confidence in the System and each of its institutions. The avoidance of misconduct and conflicts of interest, real or apparent, is indispensable to the maintenance of these standards.

(b) To achieve these high standards of conduct, directors and employees shall observe, to the best of their abilities, the letter and intent of all applicable laws, regulations, rules, policy statements, instructions, and procedures of the Farm Credit Administration and System institutions and shall exercise diligence and good judgment in carrying out their duties, obligations, and responsibilities.

§ 612.2140 Directors—prohibited conduct—disclosure.

(a) To avoid conflicts of interest, a director shall not:

(1) Divulge or use for personal benefit information acquired as a director.

(2) Participate, directly or indirectly, in deliberations on any question affecting, directly or indirectly, the interest of the director, a relative of the director, or any entity controlled by the director.

(3) Obtain or attempt to obtain special advantage or favoritism in dealing with directors, employees, borrowers of System institutions, or other persons doing business with System institutions, particularly in relation to matters involving any real or personal property in which the director or an entity contolled by the director or any such System institution or person has an interest.

(b) Any director who is or plans to become involved in any relationship, transaction, or activity which is or may be prohibited by paragraph (a) of this section shall promptly disclose such involvement in writing.

(c) Any director who has a financial interest in or is a member of the board of directors of any entity engaged in a commercial enterprise shall disclose such interest or membership in writing.

(d) Disclosures required by paragraphs (b) and (c) of this section shall be made in accordance with § 612.2170.

§ 612.2170 Employees—prohibited acts.

(a) Employees of System institutions shall conduct their official duties in a prudent and professional manner and avoid conflicts of interest with directors, employees, and borrowers or other persons who do business with the institution. These employees shall not engage in activities which might impair their judgment or objectivity or bring discredit upon themselves or the System. Paragraph (b) of this section sets forth those activities, transactions, and relationships which employees are prohibited from entering into or engaging in. Paragraph (c) of this section sets forth additional activities, transactions, and relationships which are prohibited, except to the extent they are permitted pursuant to policies and guidelines issued by the employing institution or supervisory bank, and approved by the Farm Credit Administration pursuant to section 612.2160.

(b) An employee of a System institution:

(1) Shall not participate, directly or indirectly, in the deliberation upon, or the determination of, any matter affecting the interests of the employee, any relative of the employee, or any entity controlled by the employee.

(2) Shall not divulge or make use of, except in the performance of official duties, any fact, information, or document not generally available to the public which is acquired by virtue of employment with a System institution.

(3) Shall not acquire, directly or indirectly, except by inheritance, any interest in any real or personal property, including mineral interests, which was owned by the System institution, within the preceding 12 months, and which had been acquired by such institution as a result of foreclosure or similar action.

(4) Shall not speculate in or purchase futures contracts involving agricultural commodities which are financed by any institution within the district. Normal hedging operations and forward contracting to cover agricultural commodities produced or owned by the employee are not prohibited.

(5) Shall not, directly or indirectly, borrow from, lend to, or become financially obligated with or on behalf of a director or employee of the employing, supervising, or supervised institution or a borrower or loan applicant of the employing insitution. This paragraph shall not apply to transactions between family members and relations with OFIs. Relations with OFIs are prohibited by paragraph (c) of this section, except to the extent permitted by policies and procedures of the employing bank or institution, or supervising bank.

(6) Shall not serve as an officer or director of an entity that transacts business with a System institution in the district or of any financial institution, except employee credit unions. For the purposes of this paragraph, "transacts business" does not include loans by a System institution to a family-owned entity. Those persons approved to serve in such capacity on the effective date of this regulation may continue to serve until their term expires or until 1 year after the effective date of this regulation, whichever occurs first.

(7) Shall not use the employee's position or information acquired as a result of the employee's position to solicit or obtain any fee or gratuity.

(8) Shall not accept any fee or gratutity from any person with reason to believe that such fee or gratuity was given for the purpose of influencing official action or obtaining information which the employee has access to by reason of employment with a System institution.

(9) Shall not act as a real estate agent or broker.

(10) Shall not act as an agent or broker in connection with the sale and placement of insurance; provided that this paragraph shall not apply to the sale or placement of insurance authorized by section 4.29 of the Act.

(c) Except to the extent permitted under bank or service organization policies and procedures which have been approved by the Farm Credit Administration pursuant to § 612.2160, an employee of a System institution:

(1) Shall not have a business relationship, directly or indirectly, except in an official capacity, with:

(i) Any borrower or loan applicant of the employing or supervising institution or any supervised institution.

(ii) Any person who transacts business with any borrower or loan applicant of the employing or supervising institution or any supervised institution.

(iii) Any person who transacts business with the employing or supervising institution or any supervised institution.

(iv) Directors or employees of the employing or supervising institution or any supervised institution.

(v) An OFI which has an access or participation relationship with the employing, supervising, or a supervised institution.

(2) Shall not borrow from the employing, supervising, or a supervised institution.

(3) Shall not acquire, directly or indirectly, except by inheritance, any interest in any real or personal property, including mineral interests, which are mortgaged to any System institution or were thus mortgaged at any time within the preceding 12 months.

(4) Shall not purchase, directly or indirectly, any real or personal property of a System institution acquired by such institution for its operations.

(d) Any employee who is or plans to become involved in any relationship, transaction, or activity which is or may be prohibited by this section shall disclose such involvement in writing in accordance with §§ 612.2170.

§ 612.2160 Bank and service organization policies and procedures.

(a) Each district board, the board of the Central Bank for Cooperatives, and the governing body of each service organization shall adopt and issue policies and guidelines implementing this subpart. Such policies and guidelines may permit employees of the bank, service organization, or supervised associations to enter into business relationships involving activities identified in § 612.2150(c). No such policy or guidelines may permit activities prohibited under section 612.2150(b). The policies and guidelines shall reflect due consideration of any adverse effect the proposed activities may have on the System, and the potential that the activities could affect the impartial judgment of employees, or detract from their performance of official duties. Each bank and service organization shall develop procedures implementing board policies and shall submit the policies, guidelines, and procedures to the Farm Credit Administration for approval.

(b) Bank and service organization policies, guidelines, and procedures shall include at a minimum:

(1) The criteria under which business relationships may be approved.

(2) The relationships involving association employees which may be approved by the association board of directors without the prior approval of the supervising bank.

(3) The criteria (in addition to the approval requirements contained in § 614.4470) under which employees may receive loans from System institutions.

(4) The documentation required to support the decision of an institution.

(5) The appeal procedures available to any employee to whom approval has been denied.

(c) Each bank and service organization shall ensure that all directors and employees of the institution and each supervised association are adequately informed of the provisions and requirements of this subpart.

§ 612.2170 Reports—designated officer.

(a) Each bank and service organization shall designate an officer who shall:

(1) Receive reports required by this subpart;

(2) Record actions taken to resolve each case reported;

(3) Report promptly to the board and Farm Credit Administration all cases where an investigation by the institution results in the dismissal of a director or employee;

(4) Report promptly to the board and Farm Credit Administration all cases where violations may have an adverse impact on continued public confidence in the System or any of its institutions;

(b) Any director or employee of the institution or supervised association who is involved or interested in any activity, transaction, or relationship to which this subpart or any policy issued under this subpart is applicable shall promptly make a written disclosure of such interest.

(1) Reports by directors shall be submitted to the board on which the director serves and to the officer designated under paragraph (a) of this

section through the institution's chief executive officer.

(2) Reports by bank and service organization employees shall be submitted to the officer designated under paragraph (a) of this section through the chief executive officer.

(3) Reports by association employees shall be submitted to the respective board of directors through the association's chief executive officer and then to the officer designated under paragraph (a) of this section with the board's recommended action.

§ 612.2180 Enforcement.

(a) Each bank and service organization is responsible for ensuring compliance with this subpart by its directors and employees and the directors and employees of supervised associations, and shall investigate:

(1) All cases involving possible violations of § 612.2140 and 612.2150, and applicable policies and guidelines approved under § 612.2160.

(2) All complaints received against the directors and employees of such institution, and of each supervised association.

(3) Other conflict-of-interest provisions of this subpart when the activities or suspected activities are of a sensitive nature and could impact on continued public confidence in the Farm Credit System.

(b) The bank or service organization shall promptly notify the Farm Credit Administration of those cases which, after a preliminary investigation by them, indicate that a Federal criminal statute may have been violated (see § 617.7110).

(c) Each bank shall ensure that the associations under its supervision have complied with bank policy and procedure relating to conflicts of interest that have been delegated to such associations.

(d) Each institution shall, with regard to conduct involving conflict of interest of its directors and employees and the directors and employees of supervised associations, take prompt action in a manner that will preserve the integrity of and the public confidence in the System and the institutions concerned.

(e) The Farm Credit Administration may, as it deems appropriate, investigate any case arising under this subpart and other activities involving possible violations of Farm Credit Administration rules and regulations.

§ 612.2190 Devotion of time to official duties.

(a) Employees of a System institution are required to devote the full business time for which they are employed to the effective accomplishment of the duties assigned them by such institution. They shall not accept outside employment or compensation or engage in any other acitivities that could require the use of time that should be devoted to official duties or that might embarrass the System institution or the Farm Credit Administration or reflect adversely upon their ability, or adversely upon their ability, or perceived ability, to perform their official duties and responsibilities in a totally impartial manner.

(b) Each district shall establish policies and procedures for insuring compliance with this section by all employees on a districtwide basis.

§ 612.2200 Soliciting support in election polls for association, district, service organization, or Federal Farm Credit Board membership.

(a) No employee of a System institution shall take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board, or the nomination or election of members of a district, association, or service organization board or make any statement, either orally or in writing, which may be construed as intended to influence any vote in such designations, nominations, or elections. This prohibition shall not apply to information provided by employees regarding biographical and other data and matters relating to a candidate when such information is provided pursuant to the district policies and procedures for nominations and elections.

(b) No System institution property, facilities, or resources shall be used by any candidate for nomination or election or any other person for the benefit of any candidate for nomination or election, unless the same property, facilities, or resources are simultaneously know to and are available for use by all competing candidates.

§ 612.2220 Political activity.

(a) No salaried officer, employee, or agent of a System institution shall hold a public office or be a candidate for such office unless the bank by which he is employed or which supervises his employer has, after investigation and consideration of all facts involved, determined in writing that such candidacy or holding of public office would not bring justified criticism on the grounds of political activities or partialities or in any other manner adversely affect the best interests of the borrowers or the operations and public image of the System or any institutions thereof. All determinations made hereunder shall be reported to the board of directors of the bank concerned.

(b) No salaried employee shall take an active part or issue public statements relating to the nomination or candidacy of any person or participate in partisan political campaigns for national or statewide elective office, in any way that would implicate by support, endorsement, or otherwise, his connection with the System institution by which he is employed. This statement shall not be construed to prohibit an employee from expressing his personal opinion on political affairs or candidates or making voluntary campaign contributions.

(c) No director or employee shall, for the purpose of furthering the interests of any candidate for nomination or election, furnish or make use of System records that are not made available for use by all competing candidates.

§ 612.2230 Nepotism.

(a) To enable management to take an impartial and objective view of its operations and to avoid the appearance of giving special advantage or favoritism in the hiring or promotion of officers and employees of System institutions, the following restrictions shall be observed:

(1) A relative of a director of a System bank or service organization shall not serve as an officer of that institution.

(2) A relative of a System bank director shall not serve as the chief executive officer of an association supervised by that bank.

(3) A relative of an association director shall not serve as an officer or branch manager of that association.

(4) A person shall not serve as an officer or employee of a System institution in a position that is under the direct supervision of a relative, or where the relative by the position held in the institution or supervising institution has authority to take administrative or other action directly affecting such a person.

(b) Notwithstanding the other provisions of this regulation, a person may serve as an officer or employee in a position directly or indirectly supervised by a relative for periods in any calendar year not exceeding a total of 75 workdays provided that positive documented efforts have been made to recruit a qualified nonrelative for the position.

(c) The provisions of this regulation shall not preclude any person involved in a nepotistic relationship allowable under previous regulations from continuing to serve in the position such person held on the effective date of this regulation.

(d) Each System institution shall estalish a mechanism by which each nominee for a position as a director is informed of the provisions of this regulation and the consequences that the election of such nominee will have on relatives.

(e) Each System institution in which a person is required to relinquish the position held because of the election of a relative shall take all reasonable steps to secure an alternative position for such person and minimize the impact of this action.

(f) Prior to the employment or promotion of a person, the institution shall determine whether a prohibited relationship would be created by the action.

(g) Upon becoming aware of any violation or prospective violation, related individuals shall immediately notify the employing System institution's chief executive officer or manager. The chief executive officer or manager upon hearing of any violation or prospective violation by this or other means shall take prompt corrective action, or request instructions from the supervising bank or the Farm Credit Administration, as appropriate.

§ 612.2240 Gifts or favors.

(a) No director, employee, or agent of any System institution shall solicit, give, or receive any gift or present from or to any director, employee, or agent of the employing or supervising institution or any supervised institution. This subsection shall not apply to gifts of a nominal value traditionally exchanged as part of acceptable social amenities.

(b) No director, employee, or agent of any Farm Credit institution shall at any time solicit or receive contributions from the institution's borrowers or loan applicants for a gift or present to any director, employee, or agent of a System institution.

§ 612.2250 Improper use of official property.

No director, employee, or agent of a System institution shall use the space, personal property, communication, transportation, or other facilities of a System institution for activities or business in such person's personal interest or the personal interest of another. This provision does not apply to the use of property, facilities, or resources pursuant to a lease or contract with the institution which is based on an agreement arrived at following arm's-length negotiations, and which is evidenced in a writing setting forth the terms and conditions of such use. Official stationery shall be used only in the conduct of official business of the institution, and shall not be used to express opinions which do not represent the official views of the institution.

§ 612.2260 Standards of conduct for agents.

(a) The maintenance of high standards of honesty, integrity, and impartiality by agents of System institutions is essential to ensure the proper performance of System business and continued public confidence in the System and all its institutions. The avoidance of misconduct and conflicts of interest, either real or apparent, by agents is indispensable to the maintenance of these standards.

(b) Agents of System institutions shall not:

(1) Divulge or use for the benefit of the agent or entity controlled by the agent information acquired as an agent.

(2) Participate, directly or indirectly, in the deliberation by the institution on any question affecting, directly or indirectly, interest of the agent, the agent's family, or any entity controlled by the agent.

(3) Obtain or appear to obtain special advantage or favoritism in dealing with directors, employees, or borrowers of System institutions, particularly in relation to matters involving any interest or lien in real or personal property owned or mortgaged by the System institution.

(4) Borrow from, lend to, or become financially obligated with or on behalf of, directly or indirectly, a director or employee of the System institution.

(5) Take any part, directly or indirectly, in the designation of nominees for the Federal Farm Credit Board, or in the nomination or election of members of a district association or service organization board, or make any statement, either orally or in writing, which may be construed as intending to influence any vote in such designation, nominations, or elections. This prohibition shall not apply to information provided by agents regarding biographical and other data and matters relating to a candidate when such information is provided pursuant to the district policies and procedures for nominations and elections.

(c) Districts shall adopt policies to ensure that:

(1) Agents are in compliance with this section at the time of employment;

(2) Agents are periodically informed of the provisions of this section; and

(3) Corrective action is taken when agents are found to be in noncompliance with this section.

§ 612.2270 Prohibited purchase of System obligations.

(a) No president of a System bank may purchase or otherwise acquire, directly or indirectly, except by inheritance, any Systemwide or consolidated obligation of a System institution which was issued while such person was president;

(b) No employee who serves as the representative or designee of a bank president on a System finance committee or subcommittee may purchase any Systemwide or consolidated obligation of a System institution which was issued during such period of service;

(c) No employee of the Fiscal Agency may purchase or otherwise acquire, directly or indirectly, except by inheritance, any Systemwide or consolidated obligation of a System institution.

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

Donald E. Wilkinson,

Governor.

[FR Doc. 82-33826 Filed 12-14-82; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

Control, Custody, Care, Treatment, and Instruction of Inmates

Correction

In FR Doc. 82-33307, beginning on page 55131, on Tuesday, December 7, 1982, make the following changes:

1. On page 55132, in the second column, in the third line from the top, "April 20, and" should read "April 20, July 20, and".

2. On page 55133, in the first column, in the last line "new profit" should read "net profit".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

31 CFR Part 10

Tax Shelters; Practice Before the Internal Revenue Service

AGENCY: Treasury Department.

ACTION: Proposed rulemaking.

SUMMARY: This notice contains modified proposed regulations governing practice before the Internal Revenue Service (IRS) to set standards for providing opinions used in the promotion of tax shelter offerings. The regulations reflect

the Treasury Department's concern about the proliferation of abusive tax shelters in recent years and the role of the IRS practitioner's opinion in the promotion of such shelters. The regulations address the problem by imposing duties upon IRS practitioners who furnish opinions for use in connection with tax shelter offerings. In light of public comments on the original proposed regulations and the promulgation of an opinion on the same subject by the American Bar Association, modifications to the proposal have been made and are being published for comment.

DATE: Comments must be in writing and must be received on or before February 14, 1983. The regulations are proposed to be effective with respect to tax shelter opinions provided after 90 days from the date the regulations proposed hereunder are published in final form.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury, Washington, D.C. 20220, 202-634-5135.

SUPPLEMENTARY INFORMATION: On September 4, 1980, the **Federal Register** (45 FR 58594) published for public comment a proposed rule that would amend the regulations governing practice before the Internal Revenue Service contained in 31 CFR, Part 10 (Treasury Department Circular 230). Among other things, the proposed rule would have required an IRS practitioner who provides an opinion for a tax shelter offering to exercise due diligence in ascertaining the accuracy of the facts on which the opinion is based, to use due diligence in assuring that each material tax issue is addressed in the opinion, and to assure that the opinion is accurately and clearly described in any discussion of the tax aspects of the transaction which appears in the offering materials. The proposed rule would have allowed a tax practitioner to provide an opinion for a tax shelter offering only if the opinion concluded that it was more likely than not that the bulk of the tax benefits on the basis of which the tax shelter was promoted whould have been allowable if litigated under the tax laws.

Approximately 90 written comments were received from diverse sources, including attorneys, certified public accountants, enrolled agents, organized bar and accounting groups, and public and special interest groups. A public hearing on the proposed rule was held on November 25, 1980, at which 15 persons offered oral comments on the proposal.

In addition, on November 17, 1980, the **Federal Register** (45 FR 75835) published a notice inviting comments from the public on the desirability of establishing an advisory committee to advise the Treasury Department on issues arising out of the standards proposed in the regulations for tax shelter opinions. Comments on the scope of an advisory committee's duties were also invited. Over 30 comments were received.

On June 1, 1981, the American Bar Association (ABA) issued Formal Opinion 346 relating to the obligations of an attorney in issuing a tax shelter opinion. After expressions of concern by tax practitioners, Formal Opinion 346 was withdrawn and reissued in revised form on January 29, 1982. Unless otherwise noted, references herein to "ABA Opinion 346" refer to the Opinion in its revised form. The principles articulated in ABA Opinion 346 appear consistent with the general obligations imposed on accountants by Rule 201 of the Rules of Conduct promulgated by the American Institute of Certified Public Accountants (AICPA).

General Revision of Proposed Regulations

A practitioner's opinion or similar assistance is often critical to the marketing of a tax shelter. The opinion, even if qualified, limited or simply incorrect, may be viewed by the promoter and the investor as providing assurance that penalties will not be assessed, although deductions and credits taken by the taxpayer subsequently are disallowed. Moreover, the practitioner's willingness to provide an opinion, even if the opinion is pessimistic about the tax benefits being sustained by the courts, or does not purport to address key tax aspects, may be construed by prospective investors as an endorsement of the tax aspects of the shelter.

ABA Opinion 346 addresses many of the fundamental concerns of the Treasury Department with respect to tax shelter opinions and appears generally to contain adequate standards for meeting these concerns.[1] Accordingly, the proposed regulation has been substantially modified in order to reflect the principles and ethical considerations delineated in ABA Opinion 346.

ABA Opinion 346 does not, however, address the concern of the Department with respect to negative opinions—*i.e.*, opinions stating that, in the aggregate, the material tax benefits of the offering are not likely, if litigated, to be allowable. Some negative opinions suggest that, while the benefits of the shelter are not likely to be allowable, there is a "reasonable basis" for the reporting position promoted by the shelter.

In large part, the Department's view of negative opinions is influenced by the absence from the commentary on the original Circular 230 proposal of any clearly articulated rationale for why a tax shelter promoter would, for legitimate reasons, engage a practitioner to provide a negative opinion. In the absence of any other explanation, two reasons present themselves. First, the promoter may believe that prospective investors will not read or understand the opinion, or that the presence of a practitioner's opinion will be misconstrued by investors as an endorsement of the shelter, or as insurance against the imposition of penalties to which, absent the opinion, they might otherwise be subject if the tax benefits of the offering are ultimately disallowed. Second, if the opinion states that there is a reasonable basis for the reporting position promoted by the shelter, but that the benefits of the shelter are unlikely to be allowed if litigated, prospective investors may be induced to invest in the tax shelter and to file their returns not in accordance with what they believe the tax law allows, but based upon reporting positions that are sufficient only to avoid fraud or negligence penalties.

If there is no reasonable basis for the reporting position suggested in the shelter offering, the practitioner's assistance to the promoter by furnishing a negative opinion is objectionable, because the opinion's purpose is not to advise potential investors, but to induce or encourage them to adopt a reporting position which, but for the opinion, would subject such investors to penalties for fraud or negligence. If there is a reasonable basis for the reporting position, but no substantial likelihood that the position will be upheld if litigated—the second reason noted above—a negative opinion is also objectionable. The practitioner who places such an opinion in the hands of a promoter, knowing that it will be used in offering materials and to promote the shelter, authorizes use of his opinion for soliciting potentially large numbers of persons to seek tax benefits which the opinion says are not allowable under the tax laws.

The Treasury Department believes that a practitioner should not actively

[1] In particular, by requiring a statement as to whether the putative benefits of the shelter, in the aggregate, are likely to be realized, Opinion 346 effectively prohibits use of opinions in tax shelter promotions which state merely that there is a reasonable basis for the reporting position suggested in the shelter offering materials without predicting the outcome of litigation.

encourage potential tax shelter investors to pursue conduct which the practitioner believes is contrary to the tax laws. Furnishing a negative opinion to a tax shelter promoter is inconsistent with this concept; far from attempting to discourage noncompliance with the laws, the practitioner is actively participating in the solicitation of potential investors to pay only those taxes necessary to avoid a penalty.

Such conduct by a practitioner is inimical to our voluntary self-assessment tax system and its underlying principles. In a self-assessment system, it is assumed that taxpayers can be relied upon to pay those taxes which are required by law. To the extent that a practitioner's opinion actively is used to encourage large numbers of taxpayers to claim tax benefits that the practitioners believes are unavailable, the foundations of the self-assessement system are eroded. Just as a lawyer has a duty to protect the integrity of the legal system as a whole, so the tax practitioner, in the Department's view, has a duty to protect the integrity and effectiveness of the tax system. Conduct which is inconsistent with this standard could be, in the Department's view, "disreputable" within the meaning of 26 U.S.C. 1026.[2]

Nevertheless, because of changes in the Internal Revenue Code effected by the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), including the enactment of a new penalty for substantial understatements of tax liability (Section 6661 of the Code), the Department now believes that the unsefulnes and viability of negative opinions in tax shelter offerings, may have been substantially undercut.[3] Accordingly, the modified proposed rule does not attempt to prohit the issuance of a negative opinion in connection with a tax shelter offering, provided that it complies with the remaining rules set forth in the modified proposed rule.

However, practitioners should be aware of the Treasury Department's view that negative opinions, given in connection with publicly marketed tax shelter offerings, are inappropriate in, and ultimately destructive of, a self-assessment tax system. For this reason, while the modified proposed rule does not prohibit negative opinions, the Department may wish to reconsider the issue if in the future such opinions return to common use.

Discussion of Major Comments and Changes

1. *General Comments.* a. The vast majority of comments explicitly endorsed the Treasury Department's concern about the role of practitioners' tax opinions in the promotion of abusive tax shelters. Many believed regulation in this area is appropriate and supported the regulations either as proposed or with modifications. Others rejected the proposal, believing there is no need for Treasury to regulate tax shelter opinions by IRS practitioners.

A number of comments expressed the view that the proposed regulations would unduly interfere with the lawyer-client relationship, and that this relationship should not be regulated.

The proposed rule does not affect or regulate the practitioner's relationship with individual clients. It is drawn, with one exception,[4] to apply to "tax shelter opinions"—defined as advice by a practitioner concerning the Federal tax aspects of a tax shelter either *appearing* in offering materials or *used* in connection with sales promotion efforts directed to persons *other than the client who engaged the practitioner to give the advice.* It is thus the *use* of a tax shelter opinion that the proposed rule would regulate, not the rendering of an opinion by a lawyer to his client.

b. Many comments, particularly those which opposed the proposal, expressed the view that the regulation of practitioners concerning tax shelter opinions is better left to appropriate professional licensing authorities. Other vehicles believed to be more appropriate than the proposal as means of addressing the problem also were suggested, including legislation, enforcement through the securities laws, and enforcement by the IRS through such means as stronger audit programs and implementation of regulations. A number of commenters believed that while control by a licensing authority would be desirable and appropriate, the seriousness of abuses in the tax shelter area justifies some rule-making by the Treasury Department, with perhaps a "sunset" provision.

The Treasury Department recognizes that professional licensing authorities often serve as an important enforcement vehicle. Nevertheless, the Department believes that the variation in enforcement because of the multiplicity of professional licensing authorities justifies the adoption of a rule which provides a basis for uniform, direct action by the Department.

c. Many comments expressed concern that the Treasury Department is not a disinterested party in enforcement actions, and thus should not serve as a tribunal in the enforcement of the proposed rule.

The regulations in Circular 230 are enforced by the Director of Practice, an official of the Treasury Department appointed by the Secretary. By order of the Secretary, the determinations of the Director of Practice may not be modified by the Commissioner of Internal Revenue, and thus by appointment and authority the Director of Practice is independent of the IRS. Further, under applicable regulations, an IRS practitioner cannot be suspended or disbarred from practice before the Department until he or she is accorded a full evidentiary hearing before an administrative law judge in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 551–559. Appeals from an administrative law judge's initial decision are taken to a delegate of the Secretary of the Treasury (currently, the General Counsel of the Treasury), and an aggrieved respondent may then bring the matter into the Federal courts. Hence, the Director of Practice implements a program that is not only independent of the IRS but provides administrative due process safeguards and judicial review.

In response to a request for views on the establishment of an advisory committee of IRS practitioners to assist the Director of Practice, many

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[2] 31 U.S.C. 1026 states: The Secretary of the Treasury may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that are of good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants the presentation of their cases. And such Secretary *may after due notice and opportunity for hearing suspend, and disbar from further practice before his department and such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations,* or who shall with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement. (July 7, 1884, ch. 334 § 3,23 Stat. 258). (Emphasis supplied)

[3] As amended by TEFRA, section 6661(b)(2)(C)(i)(II) of the Code now requires that, to avoid an underpayment penalty, the investor in a tax shelter must have "substantial authority" for the position taken in his return with respect to each deduction, credit or other tax item, and must reasonably believe that the tax treatment of each item of deduction, credit, etc., was more likely than not the proper treatment. Under these circumstances, a negative opinion would cast doubt on the tax shelter investor's reasonable belief in the correctness of his reporting position and thus would make the avoidance of underpayment penalities more difficult.

[4] As a clarification of § 10.51, providing an intentionally or recklessly false or grossly negligent opinion, or a pattern of providing incompetent opinions in Federal tax matters (not just in tax shelters), is specifically identified as an instance of disreputable or incompetent conduct.

commentators thought that it would be appropriate to establish such a panel to advise the Director of Practice on whether certain categories of conduct create a cause of action under the regulations. In light of the broad support for this concept, the Treasury Department is proposing to adopt the proposal, and will establish an advisory committee for this purpose under the Federal Advisory Committee Act.

2. *Due diligence as to factual matters.* The original proposed rule required that a tax shelter opinion be based on the actual facts of the transaction, and not on hypothetical facts. It further required that a practitioner exercise "due diligence" in ascertaining the accuracy of facts furnished by the client for purposes of the practitioner's opinion.

Some comments objected to the scope and indefiniteness of a due diligence requirement in rendering a tax shelter opinion. It was felt that a practitioner should not be placed in a position of guaranteeing all facts, particularly if this would require an audit or verification of each relevant fact. Moreover, it was argued that most practitioners are not expert in the subject matter of most tax shelter ventures and should be able to rely on the opinions of clients and third party experts with full disclosure of such reliance. Some comments indicated that the proposal may be in conflict with the due diligence requirements under the Federal securities laws.

The modified proposed regulation reflects the guidelines of ABA Opinion 346 on this subject.

ABA Opinion 346 in turn adopts portions of ABA Formal Opinion 335, dealing with assumed facts opinions in connection with the sale of unregistered securities. Opinion 335 is quoted in Opinion 346 as follows: "The essence of this opinion . . . is that, while a lawyer should make adequate preparation including inquiry into the relevant facts . . . and while he should not accept as true that which he should not reasonably believe to be true, he does not have the responsibility to 'audit' the affairs of his client or to assume, without reasonable cause, that a client's statement on the facts cannot be relied upon."

ABA Opinion 346 goes on to state: "For instance, where essential underlying information, such as an appraisal or financial projection, makes little common sense, or where the reputation or expertise of the person who has prepared the appraisal or projection is dubious, further inquiry clearly is required. Indeed, failure to make further inquiry may result in a false opinion. . . If further inquiry reveals that the appraisal or projection is reasonably well supported and complete, the lawyer is justified in relying upon the material facts which the underlying information supports."

To these guidelines it is appropriate to add the Treasury Department's views of the application of there tests to several matters involving the fair market value of property. First, if property has been or is to be purchased, and the value of the property is material to the potential tax benefits of the transaction, the practitioner should carefully review the terms and conditions upon which the property is purchased to determine whether the stated purchase price reasonably may be considered to be its fair market value. Second, where the value of property is determined by appraisal, the practitioner must satisfy himself that the appraisal is based upon the definition of fair market value prescribed under the relevant tax provisions and not on some other basis.

3. *"Due diligence" as to critical tax issues.* The original proposed rule required that the practitioner use due diligence to assure that a legal conclusion is drawn with respect to each material tax issue in a proposed tax shelter offering. Such an opinion could not merely provide opposing views or state that there is a "reasonable basis" for a position without predicting its chances of success if challenged.

Some comments disagreed with the requirement that a practitioner be required to provide an opinion on all of the important tax aspects of a transaction. The proponents of this view felt that a practitioner should be able to prepare an opinion on less than all the tax aspects (as defined in the first notice of proposed rulemaking) if the opinion clearly identifies those aspects not covered. Further, a number of comments took exception to the statement in the supplemental information which accompanied the original proposed rule that a practitioner would only rarely be unable to predict the outcome of litigation on a particular tax issue. It was maintained that the complexities and uncertainties of the tax laws are such that diligent tax practitioners may find it impossible to make such predictions in more than just a few rare cases.

The revised proposed rule follows the approach of ABA Opinion 346, which requires that all those material tax issues which reasonably could be challenged by the Internal Revenue Service must be fully and fairly addressed in the offering materials, and that a conclusion as to the likely outcome of each such issue be stated in the opinion or the offering materials. In this connection, it should be noted that, to avoid underpayment penalties, investors in certain tax shelters are required, under Section 6661(b)(2)(C)(i)(II) of the Code, to "reasonably believe" that the treatment of a tax item in their returns is "*more likely than not* the proper treatment." (Emphasis added.)

All of the material tax issues need not be addressed in a formal opinion if they are clearly and fully addressed in the offering materials. In those circumstances where the practitioner has concluded that a judgment as to the outcome of an issue cannot be made, a statement of this position must be made together with supporting reasons. Since the opinion required of the practitioner under this standard is only a prediction as to outcome and not of course a requirement that the practitioner be certain as to the result, the Department continues to believe that a practitioner's inability to predict the outcome of a particular issue will be the exceptional case.

4. *"More likely than not" test.* A great number of comments argued against the wisdom and propriety of the requirement in the original proposed regulation that a tax shelter opinion be provided only if the opinion concludes that it is more likely than not that the "bulk" of the tax benefits on the basis of which the shelter is promoted are allowable under the tax laws.

Several positions were set forth in support of this opposing view. First, it was argued that the standard imposed by the proposal is vague and subjective. In particular, many comments complained about the vagueness of a test which defines "bulk" simply as "substantially more than 51%" and then goes on to say that the term is not a precise directive. This, it was contended, gives little guidance to practitioners.

Second, a number of comments maintained that there is nothing wrong ethically with giving a negative opinion, and that the proposed regulation would deter practitioners from innovative thinking and from good faith challenges to IRS positions. In this connection, some comments stated that a practitioner may urge any permissible construction of the law favorable to a client, without regard to the practitioner's opinion as to the likelihood that the construction will ultimately prevail, provided the position taken has a reasonable basis is law or is supportable by good faith arguments.

There are in fact two issues here. The first issue is whether it is an element of good practice to give an overall

judgment as to the likelihood that, in the aggregate, the material tax issues in the offering would, if litigated, be resolved in favor of the taxpayer. Opinion 346 answers this question in the affirmative, requiring that "the offering materials should include an opinion by the lawyer or by another professional providing an overall evaluation of the extent to which the tax benefits, in the aggregate, which are a significant feature of the investment to the typical investor are likely to be realized as contemplated by the offering materials."

The second issue is whether the practitioner, in giving an over-all evaluation of an offering, may furnish to the promoter for use in the offering materials an opinion which concludes that the tax benefits on the basis of which the offering is promoted are *unlikely* to be realized. On this issue, Opinion 346 as revised states that "the Committee does not accept the view that it is always ethically improper to issue an opinion which concludes that the significant tax benefits in the aggregate probably will not be realized." For reasons expressed at the outset of these supplementary materials, the Treasury Department does not believe it is necessary, at this time, to provide for disciplinary action in the event that a negative opinion is furnished.

Nonetheless, the Department continues to believe that furnishing such a "negative" opinion to a promoter for use in a tax shelter offering is conduct which could be deemed "disreputable" under 31 U.S.C. 1026, the statutory source of the Secretary's authority to discipline practitioners before Treasury agencies.

5. *Specific Concerns of Certified Public Accountants.* Certified public accountants expressed concern about a possible conflict between the "more likely than not" requirement and the prohibition in the AICPA Code of Professional Ethics (Section 201.01E) against permitting a certified public accountant's name to be used in conjunction with any forecast which may lead to the belief that the practitioner vouches for the achievability of the forecast. Whether Rule 201.01E precludes a certified public accountant from giving a predictive tax opinion is a matter for accountants' regulatory bodies. However, if a tax opinion is given, it must comply with proposed section 10.33. Moreover, it is Treasury's understanding that the AICPA prohibition does not apply to an opinion on the effects of the tax law on future transactions. An opinion on the tax outcome of a venture (allowability under the tax laws) is not considered the same as financial achievability. This is particularly true with a disclaimer of financial forecasting, a normally accepted practice of the certified public accounting profession. It is therefore Treasury's understanding that the requirements of the proposed rule are consistent with sound accounting practice.

6. *Definitions.* A great number of comments objected to the definitions of "tax shelter" and "tax shelter opinion." The objections were predicated on the belief that the definitions individually and/or taken together, were too broad, subjective and vague, and go beyond what is necessary to accomplish the purpose of the proposal. It has been claimed that the definitions could subject to sanction perfectly proper actions by tax practitioners. Commenters claimed that it is unreasonable and unworkable to require a practitioner to determine taxpayers' perceptions of an offering. Commenters also stated that the definitions included many offerings that are not inherently abusive. In this regard, some recommended that a clear exception be made for opinions that deal with the tax status of the investment vehicle, *e.g.*, partnership status. Others recommended exceptions for certain types of investments, *e.g.*, those transactions not generally regarded as tax shelters and those for which the investor's tax position is clearly supported by the Internal Revenue Code and regulations thereunder.

The definitions of tax shelter and tax shelter opinion have been modified. The revised definition of tax shelter conforms with the definition in ABA Opinion 346.

The definition of tax shelter opinion also follows the definition in ABA Opinion 346 with certain clarifications. It is clear from both the definitions of the ABA and the Treasury Department that a tax shelter opinion does not include advice rendered solely to a promoter who is a client of the practitioner as long as the advice is not to be used in connection with the sales promotion efforts. Although some have suggested that proposed Circular 230 interfered with the lawyer-client relationship, these definitions make clear that advice to a client is not covered by this rule unless further dissemination of that advice is contemplated.

The proposed rule, again following revised Opinion 346, also makes clear that a tax shelter opinion includes the preparation of the tax aspects or tax risk factors section of the offering circular. However, a tax shelter opinion does not cover advice solely to the promoter, or reviewing parts of the offering materials, as long, *inter alia*, as the name of the practitioner does not appear in the offering materials, and the practitioner's name is not used by the promoter in connection with the offering. As revised, the proposed rule does not require that a practitioner render a formal opinion on the practitioner's letterhead. However, any opinion rendered, together with offering materials used in conjuction with the opinion, must comply with the rule.

As more fully explained in Section 7 of these supplementary materials, *infra*, a practitioner is not subject to discipline under the proposed rule unless his conduct is willful, reckless, grossly negligent, or part of a pattern of providing tax shelter opinions that fail to comply with the proposed rule. This standard will be applied in particular cases to determine whether a practitioner allowed his advice to a client to be used or disseminated in such a manner as to fall within the rule's definition of tax shelter opinion. Under this standard, a practitioner will not be subject to discipline on account of his client's use or dissemination of the practitioner's advice if the practitioner takes reasonable steps to assure that the advice is not used or referred to either in the offering materials or in connection with promotion of the shelter, and that neither the client, nor the offering materials will, in connection with promotion of the shelter, make reference to the practitioner's name, or to the fact that a practitioner has rendered tax advice on the offering.

With respect to the definition of a "material" tax issue, the Treasury Department believes that the potential applicability of penalties (including the "substantial understatement" penalty under section 6661 of the Code) is a material tax issue that should be addressed in a tax shelter opinion. In addition potential application of any other tax principles that could have a significant adverse impact on an investor, such as depreciation or investment tax credit recapture, realization of income in excess of cash flow upon sale or other disposition of a tax shelter investment, or other tax incidents of a so-called "burned-out" shelter, may also be material in the context of a particular tax shelter. The revised proposed rule adopts a definition of a material tax issue that is patterned after the definition in ABA Opinion 346, with modificaitons to take into account potentially negative tax consequences implicit in the tax shelter (including potential penalties).

7. *Willfulness.* Some comments objected to the proposal's omission of the element of willfulness as requirement for violation of the proposed regulations. It was argued that the proposal therefore lacks a penal provision's requirements of clarity, specificity and general acceptance by the practitioners subject thereto. For this reason, it was urged that sanctions under the regulation not be invoked in the absence of willful misbehavior.

The standard of willfulness would make it impossible to discipline the negligent or incompetent practitioner, a possibility Treasury wishes to retain. But in recognition of the need for guidance on the criteria that Treasury will employ in enforcing the rule, section 10.51(j) has been amended and a new section 10.52(b) has been proposed. These changes adopt the disciplinary approach of ABA Opinion 346 and the ABA Code of Professional Responsibility, prohibiting knowing or reckless conduct and conduct involving gross negligence [gross incompetence, indifference to consequences, inadequate preparation under the circumstances and consistent failure to perform obligations to the client). Knowing or reckless conduct is defined to conform to that required for recovery by investors under Rule 10b–5 promulatated under the Securities Exchange Act of 1934. *Ernst & Ernst v. Hochfelder,* 425 U.S. 185 (1976) and *Sharp v. Coopers & Lybrand,* 457 F. Supp. 879 (ED Pa. 1978). In addition, conduct which is part of a pattern of repeated failures to comply with the rules governing tax shelter opinions may subject a practitioner to descipline.

In applying this standard, the Director of Practice will review the opinion and offering materials in light of the practitioner's compliance with rules set out in the regulations under section 10.33 as ultimately adopted in final form.

8. *Reliance on Other Opinions, Providing Partial Opinions.* In giving an overall evaluation of a proposed offering, a practitioner may rely on other tax opinions only if, after reviewing such other opinions and any offering material, the practitioner has no reason to believe that the requirements of the revised proposed rule have not been complied with. If another professional is providing the overall evaluation, a practitioner who is rendering an opinion on less than all tax issues must have no reason to believe that the overall evaluation is incorrect.

9. *Practice.* In response to comments questioning the range of professional services within the ambit of practice before the IRS and in order to clarify the position of the Treasury Department on the subject, the definition of "practice before the Internal Revenue Service" in section 10.2(a) of Circular 230 is being amended. The amendment reflects the position of the Treasury Department that any person regardless of professional status may prepare tax returns and, accordingly, furnish information to the IRS as a witness or at the request of the IRS. However, tax practitioners are required to comply with the provisions of Circular 230 governing those services.

10. *Firms.* Several commenters expressed concern as to whether the regulations would extend to firms or if their application would be limited to individuals within a firm. In order to clarify the matter, the proposed rule addresses the circumstances under which the regulations would apply to a firm.

Executive Order 12291

It has been determined that this rule is not a major rule within the meaning of Executive Order 12291 since it is unlikely that any of the results delineated in the Executive Order will be realized.

Regulatory Flexibility Act

This rule is not subject to the provisions of the Regulatory Flexibility Act since the Notice of Proposed Rulemaking was published before January 1, 1981, the effective date of the Act.

Drafting Information

The principal author of these regulations is Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury. Other present and former personnel in the Treasury Department participated in the development of the regulations, both as to substance and style.

List of Subjects in 31 CFR Part 10

Administrative practice and procedures, Lawyers, Accountants, Enrolled agents, Enrolled actuaries.

Authority

These proposed rules are issued under authority of Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301; 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 FR 4935, 65 Stat. 1280, 3 CFR, 1949–53 Comp., p. 1017.

PART 10—[AMENDED]

31 CFR Part 10 is proposed to be amended as follows:

§ 10.2 [Amended]

1. In § 10.2, paragraph (a) is amended by removing the third sentence.

2. Section 10.7 is amended by adding paragraph (c) to read as follows:

§ 10.7 Limited practice without enrollment.

* * * * *

(c) *Preparation of tax return and furnishing information.* Any person may prepare a tax return, may appear as a witness for the taxpayer before the Internal Revenue Service, or furnish information at the request of the Internal Revenue Service or any of its officers or employees.

3. Section 10.33 is added to read as follows:

§ 10.33 Tax shelter opinions.

(a) *Tax shelter opinions and offering materials.* A practitioner who provides a tax shelter opinion analyzing the Federal tax effects of a tax shelter investment shall:

(1) Make inquiry as to all relevant facts, be satisfied the material facts are accurately and completely described in the offering materials, and assure that any representations as to future activities are clearly identified, reasonable and complete;

(2) Relate the law to the actual facts and, when addressing issues based on future activities, clearly identify what facts are assumed;

(3) Ascertain that all material Federal tax issues have been considered, and that all of those issues which involve the reasonable possibility of a challenge by the Internal Revenue Service have been fully and fairly addressed in the offering materials;

(4) Where possible, provide an opinion whether it is more likely than not that an investor will prevail on the merits of each material tax issue presented by the offering; where such an opinion cannot be given with respect to any tax issue, the opinion should fully describe the reasons for the practitioner's inability to opine as to likely outcome;

(5) Provide an overall evaluation of the extent to which the material tax benefits in the aggregate are likely to be realized; and

(6) Assure that the offering materials correctly represent the nature and extent of the tax shelter opinion.

(b) *Reliance on other opinions.* A practitioner may provide an opinion on less than all of the material tax issues if:

(1) At least one other competent practitioner provides an opinion on the likely outcome with respect to the other material tax issues, and an overall evaluation of the extent to which the material tax benefits in the aggregate are likely to be realized, which is

disseminated in the same manner as the practitioner's opinion; and

(2) The practitioner, upon reviewing such other opinions and any offering materials, has no reason to believe that the standards of paragraph (a) of this section have not been complied with.

Notwithstanding the foregoing, a practitioner who has not been retained to provide an overall evaluation of the extent to which the tax benefits in the aggregate are likely to be realized may issue an opinion on less than all the material tax issues only if he has no reason to believe that the conclusion of any other practitioner who furnishes an overall evaluation is incorrect.

(c) *Definition.* For purposes of this section:

(1) "Practitioner" is any person authorized under section 10.3 of this part to practice before the Internal Revenue Service.

(2) A "tax shelter," as the term is used in this section, is an investment which has as a significant feature for Federal income or excise tax purposes either of the following attributes: (i) Deductions in excess of income from the investment being available in any year to reduce income from other sources in that year, or (ii) credits in excess of the tax attributable to the income from the investment being available in any year to offset taxes on income from other sources in that year. Excluded from the term are investments such as, but not limited to the following: Municipal bonds; annuities; family trusts; qualified retirement plans; individual retirement accounts, stock option plans; securities issued in a corporate reorganization; mineral development ventures, if the only tax benefit would be percentage depletion; and real estate where it is anticipated that deductions are unlikely to exceed gross income from the investment in any year, and that any tax credits are unlikely to exceed the tax on the income from that source in any year.

(3) A "tax shelter opinion," as the term is used in this section, is advice by a practitioner concerning the Federal tax aspects of a tax shelter either appearing or referred to in the offering materials, or used or referred to in connection with sales promotion efforts, and directed to persons other than the client who engaged the practitioner to give the advice. The term includes the tax aspects or tax risks portion of the offering materials prepared by a practitioner whether or not a separate opinion letter is issued. The term does not, however, include rendering advice solely to the offeror or reviewing parts of the offering materials, so long as neither the name of the practitioner nor the fact that a practitioner has rendered advice concerning the tax aspects is referred to in the offering materials or in connection with the sales promotion efforts.

(4) A "material" tax issue as the term is used in this section is (i) any Federal income or excise tax issue relating to a tax shelter that would have a significant effect in sheltering from Federal taxes income from other sources by providing deductions in excess of the income from the tax shelter investment in any year, or tax credits available to offset tax liabilities in excess of the tax attributable to the tax shelter investment in any year; (ii) any other Federal income or excise tax issue relating to a tax shelter that could have a significant impact (either beneficial or adverse) on a tax shelter investor under any reasonably foreseeable circumstances (e.g., depreciation or investment tax credit recapture, or realization of taxable income in excess of cash flow, upon sale or other disposition of the tax shelter investment); and (iii) penalties, additions to tax, or interest charges that potentially could be asserted against a tax shelter investor by the Internal Revenue Service with respect to tax shelter. The determination of what is material is to be made in good faith by the practitioner, based on information available at the time the offering materials are circulated.

4. Section 10.51 is amended by adding (j) to read as follows:

§ 10.51 Disreputable conduct.

* * * * *

(j) Giving an intentionally or recklessly false, misleading, or grossly negligent opinion, or a pattern of providing incompetent opinions on questions arising under the Federal tax laws. False or intentionally or recklessly misleading opinions include those which reflect or result from a knowing misstatement of fact or law; from an assertion of a position known to be unwarranted under existing law; from counseling or assisting in conduct known to be illegal or fraudulent; from concealment of matters required by law to be revealed; or from reckless or conscious disregard of information indicating that material facts expressed in the tax opinion or offering material are false or misleading.

For the purpose of this section, reckless conduct is a highly unreasonable omission or misrepresentation, involving not merely simple or inexcusable negligence, but an extreme departure from the standards of ordinary care that is either known or is so obvious that the competent practitioner must or should have been aware of it. Gross negligence is conduct that reflects gross incompetence on the part of a practitioner, or indifference, inadequate preparation under the circumstances, and a consistent failure to perform obligations to the client.

5. In § 10.52 the existing paragraph is designated as paragraph (a), a new heading is added to paragraph (a) and new paragraphs (b), (c), and (d) are added to read as follows:

§ 10.52 Violation of regulations.

(a) *General.* * * *

(b) An attorney, certified public accountant, enrolled agent or enrolled actuary may be disbarred or suspended from practice before the Internal Revenue Service for violation of any part of § 10.33 of this part if such violation is (1) willful; (2) reckless within the meaning of § 10.51(j); (3) grossly negligent within the meaning of § 10.51(j), treating, for this purpose, prospective tax shelter investors as "clients"; or (4) part of a pattern of providing tax shelter opinions that fail to comply with § 10.33 of this part.

(c) Ordinarily a practitioner is subject to disciplinary action for violation of these rules in his or her individual capacity. However, disciplinary action may be taken against a firm if the tax opinion is a firm opinion and if there is an unreasonable absence of procedures within the firm to review firm opinions. Such an unreasonable absence of procedures will be deemed to have occurred when, for example, there has been a pattern of opinions by members of the firm or in the firm's name which the firm knew or reasonably should have known did not meet the standards of § 10.33 of this part.

6. Section 10.76 is added to read as follows:

§ 10.76 Advisory Committee.

For purposes of advising the Director of Practice whether an individual may have violated § 10.33 of this part, the Director of Practice is authorized to establish an Advisory Committee, composed of at least five individuals authorized to practice before the Internal Revenue Service. Under procedures established by the Director of Practice, such Advisory Committee shall review and make recommendations with regard to alleged violations of § 10.33 of this part.

Dated: December 10, 1982.

Peter J. Wallison,

General Counsel, Department of the Treasury.

[FR Doc. 82-34098 Filed 12-14-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3200

Geothermal Resources Leasing; General; Amendments to the Geothermal Resources Leasing Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking

SUMMARY: This proposed rulemaking would eliminate a number of redundant regulatory requirements that currently affect parties seeking to acquire interests in Federal geothermal leases. The requirements proposed for deletion involve additional documentary statements concerning acreage holdings, citizenship, corporate qualifications, proof of authority to act, municipality papers, and identification of other parties of interest, where a prospective lessee or holder of an interest in a geothermal lease has already certified to these items.

DATE: Comments by February 14, 1983.

ADDRESS: Comments should be sent to: Director (140) Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public inspection in Room 5555 of the above address during regular working hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher (202) 343-8537.

SUPPLEMENTARY INFORMATION: The existing regulations on geothermal leasing require parties seeking an interest in Federal geothermal leases to provide certain data and collaborating information regarding their qualifications for holding leases. These would be deleted by the proposed rulemaking. Instead, the Bureau would have prospective lesees or prospective holders of interests in geothermal leases certify, under penalty of law, that they meet the qualification requirements by signing a statement to that effect prior to obtaining an interest in a lease. This certified statement would be contained in the forms used to issue the lease or interest in a lease. The authorized officer would retain the authority to require supporting information concerning qualifications to hold a lease or an interest in a lease, should the officer determine it to be necessary. The purpose of this change is to reduce the redundant regulatory burden on those seeking to acquire interests in Federal geothermal leases, while still assuring, by means of certification, that propsective lessees or prospective holders of interests possess the necesary statutory and regulatory qualifications to hold an interest in a geothermal lease. The following specific changes are proposed:

(1) Section 3201.2(e) requiring a statement as to acreage holdings upon a request from the authorized officer would be deleted. This requirement would be incorporated in the revision to § 3202.2.

(2) Section 3202.2 would be rewritten to allow the authorized officer to require applicants to provide specific information concerning their qualifications to hold interests in leases. Previously, these statements were required before issuance of leases.

(3) Section 3210.2-1 would be amended by deleting Paragraphs (a),(b),(d), and (e). These subsections either are unnecessary or will be addressed by the revision to § 3202.2.

(4) Section 3220.2 would be deleted. Nominations for the sale of known geothermal resources areas are not necessary since the Bureau of Land Management's policy is to offer such lands for geothermal lease sale as soon as possible.

(5) Section 3241.1-2 would be deleted because it simply repeats the requirements found at § 3202.2 that apply to all parties seeking to acquire interests in Federal geothermal leases.

(6) Section 3241.2-3(b) is revised to be consistent with the change made to § 3202.2.

(7) Section 3241.7-1(c) is deleted since it repeats the requirements found at § 3202.2 that apply to all parties seeking to acquire interests in Federal geothermal leases.

The principal author of this proposed rulemaking is Karl F. Duscher, Division of Oil, Gas and Geothermal Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)C is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Department of the Interior has further determined that the major effect of this proposed rulemaking would be to reduce the existing regulatory burden on parties involved in applying for interests in Federal geothermal leases. The impact would not be significant under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in this rulemaking have been previously approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0038. No new information collection requirements are contained in this rulemaking.

List of Subjects in 43 CFR Part 3200

Environmental protection, Geothermal energy, Mineral royalties, Public lands: Classification, Public lands: Mineral resources, Surety bonds.

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025), it is proposed to amend Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

§ 3201.2 [Amended]

1. Section 3201.2(e) is removed in its entirety.

2. Section 3202.2 is retitled and revised as follows:

§ 3202.2 Proof of qualifications.

Any party seeking to acquire or already holding a Federal geothermal lease or interest therein may be required by the authorized officer to submit proof that the party is qualified to hold a geothermal lease and is in compliance with the regulations of this part and the provisions of the Geothermal Steam Act of 1970 (84 Stat. 1566). Such proof shall be submitted within 30 days of request.

§ 3202.2-1 Proof which may be required.

The authorized officer may require:

(a) Evidence that the lessee does not hold acreage in excess of that prescribed in § 3201.2 of this title. A lessee may be additionally required to submit the serial numbers and percent interest held in all leases as of a specified date.

(b) Evidence that the lessee or applicant is a citizen of the United States or, if a corporation or association,

that the entity is in compliance with § 3202.1 of this title.

(c) Evidence that the individual executing an application, lease, or transfer of interest on behalf of another party is authorized to act in that capacity. In the case of a guardian or trustee, a copy of the authorizing court order or other legal instrument shall constitute such evidence.

(d) Evidence indicating whether the applicant or lessee is the sole party in interest and, if not, providing the names, addresses, and nature of interests of any other parties.

(e) Evidence showing that the municipality or governmental unit involved is authorized to hold geothermal leases. The evidence shall include a copy of the governing body's resolution authorizing the particular action being taken.

(f) Evidence setting forth the names and addresses of all members or stockholders controlling more than 10 percent of the corporation or association.

§ 3210.2–1 [Amended]

3. Section 3210.2–1 is amended by removing paragraphs (a), (b), (d), and (e) in their entirety, and removing the figure (c) from paragraph (c).

§ 3220.2 [Removed]

4. Section 3220.2 is removed in its entirety.

§§ 3220.2, 3220.3, 3220.4 and 3220.5 [Redesignated from §§ 3220.3, 3200.4, 3200.5 and 3220.6]

5. Sections 3220.3, 3200.4, 3200.5 and 3220.6 are redesignated as 3220.2, 3220.3, 3220.4 and 3220.5 respectively.

§ 3241.1–2 [Removed]

6. Section 3241.1–2 is removed in its entirety.

§ 3241.2–3 [Amended]

7. Section 3241.2–3(b) is amended by adding in the last sentence after the phrase "qualifications of the assignee" the phrase", if requested by the authorized officer,".

§ 3241.7–1 [Amended]

8. Section 3241.7–1(c) is removed in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

November 12, 1982.

[FR Doc. 82-34075 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1220

[No. 38849]

Review of Preservation of Records Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proceeding is being instituted to review and make changes to the currrent Preservation of Records Rules, 49 CFR Part 1220. The objective is to prescribe only those records and recordkeeping periods which are needed for Commission regulatory purposes. This will allow each company's management more autonomy in establishing a recordkeeping program, while reducing costs and burden.

DATE: Comments are due on or before January 24, 1983. The proposed rules would be effective immediately after adoption by the Commission.

ADDRESS: Copies of this rule may be obtained by writing to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, or by calling 202–275–7428.

An original and 10 copies of any comments should also be sent to the above address.

FOR FURTHER INFORMATION CONTACT: Andrew J. Lee, (202) 275–7448.

SUPPLEMENTARY INFORMATION: This proceeding emanates from the Commission's periodic review of the preservation of records regulations. Also, under Section 610 of the Regulatory Flexibility Act (Pub. L. 96–354), the Commission is required to review its rules to consider the effects of the rules on small entities. On November 3, 1981, the Commission published its 10-year plan for the review of its regulations. The preservation of records rules (49 CFR Part 1220) were scheduled for review during this calendar year (46 FR 54614, August 15, 1980). A specific Notice of Review of Regulations was published on December 31, 1981, (46 FR 63358), giving notification that the review was underway.

The objective of this review is to determine the relevance of each record, the appropriateness of the prescribed retention periods, and the purpose for which each record is needed for the Commission's regulatory mission.

The purpose of the preservation of record rules is to assure that carrier's records are secure, readily accessible, and adequately maintained for a prescribed period of time. The regulations instruct carriers to maintain their corporate, treasury, property, personnel, insurance and claims, inventory, transportation, tariff, statistical, and miscellaneous records in hard paper copy, microfiche, or machine-readable form for certain periods.

The Commission completely revised its record retention regulations in 1975. Many burden-reducing steps were undertaken at that time, such as allowing microfilming of records, adopting many shortened retention periods, and combining the separate recordkeeping regulations for various modes into a single set of requirements. Since that review, the agency's needs have changed in some instances, and the effect is that some of the prescribed records and retention periods are obsolete. Also, the importance of periodic review cannot be overlooked because technological improvements and new information must now be considered.

The importance of maintaining records must be emphasized. The information derived from records is a valuable source for financial and statistical reports, historical reviews, litigation, insurance and other claims, government reporting requirements, and tax audits. All businesses must therefore have a records retention program if future business plans and strategies are to have the support and benefit of historical data and trend analyses. Directing this program is one of the financial officers' most important duties. The program can range dramatically in terms of complexity, i.e., type of media used, filing system in effect, security system in force, etc. Moreover, the formal record retention program should address the following questions:

- What information is now being kept?
- How often is the information requested?
- Where are the records stored?
- Are retention guidelines in place and implemented?
- Are the records properly safeguarded?
- Can the information be easily retrieved and used?

The Commission recognizes that the cost of retaining records can be substantial. Besides the Commission, carriers are also required to maintain records for other Federal, State and local agencies. However, it is the intent of the Commission to only require the retention of records that determine compliance with the uniform systems of accounts, facilitate carrier compliance

audits and regular Commission studies, and help to implement and maintain our regulatory functions.

The effect of the proposed regulations is to permit carriers more autonomy in establishing a formal record retention program. It is also intended to greatly reduce the paperwork burden on smaller carriers with less resources for maintaining records. The Commission urges carriers to study and review their needs for records' maintenance, and make appropriate changes in their recordkeeping program. There are many sources of record retention programs and schedules available, including:

- The current Commission regulations, 49 CFR Part 1220.
- Internal Revenue Service guidelines, Reg. § 1.6001, et al.,
- Securities and Exchange Commission regulations, 17 CFR Part 256a, and
- Guide to Record Retention Requirements, 40 FR 11259.

The effect of allowing more carrier autonomy in establishing a records retention program is to reduce regulatory burden. The proposed regulation is not intended to be vague. The proposed prescribed records and retention periods have been tentatively determined to be necessary for maintaining a responsible national transportation system. This should result in substantial cost savings to individual carriers.

In the Appendix, the revised regulations are presented. The major cost and burden-reducing features are:

(1) The use of paperstock, or any form of record micrographics, at the discretion of company management,

(2) The elimination of duplicative records, particularly after paperstock information has been transferred to micrographics,

(3) The elimination of approximately 125 records and retention requirements, leaving their maintenance to the discretion of company management, and

(4) The use of machine-readable media (magnetic tape, punch cards, disks) is acceptable if a printout can be produced, and the media must be maintained for the same prescribed retention period as the other media forms.

Other features include:

(1) Companies may continue to request a waiver of certain records or retention periods under unusual or questionable circumstances. Also, a general guideline for the applicability of records not specifically cited has been incorporated,

(2) The designated supervisor official must assure completeness, and accessibility of records, and

(3) Companies must notify the Commission of substantial changes to the structure of their records program, in addition to records damaged or destroyed by fire, flood or destructive mishaps.

The proposed rule was developed from our study of the many issues relating to records management. We have already received comments, recommendations and inquiries from the industry regarding these issues. During a 1981 study of the incremental cost of ICC accounting provisions and record retention rules, we received some beneficial comments on how these rules could be improved. We anticipate and welcome more constructive comments with this notice.

The proposed revisions shall be effective immediately upon adoption of the Final Rule by this Commission.

This action does not appear to affect significantly the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Act

As noted above, this proceeding stems from the Commission's review of rules pursuant to 5 U.S.C. 610. We have determined that this NPR will have a significant economic impact upon a substantial number of small entities. The economic impact is beneficial because many cost reducing provisions have been proposed such as eliminating duplicate records, allowing management more autonomy in deciding which records to keep and for how long, and requiring only records and retention periods that would further the Commission's regulatory mission. The effect of these proposed revisions will be a lessening of the expense and burden of recordkeeping.

List of Subjects in 49 CFR Part 1220

Express companies, Freight forwarders, Motor carriers and brokers, Railroads, Ratemaking organization subject to Commission oversight, Water carriers.

This rule is proposed under the authority of 49 U.S.C. 10321 and 11145 and 5 U.S.C. 553.

Decided: December 3, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

The following changes are proposed:

(1) 49 CFR Part 1220 would be revised to read as follows:

PART 1220—PRESERVATION OF RECORDS

Sec.

1220.0 Applicability.
1220.1 Purpose.
1220.2 Designation of supervisory official.
1220.3 Availability of records.
1220.4 Protection and storage of records.
1220.5 Preservation of records.
1220.6 Destruction of records.
1220.7 Photographic copies.
1220.8 Companies going out of business.
1220.9 Waiver of requirements of these regulations.
1220.10 Schedule of records and periods of retention.

Authority: 49 U.S.C. 10321 and 11145, and 5 U.S.C. 553.

§ 1220.0 Applicability.

Before destroying any operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, reports, or documents the following companies and persons subject to the provisions of the Interstate Commerce Act shall comply with the regulations in this part:

Railroad companies
Electric railway companies
Express companies
Persons furnishing cars to railroads
Motor carriers and brokers
Water carriers
Freight forwarders
Rate-making organizations

This part applies also to the preservation of accounts, records and memoranda of traffic associations, demurrage and car service bureaus, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in the above paragraph of this subpart.

§ 1220.1 Purpose.

The regulations in this part prescribe the minimum length of time records shall be preserved, after which they may be destroyed at the discretion of each company's management. Every possible record that could provide valuable information might not be included in § 1220.10. However, it shall be the obligation of the subject company to maintain records that adequately support financial and operational data required by the Commission. The company may request a ruling from the

Commission on any record or retention period not covered in this Part. The general guideline shall be that if the record has a direct applicability to future events, then it should be retained. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body, Federal or State, prescribing longer retention periods for any category of records.

§ 1220.2 Designation of supervisory official.

(a)(1) Each company subject to the provisions of this part shall appoint an officer or other responsible employee to supervise the preservation and authorized destruction of records. Such appointment shall be by formal corporate act of the Board of Directors or its executive committee or, if the company is not incorporated, by formal designation of the owners.

(2) Designation may be made by title only, rather than by name and title, and thus obviate the necessity for a new resolution or order each time a successor is appointed.

(b) If the property of the company is in the hands of a trustee, executor, administrator, or assignee, the officer or other responsible employee supervising the preservation and destruction of records shall be designated by such trustee, executor, administrator, or assignee.

(c) Authority to supervise the destruction of company records maintained by an association, joint bureau, etc. may be delegated to the manager or other chief officer.

(d) A company, at its option, may by a formal act of appointment delegate to a bank, trust company, or similar institution having custody of its records in the normal course of business, the authority to destroy such records upon compliance with the requirements of regulations in this part.

(e) Copies of the resolution or orders of appointment need not be filed with the Commission but shall be available for inspection by the Commission's duly authorized representatives.

§ 1220.3 Availability of records.

At each office where records are kept or stored, such records as are herein required to be preserved shall be so arranged and filed so that they may be readily identified and made available to representatives of the Commission.

§ 1220.4 Protection and storage of records.

(a) The company shall protect records subject to the regulations in this part from fires, floods, and other hazards, and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

(b) The company shall notify the Commission if prescribed records are substantially destroyed or damaged as specified in § 1220.6(d).

§ 1220.5 Preservation of records.

(a) All records prescribed by § 1220.10 may be preserved on hard-copy paper stock, microfilm or other forms of micrographics. It is not necessary to create paperstock or micrographic media if the records are initially prepared on machine-readable media such as punch cards, magnetic tape, disks and so on. However, these machine-readable media shall be preserved for the prescribed retention periods, if this option is chosen.

(b) Each machine-readable form of media shall be accompanied by a statement clearly indicating the type of data included in the media. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and reproduce the records on paper similar in size to the original without loss of clarity. The designated records supervisory official shall be responsible for implementing safeguards to assure that the information contained on the machine-readable media is complete, accurate, indexed, and accessible.

§ 1220.6 Destruction of records.

(a) *General authority.* Records described in these regulations may be destroyed after having been preserved for the prescribed periods.

(b) *Special authority.* Special authority is required before records described in these regulations may be destroyed prior to the end of the prescribed retention periods. Applications for special authority shall be filed with the Commission's Bureau of Accounts and must describe in detail the nature and purpose of the records in question and the reasons continued retention is no longer considered necessary. (see § 1220.9).

(c) *Method of destruction.* These regulations require that records be preserved for specified periods. Upon expiration of these periods, records may be destroyed in any manner if the company so elects. Precaution should be taken, however, to shred or otherwise destroy the legibility of any records, the content of which is forbidden by law to be divulged to unauthorized persons.

(d) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed retention periods, a statement shall be prepared listing as accurately as possible, the records destroyed or lost and describing the circumstances under which they were destroyed or lost. The statement shall be certified by an officer of the carrier and filed with the officer having supervision over preservation of the records. A copy of the statement shall also be filed with the Secretary's Office of this Commission within ninety (90) days from the discovery of the premature destruction or loss.

(e) Each company shall notify the Commission of substantive changes to the recordkeeping and retention structure. This encompasses only those changes which will significantly revise the filing structure, record format or media. The Commission will issue an interpretation on the effect of the proposed change on regulatory functions.

§ 1220.7 Photographic copies.

(a) Any record may be transferred to micrographics (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The micrographics used shall be of a quality that can be easily read and that reproduction in paperstock can be similar in size of an original without loss of clarity or detail during the periods the records are required to be retained in § 1220.10.

(c) These records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and read the microfilm, and reproduce in paper form.

(d) Any significant characteristic, feature, or other attribute which micrographic media will not preserve shall be clearly indicated at the beginning of the applicable micrographic records as appropriate.

(e) The printed side of forms, such as instructions, need not be preserved for each record as long as the printed matter is common to all such forms and an identified specimen of the form is maintained on the film for reference.

(f) The responsible supervisory record official designated in § 1220.2 shall execute and maintain a certificate stating the micrographics are direct

facsimiles of the original records, and they have been made in accordance with prescribed regulations, and they are accurate and complete.

§ 1220.8 Companies going out of business.

The records referred to in these regulations may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When a company is merged with another company under jurisdiction of the Commission, the successor company shall preserve records of the merged company in accordance with these regulations.

§ 1220.9 Waiver of requirements of these regulations.

A waiver from any provision of these regulations may be made to the Commission upon its own initiative or upon submission of a written request by the company. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

§ 1220.10 Schedule of records and periods of retention.

The following schedule shows periods that designated records shall be preserved. The descriptions specified under the various general headings are for convenient reference and the identification, and are intended to apply to the items named regardless of what the records are called in individual companies and regardless of departmental organization. Records other than those listed below may be destroyed at the option of the company, provided they do not have future applicability for Commission regulatory purposes. See § 1220.0 for record obligation of subject companies.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No. and category of records	Retention period
A. Corporate and General	
1. Incorporation and reorganization:	
(a) Charter or certificate or incorporation and amendments	Until business termination + 3 years.
(b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company.	Do.
2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings	Do.
3. Titles, franchises and authorities:	
(a) Certificates of public convenience and necessity issued by regulating bodies	Until expiration or cancellation.
(b) Operating authorizations and exemptions to operate issued by regulating bodies	Do.
(c) Copies of formal orders of regulatory bodies served upon the company	Until expiration or cancellation + 1 year.
(d) Deeds, charters, and other title papers	Until disposition of property + 3 years.
(e) Patents and patent records	Until expiration + 1 year.
4. Annual reports or statements to stockholders	4 years.
5. Contracts and agreements:	
(a) Contracts and related papers and documents which contain disclosure and and transactions relating to the provisions of the Clayton Antitrust Act (15 USC 20).	Until expiration + 4 years.
(b) Service contracts, such as for operational management, accounting, financial or legal services, and agreements with agents.	Until expiration or termination + 3 years.
(c) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	Do.
(d) Contracts for the purchase or sale of material and supplies except as provided in (a) above	Until expiration
(e) Shipping contracts for transportation or caretakers of freight	Do.
(f) Contracts with employees and employee bargaining groups	Do.
(g) Contracts, leases and agreements, not specifically provided for in this section	Until expiration or termination.
6. Accountant's, auditor's, and isnpector's reports:	
(a) Certifications and reports of examinations and audits conducted by public accountants	3 years.
(b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others	Do.
7 Other: (See Note A.)	
B. Treasury	
1 Capital stock records:	
(a) Capital stock ledger	4 years.
(b) Capital stock certificates, records of or stubs of. Note: If the information shown on the stubs is recorded in item 1(a), the stubs may be retained according to Note A.	Do.
(c) Stock transfer register	Do.
2. Long-term debt records:	
(a) Bond indentures, underwritings, mortgages, and other long-term credit agreements	Until redemption + 4 years.
(b) Registered bonds and debenture ledgers	Do.
(c) Stubs or similar records of bonds or other long-term debt issued. Note if the information shown on the stubs is provided in items 2(a) or (b) above, then retention period shall be determined according to Note A.	Do.
3. Authorizations from regulatory bodies for issuance of securities including applications, reports, and supporting papers	Until all securities covered are retired.
4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent	Until the securities are sold, redeemed or otherwise disposed of + 3 years.
5. Other: (See Note A).	
C. Financial and Accounting	
1 Ledgers:	
(a) General and subsidiary ledgers with indexes	Until discontinuance of use + 4 years.
(b) Balance sheets and trial balance sheets of general and subsidary ledgers	4 years.
2. Journals:	
(a) General journals	Until discontinuance of use + 4 years.
(b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries	4 years.
3. Cash books:	
(a) General cash books	Until discontinuance of use + 4 years.
(b) Subsidiary cash books	4 years.
4. Vouchers:	
(a) Voucher registers, indexes, or equivalent	4 years.
(b) Paid and canceled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, if not provided for elsewhere.	Do.
(c) Paid drafts, paid checks, and receipts for cash paid out	4 years.
5. Accounts receivable:	
(a) Record or register of accounts receivable, indexes thereto, and summaries of distribution	3 years after settlement.
(b) Bills issued for collection and supporting data	Do.
(c) Authorizations for writing off receivables	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No. and category of records	Retention period
(d) Reports and statements showing age and status of receivables	1 year.
6. Records of accounting codes and instructions	3 years after discontinuance.
7. Other: (Note A).	
D. Property and Equipment	
NOTE—All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.	
1. Property records:	
(a) Records which maintain complete information on cost or other value of all real and personal property or equipment	3 years after disposition of property.
(b) Records of additions and betterments made to property and equipment	Do.
(c) Records pertaining to retirements and replacements of property and equipment	Do.
(d) Records pertaining to depreciation	Do.
(e) Records of equipment number changes	Do.
(f) Records of motor and engine changes	Do.
(g) Records of equipment lightweighed and stenciled	Do.
(h) Files of detailed authorizations for expenditures, work or job orders showing estimated costs of additions and betterments, extensions, replacements, major repairs and dismantlements, together with all supporting data.	3 years.
2. Engineering records of property changes actually made	3 years after disposition of property.
3. Other: (Note A).	
E. Personnel and Payroll	
1. Personnel and payroll records (See Note A).	
F. Insurance and Claims	
1. Insurance records:	
(a) Schedules of insurance against fire, storms, and other hazards and records of premium payments	3 years.
(b) Records of losses and recoveries from insurance companies and supporting papers	3 years after settlement.
(c) Insurance policies	Until expiration of coverage.
2. Claims records:	
(a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims against the company, together with all supporting data.	3 years after settlement.
(b) Claims registers, card or book indexes, and other records which record overcharges, damages, and other claims filed by the company against others, together with all supporting data.	3 years after settlement.
(c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims	3 years.
(d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support claims or vouchers.	Do.
(e) Reprots, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers.	1 year.
(f) Authorities for disposal of unclaimed, damaged, and refused freight	3 years.
3. Other: (See Note A).	
G. Taxes	
1. Taxes. (Note A).	
H. Purchases and Stores	
1. Purchases and stores. (Note A).	
I. Shipping and Agency Documents	
1. Bills of lading and releases:	
(a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading freight bills from other carriers and other similar documents furnished the carrier for movement of freight.	3 years.
(b) Shippers' order-to-notify bills of lading taken up and cancelled	Do.
2. Freight waybills:	
(a) Local waybills	4 years.
(b) Interline waybills recieved from and made to other carriers	Do.
(c) Company frieght waybills	Do.
(d) Express waybills	Do.
3. Freight bills and settlements:	
(a) Paid copy of freight bill retained to support receipt of freight charges:	
(1) Bus express freight bills provided no claim has been filed	1 year.
(2) All other freight bills	3 years.
(b) Paid copy of freight bill retained to support payment of freight charges to other carriers:	
(1) Bus express freight bills provided no claim has been filed	1 year.
(2) All other freight bills	3 years.
(c) Records of unsettled freight bills and supporting papers	1 year after disposition.
(d) Records and reports of correction notices	3 years.
4. Other freight records:	
(a) Records of freight received, forwarded, and delivered	Do.
(b) Notice to consignees of arrival of freight; tender of delivery	2 years.
5. Agency records (to include conductors, pursers, stewards, and others):	
(a) Cash books	3 years.
(b) Remittance records, bank deposit slips, and supporting papers	Do.
(c) Balance sheets and supporting papers	2 years.
(d) Statements of corrections in agents accounts	Do.
(e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc.	Do.
J. Transportation	
1. Records pertaining to transportation of household goods:	
(a) Estimate of charges	3 years.
(b) Order for service	Do.
(c) Vehicle-load manifest	Do.
(d) Descriptive inventory	Do.
2. Records and reports pertaining to operation of marine and floating equipment:	
(a) Ship log	3 years.
(b) Ship articles	Do.
(c) Passenger and room list	Do.
(d) Floatmen's barge, lighter, and scow captains' reports, demurrage records, towing reports and checks sheets	2 years.
3. Car distribution and movement-railroads only:	
(a) Records of car allotment and distribution	2 years.
(b) Records of cars ordered, furnished and loaded	Do.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No. and category of records	Retention period
(c) Records showing dates and numbers of trains, initials and numbers of cars, movement of cars, and mileage of cars and trains.	Do.
(d) Report of cars interchanged with connecting lines	Do.
(e) Reports of unfilled car orders	1 year.
(f) Per diem and mileage reports made and received, including reclaims and discrepancy and adjustment reports	2 years.
(g) Demurrage and storage records	Do.
4. Dispatchers' sheets, registers, and other record pertaining to movement of transportation equipment	3 years.
5. Import and export records including bonded freight and steamship engagements	2 Years.
6. Records, reports, orders and tickets pertaining to weighing fo freight	3 years.
7. Records of loading and unloading of transportation equipment	2 years.
8. Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence	Do.
9. Other: (See Note A).	
K. Tariffs and Rates	
1. Official file copies of tariffs, classifications, division sheets, and circulars relative to the transportation of persons or property.	3 years after expiration or cancellation.
2. All other copies of tariffs, classifications, division sheets, and circular referred to in item 1 above	Do.
3. Authorities and supporting papers for transportation of property or passengers free or at reduced rates	3 years.
4. Copies of concurrences and powers of attorney filed with the Interstate Commerce Commission and other regulating bodies.	2 years after expiration or cancellation.
5. Correspondence and working papers in connection with the making of rates and compliance of tariffs, classifications, division sheets, and circulars affecting the transportation of persons or property.	2 years after cancellation of tariff.
6. Contracts and minimum rate schedules of contract motor carriers	3 years after expiration or cancellation.
7. Records and documents required by provisions of sec. 1253.20 to be maintained	2 years.
L. Reports and Statistics	
1. Records to Interstate Commerce Commissioon and regulatory bodies:	
(a) Annual financial, operating and statistical reports, file copies of, and supporting data	4 years.
(b) Periodical reports of operating revenues, expenses, and income, file copies of, and supporting data	3 years.
(c) Reports detailing use of proceeds from issuance or sale of company securities, file copy of, and supporting data	Do.
(d) Valuation inventory reports and records together with related notes and records together with related notes, maps, and sketches; underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Interstate Commerce Commission or other regulatory body.	3 years after disposition of the property.
2. Periodical reports of accidents, inspections, tests, hours of service, repairs, freight car locations, etc	3 years.
3. Periodical statistical statements of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analysis of increases and decreases, or otherwise.	Do.
M. Miscellaneous	
1. Index of records	Until revised as record structure changes.
2. Statement listing records prematurely destroyed or lost	For the remainder of the period as prescribed for record destroyed.

NOTE A.—Other records under this category shall be maintained as determined by the desginated records supervisory official. Companies should be mindful of the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, state and local jurisdictions and other regulatory agencies. Companies shall exercise reasonable care in choosing retention periods, and the choice of retention periods shall reflect past experiences, company needs, pending litigation, and regulatory requirements.

The absence of a Commission prescribed retention period shall not relieve the carrier of recordkeeping requirements, considering the circumstances.

[FR. Doc. 82-33725 Filed 12-14-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

December 10, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact persons.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

• Agricultural Cooperative Service
Kentucky Farm Women and Agricultural Cooperatives
Nonrecurring
Individuals, farms, businesses or other institutions: 1,826 responses; 1,523 hours; not applicable under 3504(h)
Dr. Thomas Gray (202) 447–9332

Revised

• Agricultural Marketing Service
Avocados Grown in South Florida—Marketing Order 915
On occasion, annually, biennually
Businesses or other institutions: 3,142 responses; 5,210 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Agricultural Marketing Service
Melons Grown in South Texas—Marketing Order 979
On occasion, annually
Businesses or other institutions: 2,870 responses; 14,124 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615

• Agricultural Marketing Service
California Pears, Plums and Peaches—Marketing Order 917
On occasion, monthly, semiannually
Farms, businesses or other institutions: 47,842 responses; 89,864 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

Extension

• Agricultural Marketing Service
California Nectarines—Marketing Order 916
On occasion, monthly, semiannually
Farms, businesses or other institutions: 9,029 responses; 36,311 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Rural Electrification Administration
Tabulation of Materials Furnished by Borrowers

REA 281

On occasion
Businesses or other institutions: 125 responses; 150 hours; not applicable under 3504(h)
John D. Soma (202) 382–8529

Reinstatement

• Farmers Home Administration
Application for Loan Guarantee
FmHA 449–1
On occasion
State and local government, businesses or other institutions: 1,060 responses; 24,380 hours; not applicable under 3504(h)
Darryl H. Evans (202) 447–4150

• Agricultural Cooperative Service
Marketing of Grain by Regional Cooperatives
Annually
Businesses or other institutions: 18 responses; 54 hours; not applicable under 3504(h)
David E. Cummins (202) 382–1762

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–33950 Filed 12–14–82; 8:45 am]
BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 82–090]

Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

SUMMARY: The purpose of this document is to give notice that there will be a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

PLACE, DATES, AND TIME OF MEETING: The meeting will be held in Room 743A, Federal Building, United States Department of Agriculture, Hyattsville, Maryland 20782, February 16, 1983, from 9:00 a.m. to 4:00 p.m., and February 17, 1983, from 9:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Harless McDaniel, Chief Staff Officer, Technical Support APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20782, 301–436–8087.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary on means to prevent, suppress, control or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such diseases should enter the United States.

The meeting is open to the public. Written statements concerning these matters may be filed with the Committee before or at the time of the meeting.

Written statements may be forwarded to Dr. Harless McDaniel, Chief Staff Officer, Technical Support, APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20782, 301–436–8087.

Dated: December 7, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-34013 Filed 12-14-82; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

[Order 82-12-40]

Application of Transamerica Airlines, Inc., for Certificate of Public Convenience and Necessary for Charter Air Transportation; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause, Order 82-12-40.

SUMMARY: The Board proposes to issue a certificate to Transamerica Airlines, Inc., to provide interstate charter air transportation of person, property, and mail between points within the State of Alaska. All other fit applicants are invited to file applications for the same authority.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, no later than January 13, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40816, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all the persons listed in the Appendix to Order 82-12-40.

A statement of objections must cite the docket numbers and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue the proposed certificate. To get a copy of the complete order, request it from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Contact Thomas Chew, (202) 673-5340, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34029 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-12-36]

British Caribbean Airways, Limited; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 82-12-36.

SUMMARY: The Board proposes to approve the following application:

Applicant: British Caribbean Airways, Limited.

Application Date: Dec. 7, 1981, amended Feb. 18, 1982; Docket: 40288.

Authority Sought: Nonscheduled operations carrying property and mail between the British Virgin Islands; intermediate points in the U.S. Virgin Islands; Turks and Caicos; San Juan; Leeward Islands; Windward Islands; Dominican Republic; Barbados; and the terminal point Miami; and to conduct various cargo charters.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than January 4, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, the Government of the British Virgin Islands and the Ambassador of Great Britain and Northern Ireland in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 40288, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Applicant: British Caribbean Airways, c/o Mr. Harry A. Bowen, Bowen & Atkin, 2020 K Street, N.W., Washington, D.C. 20006

To get a copy of the complete order, request it from the CAB Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Allen Brown, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5878.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34028 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-12-39]

Fitness Determination of Sundorph Aeronautical Corp.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 82-12-39, order to show cause.

SUMMARY: The Board is proposing to find that Sundorph Aeronautical Corp. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATE: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than December 29, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82-12-39.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-12-39, is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-12-39, to that address.

By the Civil Aeronautics Board: December 9, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34027 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40887]

U.S.-People's Republic of China Service Proceeding (Phase II); Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this case is assigned to be held before the Board on Monday, January 10, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before Wednesday, December 29, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., December 10, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-34026 Filed 12-14-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Cotton Yarn From Peru; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to the preliminary affirmative countervailing duty determination.

SUMMARY: On November 19, 1982, we published a preliminary affirmative countervailing duty determination on cotton yarn from Peru (47 FR 52215). In the "Scope of Investigation" section we stated: " There are fourteen producers, all of which export cotton yarn from Peru * * *". Later, in the "Suspension of Liquidation" section of that notice we stated: "At the present time * * * the only known companies exporting cotton yarn from Peru are: Industrial Textil Piura S. A., Textil Trujillo S.A., Compania Textil 'El Progresso', and Textiles del Sur S.A." These four companies are the only ones we know of located outside the Department of Lima or the Province of Callao. The four companies are not the only cotton yarn exporting companies we know of in Peru. This amendment reconciles the two sections quoted. No other information in the November 19, 1982 determination is affected by this amendment.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Melissa G. Skinner, Office of Investigations Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N W, Washington, D.C. 20230, Telephone: (202) 377–5414 or 3530.

Dated: December 10, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-33953 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Float Glass From Italy; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on float glass from Italy. The review covers the two firms currently covered by the order and the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined the amount of net subsidy for Fabbrica Pisana, S.p.A. to be 0.88 percent of the f.o.b. invoice price of the merchandise, and for Societa Italiano Vetro, S.p.A to be 3.77 percent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Anderson or Richard Moreland, Office of Compliance, Room B099, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 5026) the final results of its first administrative review of the countervailing duty order on float glass from Italy (41 FR 0274, January 7, 1976) and announced its intent to begin immediately the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by this review is flat glass manufactured by the float process. Such glass may be either tinted or clear and is produced in a wide variety of sizes ranging from 0.125" to 1" in thickness. Such glass is currently classifiable under items 543.2100 through 543.6900 of the Tariff Schedules of the United States Annotated. Entries of float glass which has been substantially further manufactured or modified (e.g., into tempered glass or laminated glass) are not subject to this countervailing duty order. The review covers the period January 1, 1980 through December 31, 1980, and includes the five programs determined to be countervailable in the final results of the last administrative review, plus three other programs, all with regard to the two companies currently covered by the order, Fabbrica Pisana, S.p.A. ("Pisana") and Societa Italiana Vetro, S.p.A. ("SIV"). Of the eight programs, we preliminarily determine the following four to be countervailable: (1) Exemption from local corporate income taxes, (2) Reductions in social security and health benefits payments, (3) capital grants, and (4) preferential long-term financing. We preliminarily determine that the following programs are not countervailable: (1) Reductions in turnover and value-added taxes (found countervailable in the last administrative review), and (2) accelerated depreciation. In addition, we preliminarily determine that the two producers did not utilize the following two programs on the subject merchandise: (1) Reductions in national corporate income taxes, and (2) preferential loans for applied research.

Analysis of Programs

(1) *Local Corporate Income Tax Reductions.* Presidential Decree number 218 (March 6, 1978) provides industrial plants located in the Mezzogiorno region of Italy with a complete exemption from the 15 percent local corporate income tax ("ILOR") for 10 years after the newly-established plants first show a profit. In the last administrative review, we calculated the net subsidy as the amount of exemption attributable to income earned in the years under review. In the current review, we have calculated the *ad valorem* benefit attributable to this program by looking at the benefit received from the previous tax year, for it is only after a company's books have closed that the magnitude of the benefit, if any, can be known to the firms under review.

For this review, this change in methodology necessitates a transitional reallocation of benefits. In this case, the Department countervailed the tax savings received by SIV and Pisana in 1980 in the administrative review for 1979, as though the benefit from tax

exemptions on income earned in 1979 were received in that year. According to the principle set forth in the notice of "Final Results of Administrative Review of Countervailing Duty Order" on certain castor oil products from Brazil (46 FR 62487), we do not countervail the same benefit twice when changes in methodology create an overlap in the allocation of that particular benefit.

We will allocate tax benefits earned as a result of the company's performance during the current period of review (1980) over total sales for the next period of review (1981). Therefore, for the purpose of this review, the estimated duty deposit rate on future entries will include benefits under this program basd on the new method of calculation.

For deposit purposes, we have calculated the *ad valorem* benefit attributable to this program to be 0 percent for Pisana and 1.20 percent for SIV.

(2) *Reductions in Social Security Payments.* Italian law grants firms located in the Mezzogiorno reduction in social security payments to the Istituto Nazionale Previdenza Sociale ("INPS") ranging from 8.5 to 28.5 percent for each worker, depending on gender, labor classification, date of employment, and size of the workforce. Because these exemptions are known and reported in monthly INPS declarations, we have allocated the benefit received from the exemptions to the year in which the wages and salaries upon which they are based are earned. As these exemptions cover workers from all of the production lines and administrative offices of the companies, we have allocated them over the total value of sales.

During verification, we discovered an additional 2.54 percent reduction in health benefit payments, known as "fiscalizazzione." This program was in effect in July and August of the year under review.

For 1980, we preliminarily determine that the total *ad valorem* benefit attributable to reductions in social security and health benefits payments is 0.63 percent for Pisana and 2.66 percent for SIV.

As part of Italy's earthquake relief program, Pisana received a 100 percent exemption for its Caserta plant from social security payments for the months of November and December 1980. As outlined in the notice of "Final Affirmative Countervailing Duty Determinations on Certain Steel Products from Italy" (47 FR 39356), we do not countervail against disaster relief programs, for eligibility in such programs, unlike regional development schemes, is not predetermined; no part of the country or sector of industry is excluded, in principle, from participation. Therefore, we preliminarily determine that the INPS payments exemption to Pisana because of the earthquake relief program is not countervailable.

(3) *Capital Grants.* Both SIV and Pisana utilized grants awarded by the Cassa per il Mezzogiorno for company-wide construction and expansion programs. These grants were awarded from 1975 through 1980 for major investment programs which encompassed more than just unmodified float glass production facilities. Following our methodology established in Appendix 2, we considered these grants to be untied and allocated them over 10 years, the average useful life of glass production facilities as calculated from the standard depreciation schedules of the Italian tax tables. Because these benefits were provided to all glass production, we allocated them over the value of total glass sales. To calculate the value of these grants over time, we applied the present value methodology, using the risk-free rate of return in Italy, as represented by the yearly average percentage yield on Italian Treasury bills in the secondary market in Italy, as the discount rate.

For 1980, the *ad valorem* benefit attributable to capital grants is preliminarily determined to be 0.13 percent for Pisana and 0.49 percent for SIV.

(4) *Preferential Long-Term Financing.* Both SIV and Pisana received preferential loans from 1973 through 1980. For loans made in those years with principal outstanding in 1980, we have compared a repayment schedule of a comparable commercial loan. For a benchmark, we have used the average unsubsidized long-term interest rate in Italy on loans from the special credit institutions. As we noted in certain steel products from Italy, this rate represents the most comparable commercial interest rate available, since these special credit institutions provide almost all medium- and long-term loans in Italy. Where we found preferential loans, we used the general loan methodology for loans to creditworthy firms set forth in Appendix 2 to calculate the subsidy. Because the loans in question were not expressly tied to costly pieces of capital equipment, we allocated the benefits over the life of the loan and the total value of sales.

Using the methodology described above, we preliminarily determine the *ad valorem* benefit attributable to preferential loans to be 0.12 percent for Pisana and 0.62 for SIV.

(5) *Reductions in Turnover and Value-Added Taxes.* The partial exemption from turnover taxes was eliminated simultaneously with the introduction of the value-added tax on January 1, 1973. From 1977 through 1980, however, a nationwide 4 percent reduction in the value-added tax ("IVA") was in effect in Italy. We preliminarily determine that this program is not countervailable because it was generally available on equal terms to all.

(6) *Accelerated Depreciation.* We also preliminarily determine that accelerated depreciation programs in Italy are not countervailable because they are generally available on equal terms to all.

(7) *Exemption from National Corporate Income Tax.* The law governing the reduction in the rate of national corporate income tax ("IRPEG") (Article 105 of Decreto del Presidente della Repubblica, March 6, 1978, no. 218) states that a company establishing its headquarters within the Mezzogiorno region will receive a 50 percent exemption during the first ten years of its operation. Having started production in 1965, SIV's eligibility for the IRPEG reduction expired in 1975. Pisana has never been eligible for this reduction because its headquarters are located outside of the Mezzogiorno region.

(8) *Preferential Loans for Applied Research.* During verification, we discovered that SIV had received a loan from the Istituto Mobiliare Italiano ("IMI") at a preferential interest rate for applied research. This loan, however, was tied to research on a particular modification process for float glass. As it did not benefit unmodified float glass production nor was it an untied program which benefitted total production, we preliminarily determine the loan in question not to be countervailable in this case, and the program not to be used for products covered by the order.

Verification

We verified the information presented by Pisana and SIV, through examination of Italian government laws and documents, company books and records, and consulation with economic officials of the United States Enbassy in Italy.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the net subsidy conferred by the four programs cited above during the period of review for Pisana is 0.88 percent *ad valorem*, and for SIV is 3.77 percent *ad valorem*.

Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 0.88 percent of

the f.o.b. invoice price on all shipments by Pisana, and 3.77 percent of the f.o.b. invoice price on all shipments by SIV on the merchandise exported on or after January 1, 1980 and on or before April 3, 1980. On April 3, 1980, the International Trade Commission ("the ITC") notified the Department that the Delegation of the Commission of the European Communities had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department shall instruct the Customs Service to assess countervailing duties at the prevailing deposit rate at the time of entry on all unliquidated entries of float glass manufactured by Pisana and SIV entered, or withdrawn from warehouse, for consumption on or after April 3, 1980 and exported on or before December 31, 1980.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.88 percent of the f.o.b. invoice price on all shipments by Pisana, and 4.97 percent of the f.o.b. price on all shipments by SIV, of unmodified float glass entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-34012 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Non-Rubber Footwear From Argentina; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on non-rubber footwear from Argentina. The review covers the period January 17, 1979 through December 31, 1980. As a result of this review, the Department has preliminarily determined the amount of the net subsidy to be 4.11 percent of the f.o.b. invoice price of the merchandise for 1979 and 3.94 percent for 1980. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377–2786).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1979 the Department of the Treasury published in the **Federal Register** (T.D. 79–18, 44 FR 3474) an affirmative final countervailing duty determination regarding non-rubber footwear from Argentina. The notice stated that the Government of Argentina had provided bounties or grants on the manufacture, production or exportation of such merchandise within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act").

On January 1, 1980 the provisions of title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980 the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department").

The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has now conducted an administrative review of the order on non-rubber footwear from Argentina.

Scope of Review

Imports covered by the review are footwear described in Part 1A of Schedule 7 of the 1982 Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5340 and 700.5700 through 700.7100, and imported directly or indirectly from Argentina.

The review covers the period January 17, 1979 through December 31, 1980. We reviewed benefits available under an income tax reduction plan and the reembolso, an export rebate program, both found countervailable in the original final determination, and a system of preferential financing for exports, found countervailable in the final countervailing duty determination on leather wearing apparel from Argentina (46 FR 23090–93).

Analysis of Programs

(1) *Reembolso.* The reembolso program was established in 1971. For the purpose of promoting exports, it authorized a refund, by cash payment on export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials. The amount of reimbursement is based on a percentage of the f.o.b. price of export shipments and varies by product. For non-rubber footwear the reimbursement was 20 percent of the f.o.b. value during the Department's review period.

Under U.S. countervailing duty law the non-excessive rebate of indirect taxes borne by an exported product or borne by items physically incorporated in that product is not a subsidy. To determine whether a cash payment on export can be considered an allowable indirect tax rebate, we examine whether: (1) The program involved operates for the purpose of rebating indirect taxes, (2) there is a clear link between eligibility for payments on exports and indirect taxes paid, and (3) the government has reasonably calculated and documented the actual tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the amount paid on export.

The reembolso program is designed to refund taxes that bear directly or indirectly on export products. We are satisfied that the reembolso program therefore meets our first test. The fact that the Government of Argentina has designed the reembolso program to promote exports does not affect our conclusion. We have consistently ruled that the purpose of a cash payment on

export does not determine whether that cash payment operates as an indirect tax rebate.

The Argentine government's Resolution ME N936 of December 23, 1976 set the rate of reembolso on non-rubber footwear at 20 percent. The Government of Argentina analyzed the steps of production and value added at each stage of the production of non-rubber footwear. The reembolso rate was based on the estimated tax incidence (approximately 24 percent for all taxes, including direct taxes and indirect taxes on components not physically incorporated). Detailed reviews of specific taxes levied on non-rubber footwear during the current review period, when considered in conjunction with the study of specific taxes used to set the 1976 reembolso rate, provide the basis for our determination that: the reembolso program does involve a *bona fide* tax rebate, that the linkage exists between eligibility and indirect taxes paid, and that there is a clear link between the actual tax incidence and the rebate paid on export. Our second and third requirements are therefore met.

The Government of Argentina has provided us with analyses of the tax incidence in 1979 and 1980 on non-rubber footwear. These analyses show that the taxes levied on non-rubber footwear and its physically incorporated components total 24.53 percent of the f.o.b. value for 1979 and 23.82 percent for 1980. Included in this calculation is the rebate of salary taxes and taxes on various indirect expenditures of 2.87 percent for 1979 and 2.19 percent for 1980, which we have deducted because they do not meet the physical incorporation standard.

Taxes on raw materials and other inputs, both domestic and imported, constitute the bulk of the claimed tax incidence on non-rubber footwear. Some of these inputs, such as liquid fuels, do not meet our physical incorporation standard, and we have therefore deducted the claimed taxes for those inputs in the amounts of 2.47 percent for 1979 and 1.88 percent for 1980.

Thus, of the total tax incidence claimed by the Government of Argentina on non-rubber footwear and its physically incorporated components, we have allowed 19.19 percent for 1979 and 19.75 percent for 1980. Therefore, we preliminarily find an overrebate of indirect taxes of 0.81 percent *ad valorem* for 1979 and 0.25 percent *ad valorem* for 1980.

(2) *Income Tax Deduction on Export-related Income.* Under this program the Argentine government allowed a deduction from taxable income equal to 10 percent of the f.o.b. value of manufactured exports. The income tax rate is 33 percent. This results in a maximum potential benefit of 3.3 percent of the f.o.b. value of exports. There is no information currently available to the Department on the utilization of this program in 1979; therefore, the Department has assumed full utilization as the best information available, and we preliminary determine the benefit from this program to be 3.3 percent for the period January 17, 1979 through December 31, 1979.

The Government of Argentina has provided information showing that during the first half of 1980 the program was not utilized. Further, the program was terminated in July 1980. Therefore, we preliminarily determine the benefit from this program to be zero percent for calendar year 1980.

(3) *Preferential Financing.* Although the final determination on non-rubber footwear from Argentina stated that preferential financing for exporters had been eliminated by the Government of Argentina, the Department reconsidered this program because it was found countervailable in the countervailing duty order on leather wearing apparel from Argentina.

Circular R.F. 153, issued by the Central Bank of Argentina on December 6, 1977, and effective January 1, 1978, is the basis for the current export financing program. Its expressed purpose is to stimulate the production of goods and services for export, and as such we consider the program an export subsidy.

This program makes availiable to exporters pre-export funds for individual sales at an interest rate of 1 percent for a period of up to 180 days, to be repaid no later than 60 days after the effective export date. The funds are provided by the Central Bank and disbursed through private commercial banks to individual borrowers. For non-rubber footware during the review period, the Cental Bank limited loan amounts to 55 percent of the contracted f.o.b. values.

The loans, granted in pesos but indexed to U.S. dollars by the banks at the prevailing official exchange rate, must be repaid in pesos, but in an equivalent amount of dollars at the exchange rate in effect on the payment date. We are comparing these loans to interest rates in Argentina for short-term peso loans indexed to time deposit rates in Argentina. The Department has found that peso loans indexed to changes in the banks' cost of money (the rate paid on short-term time deposits), rather than loans indexed to the dollar or another foreign currency, are generally available to Argentine businesses on a commercial basis and are normally used when preferential financing is not available.

Because the Government of Argentina has informed us that this program was not utilized during 1979 for non-rubber footwear exports to the United States, we preliminarily determine that there was no benefit conferred by the Government of Argentina during this period under the preferential financing program.

For 1980 we have no data on actual loans taken by exporters of non-rubber footwear. In the absence of data requested by the Department on the utilization of the loan program, we must assume that the maximum amount was borrowed for the full term on all exports to the United States. Furthermore, we have preliminarily disallowed a claim that certain charges, commissions, and fees for technical inspections totalling 15 percent should be added to the cost of preferential loans, because these claims have not been described, quantified, or documented.

To determine the benefit of this financing program for 1980, we have compared a 14.4 percent annual commercial rate to the 1.0 percent preferential rate. We find an interest differential of 13.4 percent, which when multiplied by the maximum amount of available financing for one-half year results in and ad valorem benefit of 3.69 percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the aggragate net subsidy to be 4.11 percent ad valorem for the period January 17, 1979 through December 31, 1979, and 3.94 percent for calendar year 1980.

The provisions of T.D. 79–18 and section 303(a)(5) of the Tariff Act. Prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 0.86 percent of the f.o.b. invoice price on all unliquidated entries on non-rubber footwear from Argentina entered, or withdrawn from warehouse, for consumption during the period January 17, 1979 through December 31, 1979.

The provisions of section 751 of the Tariff Act apply to all entries made on or after January 1, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.94 percent of the f.o.b. invioce price on all unliquidated entries of non-rubber footwear from Argentina entered, or withdrawn from warehouse, for

consumption on or after January 1, 1980 and exported on or before December 31, 1980.

Further, as provided for by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.94 percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the present review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

(Sec. 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41))

Dated: December 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-33952 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Importers and Retailers' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Importers and Retailers' Textile Advisory Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool, and man-made fiber textile agreements.

TIME AND PLACE: January 18, 1983 at 10:30 a.m. in Room 4830, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

AGENDA: (1) Review of imports trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, and (4) Other business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meeting. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assistant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377-3737.

Dated: December 9, 1982.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-33954 Filed 12-14-82; 8:45 am]

BILLING CODE 3510-25-M

Sugar Content of Certain Articles From Australia; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On October 8, 1982, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia. The review covered the period July 1, 1979 through December 31, 1979, and calendar years 1980 and 1981.

Interested parties were invited to comment on the preliminary results. We received no comments. Therefore, the final results of the review are the same as those presented in the preliminary results.

EFFECTIVE DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 44601) the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia (T.D. 39541, March 24, 1923). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are "approved fruit products" and "other approved products" produced in Australia. The current list of "approved fruit products" includes the following items: jams, canned fruits, citrus peel, crystallized (or glace) fruits, certain fruit cordials and fruit juices containing not less than 25 percent pure Australian juice. The list of "other approved products" currently includes: alcoholic beverages, biscuits, cakes, puddings, pastries and similar mixtures and ingredients used to make them, chemicals derived from cane sugar by hydrolysis, chemical preparations used as inhibitors or stabilizers, condiments, confectionary, desserts and ingredients used to make them, drink powders and crystals, essences and flavorings, ice block mixtures, leather, maple syrup, medicines and drugs, mixtures used to make icings, fillings, dressings and other foods, processed cereal foods or vegetables, processed egg products, processed milk products, quick frozen fruits, soft drinks, soups, spreads, sweetened fruit pulp and other fruit products which are not "approved fruit products." Exceptions to the above are pure sugar and pure icing sugar (that is, not mixed with other manufacturing ingredients), golden syrup, treacle and molasses. These are regarded as sugar and sugar syrups.

The review covers the period July 1, 1979 through December 31, 1979, and calendar years 1980 and 1981. It is limited to the program of rebate payments made through the Export Sugar Rebate System.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments. Therefore, the final results of our review are the same as those presented in the preliminary results of review.

The Department will instruct the Customs Service to assess countervailing duties in the amount of the net subsidies, as shown in the table below, on all shipments of approved fruit or other approved products exported on or after July 1, 1979 and through December 31, 1981.

Period	Per metric ton of sugar content	
	Approved fruit products	Other approved products
July 1, 1979–December 31, 1979.	Aus. $35.03	Aus. $45.03.
January 1, 1980–December 31, 1980.	Nil	Nil
January 1, 1981–December 31, 1981.	Nil	Aus. $2.58.

Further, as provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department will

instruct the Customs Service to collect cash deposits of estimated countervailing duties, of Aus. $2.58 per metric ton of sugar content on other approved products and zero on approved fruit products, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement 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 March 1983. The amount of countervailing duties to be imposed on exports made during 1982 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1982.

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 in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 8, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Fidalgo Bay et. al., Wash.; Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, Seattle District; Defense.

ACTION: Preparation of a draft environmental impact statement (EIS) for dredging with intertidal disposal; construction of commercial marina, levee, and bulkhead; and placement of riprap in Fidalgo Bay, Padilla Bay at Anacortes, Washington.

SUMMARY: Anacortes Fidalgo Marina, Inc. has applied to the Corps of Engineers for a Section 10/404 permit to fill approximately 18 acres of intertidal wetland with material dredged from Fidalgo Bay for the purposed of constructing a commerical marina. In order to assess the potential impacts of the proposed fill and alternatives to the fill, the Corps of Engineers has determined that preparation of an environmental impact statement is necessary. The proposed plan calls for the placement of approximately 680,000 cubic yards of dredged material, riprap, and gravel in and near Fidalgo Bay, Padilla Bay, Anacortes, Washington. Approximately 660,000 cubic yards of material would be generated by hydraulic dredging of a small boat basin and access channel. The remainder of the material, about 20,000 cubic yards, would be riprap and gravel from an upland source to be used for filter blanket slope protection. A breakwater for harbor protection and a levee for retention of dredged material placed on the intertidal site will be constructed. The purpose of the proposed fill is to provide land for parking and marina related facilities.

The Corps of Engineers has three alternative courses of action available:

1. The Section 10/404 permit could be denied. This option would prohibit all disposal and in-water construction activity, as well as prevent environmental impacts associated with the proposed action.
2. The permit could be issued as described in the public notice.
3. The permit could be issued with special conditions that would mitigate adverse impacts resulting from the proposed action.

Alternatives to the proposed action currently being considered by Anacortes Fidalgo Marina, Inc. include: no action, dredged material disposal alternatives, alternative uses for the proposed site, and use of a different site.

a. *No Action.* This alternative would require no further involvement by the Corps of Engineers.

b. *Dredged Material Disposal Alternatives.* Dredged material could be trucked off-site to upland disposal sites or disposed of in open water.

c. *Alternative Uses for Proposed Site.* Alternative uses for the site are limited to small scale retail and tourist recreation facilities due to existing zoning ordinances.

d. *Use of a Different Site.* Numerous potential sites for a marina facility in the vicinity of Anacortes will be examined. The applicant does not own or control land at other sites, but alternatives have been studied to provide a perspective for comparison of impacts.

Criteria for site comparison include size, economic feasibility, public services, access, and environmental and public policy considerations. Sites to be evaluated in addition to proposed site are Ship Harbor and North End Swinomish Channel, Anacortes Urban Renewal Area, Cap Sante, and Skyline Marina.

Significant issues to be addressed in the draft EIS include: the need for the proposed action, fisheries food-web impacts and ecosystem function due to removal of shallow water/intertidal habitat, impacts on eelgrass, water quality impacts due to disposal of dredged material, long-term water quality impacts due to removal of shallow water and wet land areas, and alternatives to the action.

Other environmental review and consultation requirements include preparation of a Section 404(b)(1) analysis by the Corps of Engineers and acquisition by the applicant of Washington State water quality certification.

Public Involvement: A public scoping meeting is scheduled at Anacortes, Washington, 13 December 1982. The purpose of the meeting is to clarify issues of major concern and identify studies that might be needed in order to analyze and evaluate project impacts. Announcement of this scoping meeting has been mailed, along with an information package, to all persons identified as having interests in this or other actions in Fidalgo Bay. Further meetings may be scheduled as needed, although no specific dates for additional public meetings are presently under consideration. It is anticipated that at least one public meeting or workshop will be held during the draft EIS review period.

Draft EIS Availability: The draft EIS for this proposed action should be available by mid 1983.

Address: Questions and/or comments on this proposed action or the draft EIS should be directed to: Mr. Fred Weinmann, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, Post Office Box C-3755, Seattle, Washington 98124. Telephone (206) 764-3624 (FTS 399-3624).

Dated: December 3, 1982.

Norman C. Hintz,

Colonel, Corps of Engnieers, District Engineer.

[FR Doc. 82-34001 Filed 12-14-82; 8:45 am]

BILLING CODE 3710-GB-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Case No. 640C00390]

Signal Petroleum; Action Taken On Consent Order

Correction

In FR Doc. 82-33337 appearing on page 55267 in the issue of Wednesday,

December 8, 1982, make the following correction:

In the second paragraph under **"SUPPLEMENTARY INFORMATION"**, in the ninth line, "$41,500,000" should have read "$1,500,000".

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-473-003]

Alabama-Tennessee Natural Gas Co.; Revised General Service Sales Contracts

December 9, 1982.

Take notice that on November 26, 1982, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing in accordance with Paragraph (C) of the Commission's order in Alabama-Tennessee Natural Gas Company's Docket No. CP79-473-002, revised General Service Sales Contracts for each of the following customers presently being served by Alabama-Tennessee who requested increases in their contract quantity:

Town of Moulton, Alabama, Lawrence-Colbert Counties Gas District, North Alabama Gas District, Town of Iuka, Mississippi, Hardin County Gas Company, City of Hartselle, Alabama, City of Decatur, Alabama, Town of Selmer, Tennessee, The Gas Board of the City of Russellville, Alabama, City of Tuscumbia, Alabama, City of Florence, Alabama, City of Huntsville, Alabama.

Alabama-Tennessee states that the revised contracts supersede and cancel the existing General Service Gas Sales Contract with each of the above-mentioned customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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. 82-34042 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-20-001]

Algonquin Gas Transmission Co.; Rate Filing Under Rate Schedule STB

December 10, 1982.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas) of December 3, 1982, tendered for filing Seventh Revised Sheet No. 10-C to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Sheet No. 10-C is being filed to reflect in Algonquin Gas' Rate Schedule STB, an increase in Texas Eastern Transmission Corporation's (Texas Eastern) Rate Schedule SS-II. By Commission orders issued March 20, 1981, July 24, 1981 and May 10, 1982, in Docket Nos. CP-81-4, CP-291 and CP-82-2, respectively, Texas Eastern was granted authorization to render firm daily withdrawal service under Rate Schedule SS-II and to construct and operate pipeline facilities designated as Phases I, II and III Firm Expansions. Texas Eastern's increase in its Rate Schedule SS-II is a result of incorporating in Texas Eastern's tariff the Firm Demand Charge for the composite facilities of Phases I, II and III.

Algonquin Gas requests that the proposed effective date of the filing be November 16, 1982.

Algonquin Gas requests permission to add a surcharge, if necessary, to the next succeeding month's billing to reflect such rates effective November 16, 1982.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and 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, N.E., 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34043 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-427-000]

Columbia Gas Transmission Corp.; Informal Conference

December 9, 1982.

Take notice that on January 4, 1983, an informal conference will be held in the offices of the Commission at 825 North Capitol Street, Washington, D.C. Said conference will commence at 9:30 a.m. and discussions therein will encompass the issues generated by the application and the several motions to intervene filed herein.

All interested persons may attend the informal conference; however, attendance or participation at such conference will not serve to make the attendees parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34045 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-120-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 10, 1982.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 6, 1982, tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Eighty-fifth Revised Sheet No. 16

Original Volume No. 2

Seventh Revised Sheet No. 693

Columbia states that tariff sheet No. 16 to Original Volume No. 1 is necessary in order to place into effect on January 1, 1983, which is the end of the suspension period, rates which comply with the conditions set forth in ordering Paragraphs (D) and (E) of the Commission's suspension order herein of July 30, 1982.

Columbia states that, in addition to changes required by the Commission's suspension order, its revised filing reflects a voluntary reduction in its overall rate of return from 14.60% to 13.36%. More specifically, the revised filing reflects a reduction in the embedded cost of long-term debt from

10.39 percent to 9.44 percent and a reduction in return on common equity from 19.0 percent to 17.5 percent. It is stated that this latter change is being made to render Columbia's rates more competitive with alternative fuels. Columbia requests the Commission to grant the necessary waivers to permit it to reflect this return reduction in its revised filing.

It is also stated that the revised filing reflects the demand/commodity rate structure and rates to be placed into effect by the Trailblazer pipeline system as of January 1, 1983, which is one day subsequent to the end of the test period in this proceeding. Columbia has requested waivers of the applicable Commission regulations to permit it to reflect the above adjustments in its revised filing.

Further, Columbia states that the revised rates are based upon the *United* method of cost classification and rate design. Columbia also states that it intends to implement prospectively in this docket the outcome of the cost classification and rate design hearing in its Docket No. RP81–83, the hearing on which is scheduled to commence on December 14, 1982.

Copies of this filing were served upon the Company's jurisdictional customers, interested state commissions and to each of the parties set forth on the official service list in this proceeding.

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, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34046 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-119-001]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

December 10, 1982

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on December 6, 1982 tendered for filing the following revised tariff sheets to its FERC Gas tariff to become effective January 1, 1983:

Original Volume No. 1

Substitute Twenty-eighth Revised Sheet No. 7
Substitute First Revised Sheet No. 29

Original Volume No. 2

Substitute Ninth Revised Sheet No. 72
Substitute Ninth Revised Sheet No. 73
Substitute Sixth Revised Sheet No. 92
Substitute Sixth Revised Sheet No. 93
Substitute Sixth Revised Sheet No. 126
Substitute Seventh Revised Sheet No. 145
Substitute Seventh Revised Sheet No. 146
Substitute Sixth Revised Sheet No. 263
Substitute Fifth Revised Sheet No. 320
Substitute Fifth Revised Sheet No. 337
Substitute Fifth Revised Sheet No. 386
Substitute Fifth Revised Sheet No. 387
Substitute Fourth Revised Sheet No. 416
Substitute Fourth Revised Sheet No. 417
Substitute Fifth Revised Sheet No. 440
Substitute Fifth Revised Sheet No. 484
Substitute Fifth Revised Sheet No. 493
Substitute Fifth Revised Sheet No. 567
Substitute Fifth Revised Sheet No. 596
Substitute Fourth Revised Sheet No. 628
Substitute Third Revised Sheet No. 663
Substitute Third Revised Sheet No. 677
Substitute Third Revised Sheet No. 702
Substitute Fourth Revised Sheet No. 750
Substitute Fourth Revised Sheet No. 820
Substitute Fourth Revised Sheet No. 821
Substitute Fourth Revised Sheet No. 848
Substitute Fourth Revised Sheet No. 849
Substitute First Revised Sheet No. 879
Substitute Third Revised Sheet No. 937
Substitute Third Revised Sheet No. 1052
Substitute Third Revised Sheet No. 1097
Substitute Third Revised Sheet No. 1149
Substitute Third Revised Sheet No. 1150
Substitute Second Revised Sheet No. 1194
Substitute Second Revised Sheet No. 1195
Substitute Second Revised Sheet No. 1223
Substitute Second Revised Sheet No. 1253
Substitute First Revised Sheet No. 1268
Substitute First Revised Sheet No. 1302
Substitute First Revised Sheet No. 1303
Substitute First Revised Sheet No. 1338
Substitute First Revised Sheet No. 1339
First Revised Sheet No. 1370
First Revised Sheet No. 1371
First Revised Sheet No. 1438

Columbia Gulf states that such tariff sheets are necessary to place its rates suspended by Commission Order issued July 30, 1982 in this proceeding into effect at the end of the prescribed suspension period and to consolidate proceedings herein with proceedings in Docket No. RP 82–120.

The Tariff sheets encompass Columbia Gulf's rate increase filing herein of July 1, 1982, with adjustments to its cost of service to eliminate all costs associated with facilities which will not be in service by December 31, 1982. In addition, an adjustment has been made to update the valuing of company use gas to reflect the average Southwest gas purchase cost as contained in Columbia Gas Transmission Corporation's (Columbia Transmission) October 28, 1982 PGA filing which became effective October 1, 1982.

An adjustment has also been made to reflect a voluntary reduction in overall rate of return from 14.60 percent to 13.36 percent.

Copies of this filing were servd upon all of Columbia Gulf's jurisdictional customers.

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, Union Center Plaza Building, 825 North Capitol Street, N.E., 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 filling are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-34047 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-77-000]

Florida Gas Transmission Co.; Application

December 9, 1982.

Take notice that on November 8, 1982, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP83–77–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Gas Transmission Corporation (Texas Gas) from an

existing point of interconnection between the facilities of FGT and Energy Reserves Group, Inc. (Energy Reserves), in Matagorda County, Texas, to an existing point of interconnection between FGT's and Texas Gas' facilities near Eunice, Acadia Parish, Louisiana, all as more fully set forth in its application which is on file with the Commission and open to public inspection.

It is stated that Energy Reserves has an obligation to repay approximately 321,484 million Btu of gas to Texas Gas pursuant to Commission Opinion No. 1 issued October 26, 1977, in Docket Nos. CP75–295 and CI71–117. In partial fulfillment of its repayment obligation, it is asserted, Energy Reserves would sell 56.25 percent of natural gas to be produced daily from the #2 John L. Camp Well in the North Markham Field Area, Matagorda County, Texas. FGT states that it has agreed pursuant to the terms of a September 13, 1982, transportation agreement to transport up to 250 million Btu per day of said repayment gas for Texas Gas from the existing authorized point of interconnection between FGT's and Energy Reserves' facilities at Mile Post 232.17 on FGT's 20-inch mainline in Matagorda County, Texas, to an existing authorized point of interconnection between FGT's and Texas Gas' facilities near Eunice, Acadia Parish, Louisiana.

In order for FGT to receive the daily quantities of gas which Texas Gas would cause to be delivered at the point of receipt, it is stated, FGT has installed certain new facilities to its existing pipeline including metering facilities, a connecting pipeline and miscellaneous appurtenant facilities. It is further stated that Texas Gas would reimburse FGT for 56.25 percent of all expenses and costs incurred by FGT to accommodate transportation pursuant to the agreement.

FGT states that it would charge Texas Gas a facility charge of 12.1 cents per million Btu redelivered plus a service charge of 6.4 cents per million Btu redelivered.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34048 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 4533–001]

City of Gillette, Wyo.; Surrender of Preliminary Permit

December 9, 1982.

Take notice that the City of Gillette, Wyoming, Permittee for the proposed Pilot Butte Power Project FERC No. 4533, has requested that its preliminary permit be terminated. The permit was issued on September 21, 1982, and would have expired on February 29, 1984. The project would have been located at the U.S. Bureau of Reclamations Pilot Butte facility in Fremont County, Wyoming. The City of Gillette states in its request that the Bureau of Reclamation has restored the Pilot Butte Powerhouse, and that its proposal is no longer feasible.

The Permittee filed its request on November 1, 1982, and the surrender of the preliminary permit for Project No. 4533 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34044 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–28–000]

Grand Bay Co.; Proposed Changes in FERC Tariff

December 10, 1982.

Take notice that Grand Bay Company, on December 6, 1982, tendered for filing proposed changes in its FERC Gas Tariff for compression service rendered. The proposed changes would increase revenues from jurisdictional service by $60,595 based on the 12-month period ending December 31, 1983.

Grand Bay states that this filing reflects a rate increase in accordance with Article III of the contract between Grand Bay Company and its jurisdictional customers rendered for filing as the Grand Bay Company rate schedule on November 15, 1977.

Grand Bay requests that the Commission waive the regulation requiring 30-day notice, and requests an effective date of January 1, 1983 for the rate change.

Grand Bay further requests a waiver of any of the Commission's rules and regulations as may be required.

Copies of the filing were served on the company's jurisdictional customers.

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 Capital Street N.E., 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. 82–34049 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–4–001]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

December 10, 1982.

Take notice that on December 2, 1982, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, tendered for filing Second Revised Sheet No. 8 in its FERC Gas Tariff, First Revised

Volume No. 1, containing proposed changes in rates for storage service under its Rate Schedule GSS for effectiveness on January 1, 1983.

According to Granite State, its storage service under Rate Schedule GSS is provided to only one customer, Bay State Gas Company (Bay State), an affiliated distributor operating in Massachusetts. Granite State further states that its storage service is provided by contracting for storage capacity in a storage facility owned and operated by Consolidated Gas Supply Corporation (Consolidated) pursuant to certificate authorizations issued January, 11, 1982 in *Tennessee Gas Pipeline Company, et al.*, Docket Nos. CP69–222, *et al.*, 18 FERC ¶61,013 and, in the foregoing order, the Commission authorized Granite State to establish, track and maintain the rates for its Rate Schedule GSS storage service at the same level as the rates in effect for Consolidated's Rate Schedule GSS service because Granite State is merely a billing conduit for the rates charged for the storage service.

According to Granite State, Consolidated filed proposed increases for its Rate Schedule GSS service on June 30, 1982 in Docket No. RP82–115–000 which will become effective, after suspension, subject to refund, on January 1, 1983. The instant filing tracks Consolidated's proposed changes in its Rate Schedule GSS rates and Granite State requests that its rate changes be accepted for effectiveness on January 1, 1983, subject to refund on the outcome of the rates established for Consolidate's Rate Schedule GSS service in Docket No. RP82–115–000.

Granite State further states that copies of its filing were served upon Bay State and the Massachusetts Department of Public Utilities.

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 Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34050 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–172–000]

Gulf States Utilities Co.; Filing

December 10, 1982.

Take notice that on December 2, 1982, Gulf States Utilities Company (GSU) tendered for filing an Agreement between GSU and the Louisiana Energy and Power Authority (LEPA), together with Service Schedules LESTS, LEITS, LETS, ES, RE and ECON which provide for special transmission, interconnection transmission, transmission, emergency, replacement energy and economy energy service, respectively, between GSU and LEPA.

GSU proposes that the Agreement and related service schedules become effective as of the date LEPA first delivers power and energy to GSU for delivery by GSU in accordance with the Agreement. GSU expects service under the filing to commence in June, 1983. At the request of LEPA, GSU proposes that the initial service schedules be accepted for filing on or before December 22, 1982. LEPA has advised the Applicant that Commission acceptance of the filing is extremely important to LEPA's financing arrangements related to the Rodemacher Coal Unit. GSU expects LEPA to request waiver of the Commission's notice requirements to facilitate LEPA's financing arrangements.

Copies of the filing have been served on LEPA, the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34051 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–36–000]

Harriman Paperboard Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 9, 1982.

On November 4, 1982, Harriman Paperboard Corp., 728 Emory Street, Harriman, Tennessee 37748, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Roane County, Harriman, Tennessee. The primary energy source to the facility is coal (the boiler has a provision that will allow burning waste papermill sludge and wood refuse at a later date). The electric power production capacity is 4,000 kilowatts. Thermal energy in the form of steam at an annual rate of 756,000,000 lb/yr is used to produce electricity and then to cook pulp and dry paperboard. Installation was completed October 28, 1982. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 82–34052 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83-1-60-000]

Locust Ridge Gas Co.; Change in Rates

December 10, 1982.

Take notice that on December 3, 1982, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 the following tariff sheets to be effective January 1, 1983:

Eleventh Revised Sheet No. 1A
Fourth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, an out-of-period revision in Locust Ridge's rate to recover known changes in the Purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of January 1, 1983 through February 28, 1983. The overall effect of the filed for adjustment to Locust Ridge's sales rate is an increase of $0.5921 per MMBtu.

Locust Ridge requests waiver of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on January 1, 1983.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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. 82-34053 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-27-000]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

December 10, 1982.

Take notice that on December 2, 1982, Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin") tendered for filing "Amendment No. 2 to Agreement of August 4, 1977 Between High Island Offshore System and Michigan Wisconsin Pipe Line Company" which further amends Article IV of Michigan Wisconsin's Rate Schedule X-64 included in its F.E.R.C. Gas Tariff, First Revised Volume No. 2, to be effective January 1, 1983, together with Second Revised Sheet No. 666, Seventh Revised Sheet No. 667, and Original Sheet No. 667A, to its Rate Schedule X-64 reflecting such contract amendment.

Michigan Wisconsin states that Amendment No. 2 is designed to assure that its Grand Chenier Facility is placed on the same footing as HIOS in terms of depreciation. In this regard, Michigan Wisconsin states that 66⅔% of the Grand Chenier Facility is dedicated to service to HIOS and has been depreciated to a lesser extent than HIOS' facilities because Michigan Wisconsin has not previously taken into account in the computation of its depreciation charge to HIOS, the supplemental charge for depreciation and concurrent credit to HIOS' reserve for depreciation, which HIOS was required to record by virtue of the Federal Energy Regulatory Commission's ("Commission") order of December 22, 1978 in *High Island Offshore System*, Docket Nos. CP75-104, *et al.*, 5 FERC (CCH) ¶ 61,267, and because the Commission, by its orders of February 12, 1982, 17 FERC (CCH) ¶ 61,086, and April 13, 1982, 19 FERC (CCH) ¶ 61,036, in *Michigan Wisconsin Pipe Line Company*, Docket No. RP81-1-000, held that the language of Article IV restrained Michigan Wisconsin, for the period January 1, 1981 through October 31, 1981, from computing its depreciation charge to HIOS on the basis of the depreciation charge allowed HIOS for such period. Michigan Wisconsin states that Amendment No. 2 would allow it to recover depreciation charges from HIOS associated with these factors and, therefore, place the Grand Chenier Facility on the same footing as HIOS' facilities in terms of depreciation.

Michigan Wisconsin also states that Amendment No. 2 is being filed so as to restate and implement the original intent of the parties to the contract to allow Michigan Wisconsin to compute its depreciation charge to HIOS on the same basis that HIOS is allowed to depreciate its facilities during the annual period Michigan Wisconsin's rate to HIOS is effective.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of Part 385 of the Commission's Rules of Practice and Procedure. 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. 82-34054 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-26-000]

Mid Louisiana Gas Co.; Proposed Change in Rates

December 9, 1982.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on November 30, 1982, tendered for filing, as part of First Revised Volume No. 1 of its FERC Gas Tariff, Fourth Revised Sheet No. 26a and Sixth Revised Sheet No. 26b to become effective January 1, 1983.

Mid Louisiana states that the purpose of the filing is to permit Mid Louisiana to charge prospectively the appropriate ceiling prices for its pipeline-owned production under the Natural Gas Policy Act (NGPA). Mid Louisiana states that the purpose of the filing is to terminate the pricing of company-owned production under Commission Order Nos. 58 and 98, which were vacated in *Mid Louisiana Gas Co.* v. *FERC*, 664 F. 2d 530 (Former 5th Cir.). Mid Louisiana further states that, in making the instant filing, it does not waive any rights it may have to make a filing to charge and collect NGPA prices for company-owned production from December 1, 1978, forward to December 31, 1982.

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, N.E., Washington, D.C. 20426, in accordance with the 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. 82-34055 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-355-000]

Natural Gas Pipeline Company of America; Settlement Conference

December 9, 1982.

Take notice that on January 5, 1983, a conference will be held in the offices of the Commission at 825 North Capitol Street, Washington, D.C. Said conference will commence at 9:30 a.m. and will concern topics raised in a draft settlement proposal circulated informally by Interstate Power Company prior to the meeting to all persons who have filed motions to intervene herein. Parties should also be willing to discuss resolution of the other potential issues raised by the application and the several motions to intervene.

Mere attendance at the conference will not serve to make persons formally parties to the proceeding, but all persons may at their option attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34030 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-32-000]

Pacific Gas Transmission Co.; Application

December 13, 1982.

Take notice that on October 21, 1982, Pacific Gas Transmission Company (PGT), 245 Market Street, San Francisco, California 94106, filed in Docket No. CP83-32-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the best-efforts transportation and exchange of up to 15,000 Mcf of natural gas per day for J. R. Simplot Company (Simplot), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Simplot currently owns and operates an anhydrous ammonia plant at its fertilizer complex near Pocatello, Idaho. It is asserted that Simplot has advised PGT that in order to provide a source of natural gas for feedstock in its Pocatello Plant, Simplot and Southern Union Gathering Company (Gathering Company) have entered into a contract for sale and purchase of natural gas dated March 17, 1982, as amended April 22, 1982. It is submitted that since the source of supply to be purchased by Simplot from Gathering Company is located in San Juan County, New Mexico, Simplot has entered into separate transportation agreements with El Paso Natural Gas Company, Northwest Pipeline Corporation (Northwest) and Intermountain Gas Company which collectively provide for the transportation of such gas from its source in New Mexico to Simplot's Pocatello Plant.

Simplot has advised PGT that Northwest is prevented from transporting the gas available to Simplot from Gathering Company in San Juan County, New Mexico, because of capacity constraints on the Northwest system at Kemmerer, Wyoming.

It is submitted that the transportation and exchange proposed by the instant application is designed to make available an alternative arrangement which would allow Simplot to deliver volumes of gas to Northwest at Spokane, Washington, thus circumventing the existing capacity constraint on Northwest's system.

It is asserted that pursuant to a gas transportation and exchange agreement dated October 13, 1982, the subject transportation would be accomplished by means of a backoff of deliveries to Pacific Gas and Electric Company of up to 15,000 Mcf of natural gas per day and the delivery of such gas to Northwest for Simplot's account at an existing point of interconnection between PGT and Northwest at Spokane, Washington.

The transportion and exchange service would be carried out pursuant to PGT's Rate Schedule T-1.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Engergy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed; or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for PGT to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34031 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-36-000]

Pacific Gas & Electric Co.; Application

December 13, 1982.

Take notice that on October 21, 1982, Pacific Gas and Electric Company (PGandE), P.O. Box 7442, San Francisco, California 94120, filed in Docket No. CP83-36-000 an application pursuant to Sections 284.222 and 284.127 of the Commission's Regulations for prior authorization for a transportation service proposed to be rendered on behalf of Northwest Pipeline Corporation (Northwest) and Beker Industries Corporation (Beker), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

PGandE states that it is exempt from the provisions of the Natural Gas Act pursuant to Section 1(c) thereof and has applied for a blanket certificate in Docket No. CP83-23-000 pursuant to Section 284.222 of the Commission's Regulations to engage in the transportation and sales of natural gas in the same manner as an intrastate pipeline under Sections 311 and 312 of the Natural Gas Policy Act of 1978. PGandE, however, indicates that the Commission has not to date acted on the request for blanket authorization. PGandE states that the proposed transportation service to be performed for Northwest and Beker would be carried out pursuant to the requested blanket authorization.

Specifically, PGandE proposes to transport up to 15 billion Btu of gas per day as part of an overall arrangement to effectuate the delivery of gas sold by Southern Union Gathering Company to

Beker. PGandE states that the gas to be delivered to Beker would be used as feedstock in the manufacture of fertilizer, an essential agricultural use within the meaning of Section 7(c)(2) of the Natural Gas Act.

PGandE indicates that pursuant to an order issued September 30, 1982, in Docket Nos. CP82–250, *et al.*, Northwest and Gas Company of New Mexico transport natural gas which Beker purchases from Southern Union Gathering Company in New Mexico for use at Beker's Conda, Idaho, fertilizer plant. It is stated that the gas is to be transported through the facilities of Gas Company of New Mexico or El Paso Natural Gas Company (El Paso) and Northwest. However, PGandE understands that during certain times of the year the directional flow of gas on Northwest's system makes it impossible for Northwest to transport Beker's gas northward through the southern portion of its system. As a convenience to Northwest, PGandE states that it is willing to offer a transportation service, on a best-efforts basis, in conjunction with El Paso and Pacific Gas Transmission Company (PGT), in order to transport the gas for Northwest on behalf of Beker from the southern end of Northwest's system to a more convenient location on the northern portion of Northwest's system. Title to the gas would remain with Beker at all times during transit, it is asserted.

PGandE further states that, although the blanket certificate for which PGandE has applied under Section 284.222 of the Regulations would permit it to engage in transportation arrangements on a self-executing basis, the instant transportation may not qualify as a self-executing transaction by virtue of the fact that the gas to be transported by PGandE would not be for Northwest's system supply. PGandE accordingly requests that the subject service be specifically authorized by the Commission pursuant to § 284.127.

PGandE states that the term of the proposed service would extend for the earlier of a two-year period or October 31, 1984. PGandE indicates it would charge a transportation rate of 14.0¢ plus an allowance of 4 percent of the gas transported for fuel use and line losses which is the same charge and fuel and line loss allowance requested in PGandE's application for blanket authority.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–34032 Filed 12–14–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–37–000]

Pacific Gas & Electric Co.; Application

December 13, 1982.

Take notice that on October 21, 1982, Pacific Gas and Electric Company (PGandE), P.O. Box 7442, San Francisco, California 94120, filed in Docket No. CP83–37–000 an aplication pursuant to Sections 284.222 and 284.127 of the Commission's Regulations for prior authorization for a transportation service proposed to be rendered on behalf of Northwest Pipeline Corporation (Northwest) and Phillips Pacific Chemical Company (Phillips Pacific) all as more fully set forth in the application which is on file with the Commission and open to public inspecton.

PGandE states that it is exempt from the provisions of the Natural Gas Act pursuant to Section 1(c) thereof and has applied for a blanket certificate in Docket No. CP83–23–000 pursuant to Section 284.222 of the Commission's Regulations to engage in the transportation and sales of natural gas in the same manner as an intrastate pipeline under Sections 311 and 312 of the Natural Gas Policy Act of 1978. PGandE, however, indicates that the Commission has not to date acted on the request for blanket authorization. PGandE states that the proposed transportation service to be performed for Northwest and Phillips Pacific would be carried out pursuant to the requested blanket authorization.

Specifically, PGandE proposes to transport up to 15 billion Btu of gas per day as part of an overall arrangement to effecuate the delivery of gas sold by Southern Union Gathering Company to Phillips Pacific. PGandE states that the gas to be delivered to Phillips Pacific would be used as feedstock in the manufacture of fertilizer, an essential agricultural use within the meaning of Section 7(c)(2) of the Natural Gas Act.

PGandE indicates that pursuant to an order issued September 30, 1982, in Docket Nos. CP82–362 *et al.*, Northwest, El Paso Natural Gas Company (El Paso) and Gas Company of New Mexico transport natural gas which Phillips Pacific purchases from Southern Union Gathering Company in New Mexico for use at Phillips Pacific's Benton County, Washington, fertilizer plant. It is stated that the gas is to be transported through the facilities of Gas Company of New Mexico or El Paso and Northwest. However, PGandE understands that during certain times of the year the directional flow of gas on Northwest's system makes it impossible for Northwest to transport Phillips Pacific's gas northward through the southern portion of its system. As a convenience to Northwest, PGandE states that it is willing to offer a transportation service, on a best-efforts basis, in conjunction with El Paso and Pacific Gas Transmission Company (PGT), in order to transport the gas for Northwest on behalf of Phillips Pacific from the southern end of Northwest's system to a more convenient location on the northern portion of Northwest's system. Title to the gas would remain with Phillips Pacific at all times during transit, it is asserted.

PGandE further states that, although the blanket certificate for which PGandE has applied under § 284.222 of the Regulations would permit it to engage in transportation arrangements on a self-executing basis, the instant transportation may not qualify as a self-executing transaction by virtue of the fact that the gas to be transported by PGandE would not be for Northwest's system supply. PGandE accordingly requests that the subject service be specifically authorized by the Commission pursuant to § 284.127

PGandE states that the term of the proposed service would extend for the earlier of a two-year period or October 31, 1984. PGandE indicates it would charge a transportation rate of 14.0¢ plus an allowance of 4 percent of the gas transported for fuel use and line losses which is the same charge and fuel and line loss allowance requested in PGandE's application for blanket authority.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.214, or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34033 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E-7796]

Pacific Power & Light Co.; Cancellation

December 10, 1982.

Take notice that on November 26, 1982, Pacific Power & Light Company tendered for filing a notice of Cancellation of the Seven-Party Agreement dated July 20, 1978, between Pacific Power & Light Company, Portland General Electric Company, Puget Sound Power & Light Company, The Washington Water Power Company (collectively, the "Northwest Companies"), Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company (collectively, the "California Companies").

No transactions had taken place under the Agreement since 1975, no transactions in surplus power were expected to take place at the rate then provided in the Agreement, and other Rate Schedules on file with the Commission provided for transactions amongst the Parties.

The cancellation documents were spread on the record of Docket E-7796 on August 22, 1978.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34034 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-6-001]

Sea Robin Pipeline Co., Vermilion Block 22 System; Filing of Revised Tariff Sheets

December 9, 1982.

Take notice that on November 30, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No.2, Sixteenth Revised Sheet Nos. 127-D and 135-C to become effective January 1, 1983. These revised tariff sheets are being filed pursuant to Sections 4 and 5 of Sea Robin's Tariff and reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning January 1, 1983.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state 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, N.E., 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,

Secretry.

[FR Doc. 82-34035 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-6-000]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

December 9, 1982.

Take notice that on November 30, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing Thirty-Second Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information is being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 1 and 3 of Sea Robin's Tariff with a proposed effective date of January 1, 1983. In addition, Sea Robin submits Thirteenth Revised Sheet No. 4-A to become effective January 1, 1983, in compliance with Federal Energy Regulatory Commission (Commission) orders issued May 11, 1978, and July 12, 1978, at Docket No. RP77-6; and First Revised Sheet No. 4-B which reflects the estimated incremental pricing surcharges for the period January 1, 1983 through June 30, 1983.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state 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, N.E., 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. 82-34036 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-116-002]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 9, 1982.

Take notice that Southern Natural Gas Company (Southern) on December 2, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, Original Volume No. 2 and First Revised Volume No. 2A. The revised tariff sheets would reduce the jurisdictional revenues for gas sales and transportation services by $8,338,078 annually over the rates orginally filed in Southern's Docket No. RP82-116.

Southern states that on July 1, 1982, Southern filed a general rate increase in Docket No. RP82-116 to become effective on August 1, 1982. By its order issued July 30, 1982, the Commission accepted the revised tariff sheets for

filing and suspended their effectiveness until January 1, 1983, subject to certain conditions. In compliance with the Commission's July 30, 1982 order, Southern's filing reflects the elimination of costs associated with facilities that will not be in service as of December 31, 1982, the actual balance of advance payments in Account No. 166 as of December 31, 1982, and the current GRI surcharge adjustment as of December 31, 1982.

The filing also reflects the current level of purchased gas costs as represented in Southern's purchased gas adjustment filing of November 2, 1982 and the terms of a Stipulation and Agreement in Docket Nos. RP80–102 and RP81–86 in which Southern agreed to reduce its main line depreciation rate from 3.85% to 3.30% and to reflect a zero allowance for cash working capital.

Southern requests that the proposed tariff sheets be allowed to be substituted for the tariff sheets previously suspended by the Commission's order of July 30, 1982. Since the proposed tariff sheets contain the same costs included in Southern's rate filing, modified in accordance with the Commission's July 30, 1982 order in this docket, Southern requests the Commission to grant such waivers as may be necessary to allow the proposed tariff sheets to become effective January 1, 1983 as contemplated by the Commission's July 30, 1982 order.

Copies of this filing were served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34037 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 9, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 1, 1982, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Revised Substitute Sixty-third Revised Sheet No. 14.

This tariff sheet was filed to reflect a revision to Texas Eastern's SS–II rate pursuant to Section 4.G., Consolidated GSS Adjustments, of the SS–II Rate Schedule and a revision to Texas Eastern's ISS–II rate pursuant to Section 4.F., Consolidated GSS Adjustments, of the ISS–II Rate Schedule.

Consolidated Gas Supply Corporation (Consolidated) filed a major rate increase in Docket No. RP82–115 including a proposed increase in their Rate Schedule GSS rates effective January 1, 1983 after the Commission ordered five month suspension period. Pursuant to Section 4.G. of Texas Eastern's Rate Schedule SS–II and Section 4.F. of Rate Schedule ISS–II, the SS–II rates and ISS–II rates, respectively, are automatically adjusted to flow through any changes in Consolidated's GSS rates. The above substitute tariff sheet reflects the appropriate revision in SS–II rates and ISS–II rates.

The proposed effective date of the above mentioned tariff sheet is January 1, 1983.

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 motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34039 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-109-000 and RP82-37-000]

Texas Eastern Transmission Corp.; Informal Conference To Discuss Stipulation of Issues and Other Pre-Trial Matters

December 9, 1982.

Take notice that an informal conference in the above-captioned docket to discuss stipulation of issues and other pre-trial matters will be convened at 10:00 a.m., on December 16, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced. Arrangements have been made to extend this conference through December 17, 1982.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34038 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-81-000]

Transcontinental Gas Pipe Line Corp.; Application

December 13, 1982.

Take notice that on November 12, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP83–81–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated March 17, 1982, Applicant proposes to transport on a firm basis up to 15,000 Mcf of natural gas per day on behalf of United, less a 1.2 percent retention for compressor fuel use and line-loss make up. It is stated that such quantities would be made available from a point of receipt at the existing interconnection between the facilities of Applicant and the facilities jointly owned by Southern Natural Gas Company, United and Applicant in the Ship Shoal area Block 232, offshore Louisiana. It is further stated that Applicant would redeliver equivalent quantities to United at an existing point of interconnect between

United and Applicant in Victoria County, Texas, Calcasieu Parish, Louisiana, and other mutually agreeable points of interconnection between United and Applicant.

For such transportation, Applicant proposes to charge United an initial monthly demand charge of $46,800 based on a contract demand quantity of 15,000 Mcf per day.

It is asserted that the subject transportation service would enable United to receive into its system gas which it has purchased in Ship Shoal Block 232.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34040 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 6069-001 and 6070-001]

Watershed, Inc., Surrender of Preliminary Permits

December 9, 1982.

Take notice that Watershed, Inc., Permittee for the proposed Little Falls and Mound Plant Dam Projects Nos. 6069 and 6070, respectively, has requested that its preliminary permits be terminated. The permits were issued in July 1982, and would have expired on December 31, 1983. The projects would have been located on the Willow River in St. Croix County, Wisconsin.

The Permittee filed its request on October 28, 1982, and the surrender of the preliminary permits for Projects Nos. 6069 and 6070 are deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34041 Filed 12-14-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30223; PH-FRL 2264-5]

Certain Companies; Applications To Conditionally Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by January 14, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30223] and the file or registration number, should be submitted to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to conditionally register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 2724-GNL. Applicant: Zoecon Industries, 1220 Denton Drive, Dallas, TX 75234. Product name: Zoecon RF-210 Hydroprene Concentrate. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2E,4E)-3,7,11-trimethyl-2,4 dodecadienoate] 15%. Proposed classification/Use: General. For formulating use only.

2. File Symbol: 2724-GNU. Applicant: Zoecon Industries. Product name: Zoecon RF-209 Cockroach Growth Regulator. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2E,4E)-3,7,11-trimethyl-2,4 dodecadienoate] 65.7%. Proposed classification/Use: General. For the control of cockroaches by inhibiting reproduction.

3. File Symbol: 2724-GNA. Applicant: Zoecon Industries. Product name: Zoecon RF-208 Fogger with Altozar. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2E,4E)-3,7,11-trimethyl-2,4 dodecadienoate] 1.20%. Proposed classification/Use: General. For control of cockroaches by inhibiting reproduction.

4. File Symbol: 8730-GL. Applicant: Hercon Division Corp., 1107 Broadway, New York, NY 10010. Product name: Lure N Kill Roach and Ant Killer Insecticidal Baits with Sex Lure. Insecticide. Active ingredient: [1 R-(1R*,2R*,5S*,6E,10R*)]-(+/-)-8-methylene-5-(1-methylethyl)-spiro [11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 10.000%. Proposed classification/Use: General. For indoor use on roaches, waterbugs, and ants and non-food areas of restaurants and food handling establishments.

5. File Symbol: 8730-GI. Applicant: Hercon Division Corp. Product name: Lure N Kill Roach and Ant Killer with Sex Lure. Insecticide. Active ingredient: [1 R-(1R*,2R*,5S*,6E,10R*)]-(+/-)-8-methylene-5-(1-methylethyl)-spiro [11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 0.713%. Proposed classification/Use: General. For control of ants and roaches.

6. File Symbol: 8730-GT. Applicant: Hercon Division Corp. Product name: Lure N Kill American Cockroach Sex Attractant Baits. Insecticide. Active ingredient: [1 R-(1R*,2R*,5S*,6E,10R*)]-(+/-)-8-methylene-5-(1-methylethyl)-spiro [11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 0.001%. Proposed classification/Use: General. For control of American cockroaches, waterbugs, and other periplaneta species.

7. File Symbol: 279–GNEA. Applicant: FMC Corp., 2000 Market St., Philadelphia, PA 19103. Product name: Ammo Technical Insecticide. Insecticide. Active ingredient: (+)Cyano (3-phenoxphenyl) methyl (±) *cis trans* 3-(2, 2-dichloroethenyl)-2, 2 dimethylcyclopropane carboxylate 92.00%. Proposed classification/Use: General. For formulating use only.

8. File Symbol: 279–GNET. Applicant: FMC Corp. Product name: Ammo 2.5 EC Insecticide. Insecticide. Active ingredient: (+)Cyano (3-phenoxyphenyl) methyl (±) *cis trans* 3-(2, 2-dichloroethenyl)-2, 2 dimethylcyclopropane 30.6%. Proposed classification/Use: General. For formulating use only.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: December 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–33734 Filed 12–14–82; 8:45 am]

BILLING CODE 6560–50–M

[PP 8G2104/T397; PH–FRL 2264–4]

Mobay Chemical Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the miticide 6-methyl-1,3-dithiolo[4,5-*b*] quinoxalin-2-one, in or on the raw agricultural commodities almonds and almond hulls. These temporary tolerances were requested by Mobay Chemical Corporation.

DATE: These temporary tolerances expire October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corporation, Agricultural Chemicals Division, 1025 Vermont Ave., NW., Suite 500, Washington, D.C. 20005, has requested, in pesticide petition PP 8G2104, the establishment of temporary tolerances for residues of the miticide 6-methyl-1,3-dithiolo[4,5-*b*]quinoxalin-2-one, in or on the raw agricultural commodities almonds at 0.05 part per million (ppm) and almond hulls at 0.5 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 3125–EUP–158 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire October 21, 1983. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–33748 Filed 12–14–82; 8:45 am]

BILLING CODE 6560–50–M

[A–7–FRL 2267–1]

Region 6; Final Agency Action on a PSD Permit for E. I. du Pont de Nemours and Company; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction notice.

SUMMARY: In paragraph 2 of the information notice concerning a final agency action for E.I. du Pont de Nemours, published on October 26, 1982, at 47 FR 47461, the name TEX-USS should be replaced with the name E. I. du Pont de Nemours. Also, the permit number PSD-TX–336 should be replaced with the number PSD-LA–335. In addition, in paragraph three, the number PSD-LA–108 should be replaced with PSD-LA–335.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, EPA, First International Building, 1201 Elm Street, Dallas, Texas 75270. (214) 767–1594.

Dated: November 26, 1982.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 82-33888 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

[(OA-FRL 2267-7)]

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Environmental Protection Agency.

ACTION: Notice of Schedule for Awarding Senior Executive Service Bonuses.

SUMMARY: Under guidelines issued by the Office of Personnel Management, agencies must publish a notice in the **Federal Register** of their schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the bonuses will be paid. In accordance with these guidelines, the Environmental Protection Agency gives notice of the intention to award Senior Executive Service bonuses for the performance rating cycle of October 1, 1981 through September 30, 1982. Bonuses will be paid not earlier than December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Hardy, Director, Personnel Management Division, Environmental Protection Agency, Washington, D.C. 20460; telephone (202) 382-3300.

Anne M. Gorsuch,

Administrator.

December 9, 1982.

[FR Doc. 82-33991 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-01-M

[WH-FRL 2255)-1]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Allotment.

SUMMARY: This notice sets forth the allotments to the States of the $2.4 billion appropriated for fiscal year 1983 on October 1, 1982 by Pub. L. 97-272 for the municipal wastewater treatment works construction grants program.

Section 205(c)(2) of the Clean Water Act (the Act), as amended by Pub. L. 97-117, provides that sums authorized to be appropriated for fiscal year 1983 be allotted to the States in accordance with the table added to section 205(c)(2) by Pub. L. 97-117.

Through promulgation of this notice, the requirements of the Act are fulfilled and the public is notified of the amounts made available to the States for grants for the construction of municipal wastewater treatment works.

DATE: December 15, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Pelmoter, Chief, Program Policy Branch, Municipal Construction Division, Office of Water Program Operations, (202) 382-7359.

SUPPLEMENTARY INFORMATION: Pub. L. 97-272 appropriated $2.43 billion to fund the construction grants program in fiscal year 1983. Of this amount, $2.4 billion was appropriated for allotment to the States under section 205 of the Clean Water Act (the Act), and $30 million was appropriated for combined sewer overflow correction under section 201(n)(2) of the Act.

As required by section 205(c)(2) of the Act, funds appropriated for fiscal year 1983 are hereby allotted on the basis of the percentages listed in the new table added to section 205(c)(2) by Pub. L. 97-117. The percentages were applied to $2.4 billion of the appropriation to determine the actual dollar amount allotted to each State.

The new table of allotments reflects a revised [1] formula and conforms to section 205(e) of the Act, which requires that no State shall receive less than one half of one percent of a total allotment. The table appears at the end of this notice.

Pub. L. 97-117 further amended the Act by adding a subsection (m) to section 201. Paragraph (m)(3) directs the Administrator of EPA to award a grant for a special project in San Diego, California. Pub. L. 97-272 (Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1983) provides that the special project may be funded from the State of California's regular fiscal year 1983 allotment.

Pub. L. 97-272 also contains an allocation of $30 million to address pollution caused by discharges from combined (storm and sanitary) sewers. This amount may be used as deemed appropriate by the Administrator, as provided in section 201(n)(2) of the Act.

The $2.4 billion are allotted as follows:

FISCAL YEAR 1983 STATE ALLOTMENT BASED ON $2.4 BILLION APPROPRIATION

[In thousands]

	Ratio	Dollars
Alabama	.011396	27,355
Alaska	.006101	14,642
Arizona	.006885	16,524
Arkansas	.006668	16,003
California	.072901	174,964
Colorado	.006154	19,569
Connecticut	.012487	29,969
Delaware	.004965	11,916
District	.004965	11,916
Florida	.034407	82,577
Georgia	.017234	41,362
Hawaii	.007895	18,948
Idaho	.004965	11,916
Illinois	.046101	110,643
Indiana	.024566	58,959
Iowa	.013796	33,110
Kansas	.009201	22,082
Kentucky	.012973	31,135
Louisiana	.011205	26,892
Maine	.007788	18,691
Maryland	.024653	59,168
Massachusetts	.034608	83,060
Michigan	.043829	105,191
Minnesota	.018735	44,964
Mississippi	.009184	22,041
Missouri	.028257	67,817
Montana	.004965	11,916
Nebraksa	.005214	12,513
Nevada	.004965	11,916
N. Hampshire	.010186	24,446
New Jersey	.041654	99,970
New Mexico	.004965	11,916
New York	.113097	271,436
North Carolina	.018396	44,151
North Dakota	.004965	11,916
Ohio	.057383	137,721
Oklahoma	.008235	19,764
Oregon	.011515	27,636
Pennsylvania	.040377	96,906
Rhode Island	.006750	16,200
South Carolina	.010442	25,061
South Dakota	.004965	11,916
Tennessee	.014807	35.537
Texas	.038726	92,943
Utah	.005371	12,890
Vermont	.004965	11,916
Virginia	.020861	50,067
Washington	.017726	42,542
West Virginia	.015890	38,136
Wisconsin	.027557	66,137
Wyoming	.004965	11,916
Samoa	.000915	2,196
Guam	.000662	1,588
N. Marianas	.000425	1,020
Puerto Rico	.013295	31,908
Pac. Tr. Ter.	.001305	3,132
Virgin Islands	.000531	1,274
U.S. Totals	.999996	2,400,000

[1] Average of the House formula (1982 formula) and Senate formula (based on 1980 population and needs categories I, II and IV b).

These allotments are available for obligation until September 30, 1984. After that date, unobligated balances will be reallotted under section 205(d) of the Act (40 CFR 35.2010). Grants from the allotments may be awarded as of the date of issuance of advices of allowance to the EPA Regional Administrators by the Comptroller of EPA.

Dated: December 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-33990 Filed 12-14-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/13A; PH-FRL 2233-8]

Toxaphene; Intent To Cancel or Restrict Registrations of Pesticide Products Containing Toxaphene; Denial of Applications for Registration of Pesticide Products Containing Toxaphene; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Decision Document

Correction

In FR Doc. 82-32577 beginning on page 53784 in the issue of Monday, November 29, 1982, make the following corrections:

1. On page 53789, first column, line three, "F" should appear as "7."

2. On page 53789, first column, in the paragraph designated as "9." the date should appear as "December 31, 1986."

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 8, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published n the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829).

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

Request for Extension Without Revision

1. Report title: Report of Claims on Selected Foreign Countries by U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2029B.

Frequency: Semiannual.

Reporters: U.S. agencies and branches of foreign banks with total claims on non-G-10 countries exceeding $100 million.

SIC Code: 605.

Small businesses are not affected.

General description of report: Respondent's obligation to respond is voluntary (12 U.S.C. 3105(b)); a pledge of confidentiality is promised (5 U.S.C. 552 (b)(4) and (b)(8)).

Information used for monitoring external debts of developing and other non-G-10 countries when combined with data collected by other central banks. Data are also used for supervisory screening of foreign banks in the United States.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33962 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Banzano; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Banzano International, N.V.*, Curacao, Netherland Antilles, and, its direct subsidiary, Banzano, B.V., Amsterdam, Netherlands and its direct subsidiary, Miami National Bancorp, Coral Gables, Florida; to become bank holding companies through the acquisition by the latter of 84.5 percent of the voting shares of Miami National Bank, Miami, Florida. Banco Zaragonzano, S.A., Madrid, Spain, which directly owns 84.5 percent of Miami National Bank, will upon consummation of the proposed transaction, become the parent holding company of these organizations. Comments on this application must be received not later than January 7, 1983.

2. *First Monco Bancshares, Inc.*, Monroeville, Alabama; to become a bank holding company by acquiring 80 percent or more of the voting shares of Monroe County Bank, Monroeville, Alabama. Comments on this application must be received not later than January 7, 1983.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33967 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Central State Bancorporation et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the

applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Central State Bancorporation,* Calera, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Central State Bank, Calera, Alabama. Comments on this application must be received not later than January 10, 1983.

2. *First National Financial Corporation,* Vicksburg, Mississippi; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Vicksburg, Vicksburg, Mississippi. Comments on this application must be received not later than January 10, 1983.

3. *Henry County Bancshares, Inc.,* Stockbridge, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank, Stockbridge, Georgia. Comments on this application must be received not later than January 10, 1983.

4. *Tri-City Bancorp, Inc.,* Blountville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Tri-City Bank and Trust Company, Blountville, Tennessee. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *MWA Bancorporation,* Estherville, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Emmet County State Bank, Estherville, Iowa, and at least 80 percent of the voting shares of First Bank & Trust, Spirit Lake, Iowa. Comments on this application must be received not later than January 5, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *InterState Financial Corporation,* Edmond, Oklahoma; to become a bank holding company by acquiring 80.05 percent of the voting shares of First InterState Bank and Trust Company, Edmond, Oklahoma. Comments on this application must be received not later than January 10, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lamar Bancshares, Inc.,* Beaumont, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Lamar State Bank, Beaumont, Texas. Comments on this application must be received not later than January 10, 1983.

2. *Woodville Bancshares, Inc.,* Woodville, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens State Bank, Woodville, Texas. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 9, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33963 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Community Bank of South Florida, Inc., Formation of Bank Holding Company; Correction

This notice corrects a previous Federal Register Document (FR Doc. 82-32892) published at page 54359 of the issue for Thursday, December 2, 1982. This notice includes applicants proposed nonbanking activities and extends the period during which comments will be accepted.

Community Bank of South Florida, Inc., Homestead, Florida, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Community Bank of Homestead, Homestead, Florida. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Community Bank of South Florida, Inc., Homestead, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of CBH Insurance Corporation, Homestead, Florida.

Applicant states that the proposed subsidiary would engage in the activities of agent for the sale of credit life insurance directly related to extensions of credit by Community Bank of Homestead, Homestead, Florida. These activities would be performed from offices of Applicant's subsidiary in Homestead, Florida City, Perrine, and Princeton, Florida, and the geographic area to be served is Dade County, Florida.

In addition, Community Bank of South Florida, Inc., Homestead, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Financial Processors Inc., Miami, Florida.

Applicant states that the proposed subsidiary would engage in the activity of providing data processing services for financial institutions only. These activities would be performed from offices of Applicant's subsidiary in Coral Gables, Florida, and the grographic area to be served is south Florida. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procdures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unfound banking practices."

Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than December 30, 1982.

Board of Governors of the Federal Reserve System, December 9, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33964 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Society Corp. et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Society Corporation,* Cleveland, Ohio; to acquire 80 percent of the voting shares or assets of The Wakeman Bank Company, Wakeman, Ohio. Comments on this application must be received not later than January 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Quad Cities First Company,* Rock Island, Illinois; to acquire 50 percent of the voting shares or assets of Midwest National Bank of Moline, Moline, Illinois. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 9, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33965 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo,* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Minnesota): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* subsidiary to be known as Citicorp Person-to-Person Financial Center, Inc. at a shared office location in Brooklyn Center, Minnesota. The activities in which the *de novo* office of CHI proposes to engage are: making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of CHI shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. The *de novo* subsidiary proposes to engage in operating as an industrial loan company in the manner authorized by Minnesota law, including the following activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* subsidiary shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. Comments on this application must be received not later than January 7, 1983.

2. *Citicorp,* New York, New York (finance company and credit related insurance activities; Minnesota, Wisconsin, Wyoming): To expand the activities and service area of an existing office of Citicorp Acceptance Company, Inc., located in Roseville, Minnesota. The new activities in which the office proposes to engage *de novo* are: the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing,

for any person, of loans and other extensions of credit. In addition, the office proposes to broaden its previously approved activities of the extension of loans to mobile home dealers for the financing of inventory (floor planning) and working capital purposes and the purchasing and servicing for its own account of sales finance contracts relating to mobile homes, to engage in such activities with regard to all types of dealers and all types of consumer installment paper. The proposed service area, for all previously approved and proposed activities, shall be comprised of the entire States of Minnesota, Wisconsin and Wyoming. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than January 7, 1983.

3. *Citicorp*, New York, New York (consumer finance and insurance activities; Indiana, Michigan): To expand the service area of an office of its subsidiary, Citicorp Acceptance Company, Inc., located in Schaumberg, Illinois, to include the State of Indiana and Michigan, in addition to the previously approved service area of Illinois, Iowa, Minnesota and Wisconsin, for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing of level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the servicing for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than January 7, 1983.

4. *Citicorp*, New York, New York (consumer finance and credit related insurance activities; California): To expand the activities of three existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. and to establish three *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire State of California for all the aforementioned proposed activities. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each office of Citicorp Person-to-Person Financial Center, Inc. for the aforementioned proposed activities shall be comprised of the entire State of California. Credit related life, accident, and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from offices in Escondido, El Cajon, and San Diego, California. Comments on this application must be received not later than January 7, 1983.

5. *Manufacturers Hanover Corporation*, New York, New York (finance activities; United States and Puerto Rico): To engage through its indirect subsidiary, Finance One Marine, Inc., in the activities of making, acquiring, and servicing marine loans and other extensions of credit, such as could be made, acquired, or serviced by a finance company under state and federal law. These activities would be conducted from an office in Trevose, Pennsylvania, serving the entire United States and Puerto Rico. Comments on this application must be received not later than January 7, 1983.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Eastern Corp.*, Wilkes-Barre, Pennsylvania (underwriting insurance activities; Pennsylvania): To engage, through its subsidiary, First Eastern Life Insurance Company, Phoenix, Arizona, in the activities of underwriting, as reinsurer, related to extensions of credit by Applicant's subsidiary bank, First Eastern Bank, N.A. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served in Northeastern Pennsylvania. Comments on this application must be received not later than January 7, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security State Bank Shares*, Polson, Montana, (insurance activities; Montana): To engage in the sale of general insurance in a town with a population not exceeding 5,000. These activities would be conducted from an office in Polson, Montana, serving the City of Polson, Montana and the surrounding rural area. Comments on this application must be received not later than December 29, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas (trust company activities; New York and southwestern United States): To engage, through its subsidiary, Texas Commerce Trust Company of New York, in activities that may be lawfully carried on by a trust company in the manner authorized by Federal and New York law, including serving as trustee, providing stock transfer, clearance and registrar services and providing agency and custodial services. These activities would be conducted from an office in New York, New York, serving New York, New York, and the southwestern United States. Comments on this application must be received not later than January 5, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Rainier Bancorporation*, Seattle, Washington (insurance activities; California and Arizona): To establish *de novo* offices engaging in the following activities: general mortgage banking, including but not limited to making or acquiring, for its own account or for the account of others, loans and other extensions of credit secured by liens on

residential and non-residential real estate; servicing loans and other extensions of credit for any person; selling mortgage loans in the secondary market and offering mortgage term life insurance, accident, health and disability insurance directly related to such lending and servicing activities and credit related property and casualty insurance, through its subsidiary, Rainier Mortgage Company. These activities will be conducted from offices in Cupertino, Santa Maria and San Diego, California, serving the State of California, and Tucson, Arizona, serving the State of Arizona, except that property and casualty insurance activities will be limited to California. Comments on this application must be received not later than January 5, 1983.

2. *U.S. Bancorp,* Portland, Oregon (finance, insurance; Washington): U.S. Bancorp Mortgage Company ("Bancorp Mortgage"), a wholly-owned subsidiary of Bancorp, will engage in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including, but not limited to loans and other extensions of credit secured by mortgages or deeds of trust on real property, and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by Bancorp Mortgage, in conformance with the provision of Section 225.4(a)(1), (3) and (9)(i)(a) of Regulation Y. Bancorp Mortgage's activities will be performed from an office in Vancouver, Washington, serving the city of Vancouver and the surrounding rural area. Comments on this application must be received not later than January 7, 1983.

Board of Governors of the Federal Reserve System, December 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33968 Filed 12-14-82: 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc., et al.; Bank Holding Companies, Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo,* directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.,* Providence, Rhode Island (consumer finance and insurance agency activities; Colorado): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance and insurance agency activities involving the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office in Denver, Colorado, serving the State of Colorado. Comments on this application must be received not later than January 10, 1983.

2. *Fleet Financial Group, Inc.,* Providence, Rhode Island (consumer finance activities; Oklahoma): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance activities. These activities would be conducted from an existing office in Oklahoma City, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than January 10, 1983.

3. *Fleet Financial Group, Inc.,* Providence, Rhode Island (consumer finance and insurance agency activities; Wisconsin): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in consumer finance and insurance agency activities involving the sale of credit life and credit accident and health insurance directly related to an extension of credit. These activities would be conducted from a new office to be located in Appleton, Wisconsin, serving northeastern and central Wisconsin. Comments on this application must be received not later than January 10, 1983.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit related insurance activities; Utah): To expand the activities of six existing offices of its subsidiary, Citicorp Person-to-Person Financial Center of Utah and to expand the service areas of five of those offices, and to establish six *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. propose to engage are: the making of acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health of decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire State of Utah for all the aforementioned proposed activities. The new activities in which the offices of Citicorp Person-to-Person Financial Center of Utah propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of the Orem office of Citicorp Person-to-Person Financial Center of Utah shall be the entire State of Utah for the aforementioned proposed activities. The proposed expanded service areas of the other five offices shall be the entire State of Utah for their proposed activities and for the following previously approved activities: the

making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life insurance, accident, and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center of Utah and Citicorp Homeowners, Inc. Comments on this application must be received no later than January 10, 1983.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Nebraska): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. located in Omaha, Nebraska, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Omaha, Nebraska location. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Nebraska for all the aforementioned proposed activities. The new activities in which the office of Citicorp Person-to-Person Financial Center, Inc. proposes to engage *de novo* are: the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the office of Citicorp Person-to-Person Financial Center, Inc. shall be comprised of the entire State of Nebraska for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc., and Citicorp Homeowners, Inc. Comments on this application must be received not later than January 10, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Marine Corporation*, Milwaukee, Wisconsin (trust activities; New London, Wisconsin): To engage through its subsidiary, The Marine Trust Company, N.A., in operating a trust service office to develop and administer trust accounts of all types at The First State Bank of New London, Wisconsin, New London, Wisconsin. This office will serve the Waupaca County and Western Outagamic County, Wisconsin. Comments on this application must be received not later than January 5, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Mitsubishi Bank, Limited*, Tokyo, Japan (leasing activities; United States): To engage through its subsidiary, Diamond Lease Company, Ltd., in leasing personal property, acting as agent, broker or adviser in leasing said property, or selling such property through long-term installment sales contracts where such transactions serve as the functional equivalent of an extension of credit to the user of the property pursuant to the conditions contained in Section 225.4(a)(b)(i) of the Board's Regulation Y. These activities will be conducted from the head office of Diamond Lease Company in Tokyo, Japan, and from a representative office in Los Angeles, California, serving the United States. Comments on this application must be received not later than December 29, 1982.

2. *Wells Fargo & Company*, San Francisco, California (finance and leasing activities; United States and abroad): To engage through its subsidiary, Wells Fargo Capital Corporation, in making or acquiring for its own account or for the account of others loans and other extensions of credit; servicing loans for the account of others; making full pay-out leases of personal or real property, or acting as an agent, broker or advisor in leasing such property in accordance with the Board's Regulation Y. These activities would be conducted from an office in San Francisco, California, serving commercial borrowers throughout the United States and abroad. Comments on this application must be received not later than January 10, 1983.

Board of Governors of the Federal Reserve System, December 9, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-33966 Filed 12-14-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI-105]

Franklin Farm, Va.; Intent To Terminate an Environmental Impact Statement

The Washington, D.C. Area Office of the Department of Housing and Urban Development (HUD) intends to terminate the Environmental Impact Statement process for Franklin Farm. Franklin Farm is a proposed residential development located between Ox Road and Centerville Road in Fairfax County, Virginia.

Description: Franklin Farm is a proposed residential development of 1646 units on a 82 acre tract. The Development is approximately 2 miles north of Chantilly, Fairfax County. Access to the development is from Route 50 and Ox Road.

Reason for Termination: Pursuant to 24 CFR Part 50, Procedures for Protection and Enhancement of Environmental Quality, threshold Environmental Impact Statements are no longer required for localities that HUD approved under the Local Area Certification procedures. Fairfax County was approved under the Local Area Certification process in May 1982. Therefore, no further processing on the Franklin Farm EIS will occur because that EIS was only triggered by threshold considerations.

Pursuant to 24 CFR Part 50 HUD, an Environmental Assessment has been completed and is available at the Washington, D.C. Area Office. The assessment may be reviewed between 9–5 P.M., Monday through Friday at HUD Office, 1875 Connecticut Avenue, NW., Washington, D.C.

Comments on the Draft EIS were received from local, state and Federal agencies. All comments were addressed in an addendum to the Environmental Assessment of November 18, 1982.

HUD intends to issue a subdivision approval in 15 days from the date of this Notice.

Issued at Washington, D.C., November 22, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

[FR Doc. 82-33985 Filed 12-14-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Juaneno Band of Mission Indians, c/o Mr. Raymond T. Belardes, 325 N. Broadway #205, Santa Ana, California 92701, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on August 17, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Dated: November 24, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 33996 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-02-M

San Carlos Apache Reservation, Ariz.; Ordinance Amending Maximum Penalties for Liquor Violations

This Notice is published in accordance with the 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 Ordinance No. 82-2 which relates to the application of the Federal Indian Liquor Laws on the San Carlos Apache Reservation, Arizona, was duly adopted on May 4, 1982, by the San Carlos Apache Tribal Council which has jurisdiction over the area of Indian country included in the ordinance which reads as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Ordinance No. 82-2

Whereas, the revised Law and Order Code of the San Carlos Apache Tribe contains a liquor ordinance, under Section 6.32 and Ordinance No. 65-3, which makes it illegal for any Indian to knowingly and willfully violate any provision of the liquor ordinance adopted by the San Carlos Apache Tribal Council on May 18, 1965; and

Whereas, the punishment under this law limits the San Carlos Apache Tribal Court to 60 days or $60.00 fine or to both such imprisonment and fine with costs; and

Whereas, the San Carlos Apache Tribe feels that an amendment is necessary to fully curtail the number of violations.

Therefore, Be It Enacted By the San Carlos Tribal Council that Ordinance No. 65-3, pertaining to San Carlos Liquor Ordinance, be amended to read as follows:

"Any Indian who shall knowingly and willfully violate any provision of the San Carlos Liquor Ordinance or manufacture any beer, ale, wine, or any articles which produce alcoholic intoxication, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days or to a fine not to exceed $500.00 or to both such imprisonment and fine, with costs."

Certification

I, the undersigned, Secretary of the San Carlos Apache Tribal Council, hereby, certify that the San Carlos Tribal Council is composed of 11 members of whom 11, constituting a quorum were present at a regular council meeting, hereto, held on the 4th day of May, 1982, and that the foregoing Ordinance No. 82-2 was duly adopted by a unanimous vote of the Council, pursuant to the provisions of Article V, Section 1(a), Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

Approved: May 6, 1982.

Dated: November 24, 1982.

Valerie Noline,

Secretary San Carlos Tribal Council.

Ernest D. Manuelito,

Superintendent.

[FR Doc. 82-34000 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-02-M

White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona; Ordinance Regulating the Introduction, Possession, and Sale of Intoxicating Beverages

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. The instant ordinance repeals Ordinance No. 92, 38 FR 75 (February 7, 1973), and Ordinance No. 115, 46 FR 116, (June 17, 1981), which relate to the application of the Federal Indian Liquor Laws on the Fort Apache Indian Reservation, Arizona. I certify that Ordinance No. 125 was duly adopted on November 4, 1981, by the White Mountain Apache Tribal Council which has jurisdiction over the area of Indian country included in the ordinance. The ordinance reads as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Resolution No. 81-253 of the White Mountain Apache Tribe of the Fort Apache Indian Reservation

Whereas, the Tribal Council of the White Mountain Apache Tribe by previous resolution required the posting of a proposed liquor ordinance for a period of ten (10) days in conformity with the Constitution and By-Laws of the White Mountain Apache Tribe, and

Whereas, comments have been received in reference to the imposition of a tribal sales tax on the sale of liquor, and

Whereas, the Tribal Council concludes after great discussion with the Tribal Attorney, Apache Enterperise and Tribal citizens that it would be unwise at this time to impose such a tax for reasons of economic necessity.

Be it resolved by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes the final passage of the Liquor Ordinance without the sales tax, said ordinance to be effective immediately.

Be it further resolved that Kenneth Hart, Manager of the White Mountain Apache Enterprise is appointed Liquor Business Manager to carry out the powers and duties set forth in the White Mountain Apache Tribal Liquor Control Ordinance.

Be it further resolved by the Tribal Council that the Chairman of the Tribal Council is hereby directed to submit this ordinance to the Secretary of the Interior for publication in the **Federal Register** in the most expeditious manner.

The foregoing resolution was on December 3, 1981 duly adopted by a vote of 7 to 2 against 0 abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1(i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 17, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Lynn Cody,

Acting Chairman of the Tribal Council.

Mary C. Endfield,

Secretary of the Tribal Council.

Ordinance No. 125 of the White Mountain Apache Tribe of the Fort Apache Indian Reservation

Be it enacted by the Tribal Council of the White Mountain Apache Tribe, duly assembled: That Ordinance No. 92, dated August 30, 1972, and Ordinance No. 155, dated October 1, 1980, amending Ordinance No. 92, are hereby repealed by this Ordinance which shall be known as the White Mountain Apache Tribal Liquor Control Ordinance.

Section I.—Declaration of Public Policy and Purpose

(a) The introduction, possession, and sale of liquor on the White Mountain Apache Reservation has since executive order time, been clearly recognized as a matter of special concern to the White Mountain Apache Tribe.

(b) Federal Law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), and expressly delegates to the tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

(c) The Tribal Council finds that a complete ban on liquor within the Fort Apache Indian Reservation is ineffective and unrealistic. However, it recognizes a need still exists for strict regulation and control over liquor transactions within the reservation because of the many potential problems associated with the unregulated or inadequately regulated sale, possession, and consumption of liquor. The Tribal Council finds that exclusive tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the tribe, to protect the health and welfare of our tribal members, and to address specific tribal concerns relating to alcohol use on the reservation.

(d) The enactment of a tribal ordinance governing liquor sales on the Fort Apache Indian Reservation and providing for exclusive purchase and sale through a tribally owned and operated establishment will enhance the ability of the tribal government to control reservation liquor distribution and possession, and at the same time, will provide an important source of revenue for the continued operation of the tribal government and the delivery of essential tribal social services.

(e) This ordinance shall be cited as the "White Mountain Apache Tribal Liquor Control Ordinance" and under the inherent sovereignty of the White Mountain Apache Tribe, shall be deemed an exercise of the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the tribe, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be public policy that the traffic in alcoholic beverages if it affects the public interest of the people, should be regulated to the extent of prohibiting all traffic of liquor, except as provided in this ordinance.

Section II.—Definitions

As used in this ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

(a) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(b) "Alcoholic Beverage" is synonymous with the term liquor as defined in Section 2(o) of this ordinance.

(c) "Application" shall mean a formal written request for the issuance of a license supported by a verified statement of facts.

(d) "Beer" means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, or other ingredients not drinkable, or any combination of them.

(e) "Board" means the White Mountain Apache Liquor Board as constituted under this ordinance.

(f) "Broken Package" means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed.

(g) "Bulk Container" shall mean any package, or any container within which container are one or more packages.

(h) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members only:

(1) A post, chapter, camp or other local unit composed solely of veterans and its duly recognized auxiliary and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state.

(2) A chapter, aerie, parlor, or other local unit of an American national fraternal organization which has as the owner, lessee or occupant operated an establishment for fraternal purposes in this state. An American national fraternal organization as used in this subdivision shall actively operate in not less than thirty-six states or have been in active continuous existence for not less than twenty years.

(3) A hall or building association of such a local unit mentioned in subdivision (1) and (2), all of the capital stock of which is owned by the local unit or the members, and which operates the club room facilities of the local unit.

(4) A golf club which has more than fifty bona fide members which owns, maintains or operates a bona fide golf links together with a club house.

(5) A social club with more than one hundred bona fide members who are actual residents of the county in which it is located, which owns, maintains or operates club quarters, and which is authorized and incorporated to operate as a non-profit club under the laws of this state, and has been continuously incorporated and operating for a period of not less than one year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively ingaged in carrying out the objects of the club. The club's membership shall consist of bona fide dues paying members paying at least six dollars per year, payble monthly, quarterly or annually, which have been recorded by the secretary of the club and the members at the time of application for a club license shall be in

good standing having for at least one full year paid dues. At least fifty-one percent of the members shall have signified their intention to secure a social club license by personally signing a petition, on a form prescribed by the board, which shall also include the correct mailing address of each signer. The petition shall not have been signed by a member at a date earlier than thirty days prior to the filing of the petition. The club shall qualify for exemption from the payment of state income taxes under the provisions of title 43, it being the intent of this paragraph that a license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide club, where the sale of liquor is incidental to the main purpose of the club.

(i) "Company" or "Association" when used in reference to a corporation includes successors or assigns.

(j) "Distillery" "winery" and "brewer" shall mean not only the premises wherein alcohol is distilled, or rectified wine is fermented or beer is brewed, but in addition a person owning, representing, or in charge of such premises and the operations conducted thereon, including the blending and bottling or other handling and preparation of intoxicating liquor or beer in any form.

(k) "Election days" means the biennial primary election for the nomination of United States, state, county and precinct officers, a special election called pursuant to Section 1, Article 21 of the Constitution of the State of Arizona, the biennial general election of the State of Arizona and all White Mountain Apache tribal elections.

(l) "Foreign Corporation" shall mean any corporation not incorporated under the laws of the White Mountain Apache Tribe.

(m) "Legal Age" shall mean the age requirements as defined in this ordinance.

(n) "Liquor Store" shall mean any store, established by Apache Enterprise for the sale of alcoholic beverages.

(o) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor and combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid semi-solid, solid, substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

(p) "Malt Liquor" means beer, ale, stout, and porter.

(q) "Package" shall mean the the bottle or immediate container of any alcoholic beverage.

(r) "Package Dealer" shall mean the White Mountain Apache Tribe as distinguished from a distiller, manufacturer, or wholesaler, that sells, or keeps for sale, any alcoholic beverage authorized under the ordinance for consumption off the premises where sold.

(s) "Person" includes partnership, association, enterprise, company or corporation, as well as a natural person.

(t) "Public Places" means a place where the public has an interest as effecting the safety, health, welfare and morals of the community.

(u)"Sale" and "Sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing by any means whatsover, of liquor or any liquid known or described as beer or by any name whatsover commonly used to describe malt or brewed liquor, or of wine, by any person to any person.

(v) "Spirituous Liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture or any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol and any liquid mixture or preparation whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent of alcohol by volume.

(w) "Stamp"shall mean the various stamps required by this ordinance to be affixed to the package or bulk container, as the case may be, to evidence payment of the tax prescribed by this ordinance.

(x) "Vehicle" means any means of transportation by land, water or air, and includes everything made use of in any way for such transportation.

(y) "Veteran" means a person who served the United States during war time or in any expedition of the United States armed forces as a member of the United States Army, Airforce, Navy, Marine Corps, Nurse Corps of any branch of the armed services; as a member in any other branch of the United States Armed Services; or as a active nurse in the services of the American Red Cross provided that such person has received a discharge other than a dishonorable one.

(z) "Wholesaler" shall mean any person other than a brewer or bottler of beer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating liquor or low-point beer; no wholesaler shall be permitted to sell for consumption upon the premises.

(aa) "Wine" means the obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four percent of alcohol by volume.

Section III.—General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport intoxicating liquor or low-point beer except upon the terms, conditions, limitations, and restrictions specified in this ordinance.

Section IV.—Liquor Agency Created

There is hereby established a branch of White Mountain Apache Tribal Enterprises known as the Liquor Agency. This branch shall be constituted as an agency and department of the White Mountain Apache Tribal Government and be known as Apache Enterprise.

Section V.—White Mountain Apache Liquor Board

(a) *Liquor Board Established—Composition.* There is hereby established a White Mountain Apache Liquor Board. The members of the White Mountain Apache Tribal Council shall serve as the White Mountain Apache Liquor Board. The Board is empowered to:

1. Administer this ordinance by exercising general control, management, and supervision of all liquor sales, places of sale, and sales outlets as well as exercising all powers necessary to accomplish the purposes of this ordinance;

2. Adopt and enforce rules and regulations in furtherance of the purposes of this ordinance and the performance of its administrative functions;

3. Employ managers and such other persons as shall be reasonably necessary to allow the Board to perform its functions. Pursuant to this authority, the board shall appoint a manager who shall have the powers and perform the duties set forth in Section 6;

4. Bring suit in the appropriate court to enforce the provisions of this ordinance with the consent of the White Mountain Apache Tribal Council. The Board shall not, without the specific consent of the

Council, waive the Board's or the Tribal's immunity from suit.

Section VI.—Liquor Business Manager

(a) *Powers and Duties.* The manager appointed by the Board shall have the following powers and duties in regard to the Liquor Agency:

1. To manage the Liquor Agency for the benefit of the White Mountain Apache Tribe.

2. To purchase, in the name of the White Mountain Apache Tribe, liquor products from wholesale distributors, and distribute them to such tribal liquor outlets as he deems appropriate.

3. To establish, with the Board and subject to its approval, such administrative procedures as are necessary to govern the operation of the Liquor Agency.

4. To report and account to the board at least four times a year regarding the operation and financial status of the Liquor Agency. The Board and the manager shall establish the dates on which such accounting shall take place. The Board may require more frequent accounting if deemed necessary.

5. To hire and set the salaries of additional personnel, subject to Board approval, as he deems necessary to the successful operation of the Liquor Agency.

6.To supervise all persons employed by the Liquor Agency.

7. To purchase, with Board approval, and to maintain the Liquor Agency's real and personal property.

8. To collect the White Mountain Apache Liquor excise tax.

9. To transfer all tax revenues and gross proceeds of the Liquor Agency to the tribal treasurer for disposition in accordance with Section XIII.

10. To set the retail price for liquor in cooperation with and subject to the approval of the Board.

11. To obtain and maintain in full force and effect a policy of general liability insurance covering the premises in an amount set by the Board. The policy shall contain the stipulation that the Tribe shall be given ten days notice of the proposed cancellation or expiration of such policy. The manager shall submit to the Board a certificate of insurance from such policy and shall have available for inspection, a complete copy of such policy.

12. The manager shall be bonded for such additional amount and for such additional purposes as the Board shall determine to be appropriate in managing the Liquor Division.

Section VII.—Sovereign Immunity Preserved

Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the White Mountain Apache Tribe.

No manager or employee of the Liquor Agency shall be authorized nor shall he attempt to waive the immunity of the Tribe.

Section VIII.—Sales

(a) *Only Tribal Sales Allowed.* No sales of Alcoholic beverages shall be made within the exterior boundaries of the Fort Apache Indian Reservation except at Tribal Liquor Store Outlets, the Sunrise Ski area, and other locations which from time to time, the Liquor Agency Manager with the Liquor Board's approval may designate.

(b) *All Sales Cash.* All sales at tribal liquor stores shall be on a cash only basis and no credit shall be extended to any person, organization, or entity except by means of recognized bank and other credit cards.

(c) *All Sales for Personal Use.* All sales shall be for the personal use of the purchaser, and resale for profit of any alcoholic beverage purchased at a tribal liquor store is prohibited within the Fort Apache Indian Reservation. The purchase of an alcoholic beverage at a tribal store and subsequent resale of that beverage for profit, whether in the original container or not, shall be a violation of this ordinance and the violator shall be subject to the penalties prescribed in Section XI.

(d) *Tribal Property.* The entire stock of liquor and alcoholic beverages referred to under this ordinance shall remain tribal property, owned and possessed by the White Mountain Apache Tribe until sold.

Section IX.—Taxation

(a) *Tax Imposed.* There is hereby levied and shall be collected, a tax on each retail sale of alcoholic beverages on the Fort Apache Indian Reservation in the amount of five percent (5%) of the retail sales price. The tax imposed by this section shall apply to all retail sales of liquor on the Reservation and shall pre-empt any tax imposed on such liquor sales by the State of Arizona. No municipality, city, town, county, nor the State of Arizona shall have any power to impose an excise tax on liquor or alcholic beverages as defined by this title, or to govern or license the sale or distribution thereof in any manner within the Fort Apache Indian Reservation, not to be effective until ordered by the Tribal Council and the White Mountain Apache Liquor Board.

(b) *Distribution of Taxes.* All taxes from the sale of alcoholic beverages on the Fort Apache Indian Reservation by or through the Board shall be paid over to the tax fund of the White Mountain Apache Tribe and be subject to distribution by the White Mountain Tribal Council in accordance with its usual appropriation procedures for essential governmental and social services. Provided however, that priority in funding shall be given to those tribal programs which demonstrate the greatest need and past successful performance in providing community services to tribal members, with specific consideration to the Detox Program as more fully set forth in Section XIII of this ordinance.

Section X

Illegal Activities

(a) *Violations.* 1. *Liquor Stamp Contraband.* It shall be a violation of this ordinance for any person to sell alcoholic beverages on the Fort Apache Indian Reservation without a stamp of the Board affixed to the package. All alcoholic beverages not so stamped which are sold or held for sale on the Fort Apache Indian Reservation are hereby declared contraband and in addition to any penalties or fines imposed by the court for violation of this section, shall be confiscated and forfeited in accordance with the procedures set out in the White Mountain Tribal Court Rules of Civil Procedure.

2. *Use of Seal.* It shall be a violation of this ordinance for any person, other than an employee of the Board, to willfully keep or have in his possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor store, or to willfully keep or have in his possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked.

3. *Illegal Sale of Liquor by Drink or Bottle.* It shall be a violation of this ordinance for any person to sell by the drink or bottle any liquor, except as otherwise provided in this ordinance.

4. *Illegal Transportation, Still, or Sale Without Permit.* It shall be a violation of this ordinance for any person to sell or offer for sale or transport in any manner any liquor in violation of this ordinance, or to operate or have in his possession without a permit, any mash capable of being distilled into liquor.

5. *Illegal Purchase of Liquor.* It shall be a violation of this ordinance for any person within the boundaries of the Fort Apache Indian Reservation to buy liquor from any person other than at a properly authorized tribal liquor store or approved outlet or location.

6. *Illegal Possession of Liquor—Intent to Sell.* It shall be a violation of this ordinance for any person to keep or possess liquor upon his person or in any place or on premises conducted or maintained by him as a principal or agent with the intent to sell it contrary to the provisions in this ordinance.

7. *Sales to Persons Apparently Intoxicated.* It shall be a violation of this ordinance for any person to sell liquor to a person apparently under the influence of liquor.

8. *Possession and Use of Liquor by Minors.* Except in the case of liquor given or permitted to be given to a person under the age of twenty-one (21) years by his parent or guardian, for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, it shall be a violation of this ordinance for any person under the age of twenty-one (21) years to consume, acquire, or have in his possession any alcoholic beverage except when such beverage is being used in connection with religious services.

9. *Furnishing Liquor to Minors.* It shall be a violation of this ordinance for any person to permit any other person under the age of twenty-one (21) to consume liquor on his premises under his control, except in those special situations set forth in Section X above.

10. *Sales of Liquor to Minors.* It shall be a violation of this ordinance for any person to sell any liquor to any person under the age of twenty-one (21) years.

11. *Unlawful Transfer of Identification.* It shall be a violation of this ordinance for any person to transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor. Provided, that corroborative testimony of a witness other than the minor shall be a requirement for conviction.

12. *Possession of False or Altered Identification.* It shall be a violation of this ordinance for any person to attempt to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years.

13. *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his signature and photograph:

(1) Liquor Control Authority Card of Identification of any state.

(2) Driver's license of any state or an identification card issued by any State Department of Motor Vehicles.

(3) United States Active Duty Military identification.

(4) Passport.

14. It shall be a violation of this ordinance to employ a person under the age of twenty-one (21) years to manufacture, sell or dispose of spirituous liquors.

15. It shall be a violation of this ordinance to employ a person under the age of twenty-one (21) years in any capacity connected with the handling of spirituous liquors.

16. It shall be a violation of this ordinance to engage in the following: For an employee of a tribally owned outlet, during his working hours or in connection with his employment, to give to or purchase for any other person, accept a gift or purchase for himself or consume spirituous liquors.

17. It shall be a violation of this ordinance for an employee of a tribal liquor outlet to sell, dispose of, deliver or give spirituous liquor to a person, or to allow a person to consume spirituous liquors on the outlet premises, between the hours of one o'clock a.m. and six o'clock a.m. on week days and one o'clock a.m. and twelve o'clock noon on Sundays.

18. It shall be a violation of this ordinance for an employee of a tribal liquor outlet to sell, dispose of, deliver or give away spirituous liquor on the outlet premises on election days during the hours polling places are open for voting.

19. It shall be a violation of this ordinance for an employee of a tribal liquor outlet to sell spirituous liquors except in the original container, to permit spirituous liquor to be consumed on the outlet premises, or to sell spirituous liquor in a container having a capacity of less than eight ounces except as approved by the liquor busniess manager and Board.

20. It shall be a violation of this ordinance for a person to consume spirituous liquor from a broken package in a public place, throughfare or gathering except as approved by the liquor business manager and Board.

21. It shall be a violation of this ordinance for a person to have in his possession or to transport spirituous liquor which is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and the State of Arizona.

22. It shall be a violation of this ordinance for an employee of a tribal liquor outlet, when engaged in waiting on or serving customers, to consume spiritous liquor or remain on or about the premises while in an intoxicated or disorderly condition.

23. It shall be a violation of this ordinance for any person to be in a state of intoxication or to sell, attempt to sell, solicit, consume, possess, acquire or transfer liquor within three hundred (300') feet of a Sunrise Dance or Painting Ceremony.

Section XI

Tribal Court Jurisdiction Enforcement

(a) The White Mountain Apache Tribal Court of the White Mountain Apache Tribe Arizona, shall have jurisdiction over all offenses and unlawful acts enumerated in this ordinance when committed by an Indian, be they members or non-member of the White Mountain Apache Tribe.

(b) *Proof of Unlawful Sale—Intent.* In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

(c) *General Penalties.* Any person adjudged to be in violation of this ordinance shall be subject to a civil penalty of not more than Five Hundred Dollars ($500) for each such violation. The Board may adopt by separate rule or regulation a schedule of fines for each type of violation, taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members. Such a schedule may also provide, in the case of repeated violations, for imposition of monetary penalties great than the Five Hundred Dollars ($500) limitation set forth above.

(d) *Illegal Items Declared Contraband.* Alcoholic beverages which are possessed contrary to the terms of this section are declared to be contraband. Any tribal law enforcement officer who issues a citation under this section shall seize all contraband under this section shall have the authority to seize consistent with the White Mountain Apache Tribal Constitution and the applicable provisions of 25 U.S.C. 1302.

(e) *Preservation and Forfeiture.* Any tribal law enforcement officer seizing contraband shall preserve the contraband by placing it in a secured area provided for storage of impounded property and shall promptly prepare an inventory. Upon entry of judgment, the person adjudged to be in violation of this ordinance shall forfeit all right, title,

and interest in the items sized, which shall be disposed of in accordance with White Mountain Apache Tribal Court Rules of Civil Procedure. Provided, however, that the items so forfeited shall not be sold to any person not entitled to possess them under applicable law.

Section XII

Abatement

(a) *Declaration of Nuisance.* Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, are hereby declared to be a common nuisance.

(b) *Institution of Action.* The Chairman of the Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this title. The plaintiff shall not be required to give bond in the action, and restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the sum of not less than One Thousand Dollars ($1,000), payable to the tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or of any other applicable tribal law, and that he will pay all fines, costs, and damages assessed against him for any violation of this ordinance or of any other applicable tribal law, and that he will pay all fines, costs, and damages assessed against him for any violation of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the tribe. Any action taken under this section shall be in addition to any other penalties provided for in this ordinance.

(c) In all cases where any person has been adjudged to be in violation of this ordinance or tribal laws relating to the manufacture, importation, transportation, possession, distribution, or sale of liquor, an action may be brought in tribal court to abate as a nuisance any real estate or other property involved in the commission of the offense, and in any such action, a certified copy of the record of such judgment shall be admissible in evidence as prima facie evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section XIII

Profits

(a) *Distribution of Profits.* The gross proceeds collected by the Board for all sales of alcoholic beverages on the Fort Apache Indian Reservation shall be distributed as follows:

1. For the cost of goods;

2. For the payment of taxes provided in Section IX of this ordinance if authorized by the Tribal Council;

3. For the payment of all necessary personnel, administrative costs of the liquor business management and board;

4. To the White Mountain Apache Tribe's Alcohol and Detox Program in an amount of at least 0% of the total tax received;

5. The remainder of the taxes received shall be turned over to the general fund of the White Mountain Apache Tribe on a monthly or other periodic payment schedule established by the Board and shall be expended by the White Mountain Apache Tribal Council for the general governmental services of the tribe;

6. The remainder of all gross proceeds shall be paid over to Apache Enterprise except for those monies paid over in items 1 through 5 inclusive, and except for the gross proceeds obtained from the sale of alcoholic beverages at Sunrise Ski Complex and hotel.

Section XIV

Severability and Revision

(a) If any section of any chapter of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter or ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

(b) *All Prior Ordinance and Resolutions Repealed.* All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this ordinance are hereby repealed.

(c) *Application of 18 U.S.C. Sec. 1161.* All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Arizona as that term is used in 18 U.S.C. Sec. 1161.

Certification

The foregoing Ordinance No. 125 was on November 4, 1981, duly enacted by a vote of 7 for and 2 against by the Tribal Council of the White Mountain Apache Tribe, Pursuant to authority vested in it by Article V, Section 1 (g) and (q) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Lynn Cody,

Chairman of the Tribal Council.

Dated: December 21, 1981.

Approved:

Henry A. Dodge,

Superintendent, Fort Apach Agency, Whiteriver, Arizona 85941.

Mary C. Endfield,

Secretary of the Tribal Council.

[FR Doc. 82-34002 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Wyoming and Montana; Powder River Regional Coal Team Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(b), the Powder River Regional Coal Team (RCT) will meet January 18, 1983, in Sheridan, Wyoming. Items to be discussed by the regional coal team will include: discussion of leasing level paper for the region, review of tracts delineated by Minerals Management Service, and finalization of tract ranking factors. Public attendance at the regional coal team meeting is welcome and encouraged. The opportunity for the public to address the regional coal team will be provided during the meeting.

DATE: The regional coal team meeting will be held January 18, 1983, in Sheridan, Wyoming. The meeting is expected to last one day and will begin at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 1809 Sugarland Drive, Sheridan, Wyoming.

FOR FURTHER INFORMATION CONTACT: William G. Leavell, Regional Coal Team Chairperson, 503–231–6251, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208, or J. Stan McKee, Project Manager, 307–772–2295, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,

Chief, Branch of Energy Minerals.

[FR Doc. 82-33999 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Industrial Water Service; Yellowtail-Boysen Reservoirs; Public Hearings on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on sale of water from Boysen and Yellowtail Reservoirs. This statement (INT–DES 82–77, dated December 9, 1982) was made available to the public on December 9, 1982.

The draft environmental statement is a programmatic impact statement covering overall water marketing for industrial purposes from Boysen and Yellowtail Reservoirs. The Bureau proposes to make water service contracts for up to 300,000 acre-feet available through the year 2000 for coal-related industrial use in northeastern Wyoming and southeastern Montana.

Public hearings will be held as follows:

January 24, 1983—Worland, Wyoming—Washakie Hotel Hole-in-the-Wall Room, 7:00 p.m.

January 27, 1983—Billings, Montana—Student Union Building, Eastern Montana College, Petro East and West Room, 9:00 a.m.

January 31, 1983—Glendive, Montana—Best Western Holiday Lodge, Holiday Lodge Basement, 7:00 p.m.

Oral statements at the hearing will be limited to a period of 15 minutes. Speakers will not be allowed to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible, and any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his or her name will be recalled at the end of the scheduled speakers. Deadlines for requests for scheduled presentations should be made prior to 4:30 p.m., January 20, 1983, for the Worland hearing; 4:30 p.m., January 21, 1983, for the Billings hearing; and 4:30 p.m., January 26, 1983, for the Glendive hearing. The final date for submission to the record for all supplemental presentation will be February 15, 1983.

Organizations or individuals desiring to present their statement at the hearing should contact the Regional Director, Bureau of Reclamation, Upper Missouri Region, P.O. Box 2553, Billings, Montana 59103, telephone (406) 657–6605 or (406) 657–6558 and announce their intention to participate.

Comments would be received from other parties present following the presentation of all scheduled testimonies.

If further information is needed, phone (406) 657–6605 or (406) 657–6558.

Dated: December 9, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82-33970 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-09-M

[INT-DES 82-77]

Industrial Water Service; Yellowtail-Boysen Reservoirs; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement on sale of water from Boysen and Yellowtail Reservoirs. The Bureau proposes to make water service contracts for up to 300,000 acre-feet available through the year 2000 for coal-related industrial use in northeastern Wyoming and southeastern Montana.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991.

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Regional Director, Bureau of Reclamation, Federal Building, 316 North 26th, Billings, MT 59103, Telephone: (406) 657–6214

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Director, at the above addresses. Copies will also be available for inspection in libraries within the water marketing areas.

Dated: December 9, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82-33969 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Firewood Gathering Permit Application, to allow removal from national wildlife refuges.

Bureau Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Individuals and households.

Annual Responses: 5,000.

Annual Burden Hours: 250.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Robert E. Gilmore,

Acting Associate Director—Wildlife Resources.

December 8, 1982.

[FR Doc. 82-33960 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

Title: Firewood Gathering Permit Application, to allow removal from national wildlife refuges.

Bureau Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Individuals and households.

Annual Responses: 5,000.

Annual Burden Hours: 250.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Robert E. Gilmore,

Acting Associate Director—Wildlife Resources.

December 8, 1982.

[FR Doc. 82–33961 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Exxon Co., U.S.A.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14–08–001–2931, submitted on October 27, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Timbalier Block 54 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 7, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–33998 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–31–M

Mid-Atlantic Outer Continental Shelf; Availability of Final Environmental Impact Statement Regarding the Proposed Mid-Atlantic Oil and Gas Lease Sale No. 76

Pursuant to section 102(2)(C) of the National Environment Policy Act of 1969, the Minerals Management Service has prepared a final environmental impact statement (EIS) relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 4,523 tracts consisting of 25.4 million acres of submerged Federal lands off the coasts of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, and North Carolina (OCS Sale No. 76).

Single copies of the final EIS can be obtained from the Minerals Manager, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Copies of the final EIS will also be available for inspection in the following libraries:

East Albemarle Regional Library, 205 E. Main Street, P.O. Box 303, Elizabeth City, NC 28560
Olivia Raney Public Library, 104 Fayetteville Street, Raleigh, NC 27601
New York Public Library, 5th Avenue & 42nd Street, New York, NY 10018
Suffolk Cooperative Library, 627 N. Sunrise Service Road, P.O. Box 1872, Bellport, NY 11713
New Bern-Craven County Public Library, 400 Johnson Street, New Bern, NC 27909
Wilmington Public Library, 409 Market Street, Wilmington, NC 28401
Nassau Library System, Reference Division, 900 Jerusalem Avenue, Uniondale, NY 11553
Trenton Free Public Library, 120 Academy Street, Trenton, NJ 08608
Atlantic City Free Library, Illinois & Pacific Avenues, Atlantic City, NJ 08401
Newport Public Library, Aquidneck Park, Newport, RI 02840
Christian Science Monitor, 1 Norway Street, Boston, MA 02115
Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach, DE 19971
Atlantic County Library, Surrogate Building, Mays Landing, NJ 08330
Public Library, 639 Washington Street, Cape May, NJ 08204
Norfolk Public Library System, 301 S. City Hall Avenue, Norfolk, VA 23510
East Brunswick Public Library, 2 Jean Walling Civic Center, East Brunswick, NJ 08816
Eastern Shore Area Library, 122–126 South Division, Salisbury, MD 21801
Providence Public Library, 150 Empire Street, Providence, RI 02903
Boston Public Library, Copley Square, Boston MA 02117
Free Library of Philadelphia, Logan Circle, Philadelphia, PA 19141
Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753
Public Library, 105 45th Street, Sea Isle City, NJ 08243
Enock Pratt Free Library, 400 Catherdral Street, Baltimore, MD 21301
Monmouth County Library, 25 Broad Street, Freehold, NJ 07728
New Jersey State Library, P.O. Box 1898, Trenton, NJ 08625
Wilmington Institute Free Library and Newcastle County Free Library, 10th & Market Streets, Wilmington, DE 19801

Harold E. Doley,

Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 82–33988 Filed 12–14–82; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within Daniel Boone National Forest

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

ACTION: Interim final findings on extent of Greenwood Land and Mining Company's valid existing rights to conduct underground coal mining operations in the Daniel Boone National Forest in Kentucky.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) previously found that the Greenwood Land and Mining Company ("Greenwood") possesses valid existing rights (VER) to coal to be mined by underground methods within the Daniel Boone National Forest and, to that extent, its proposed underground coal mining operations are not prohibited or limited by Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(e)). 46 FR 36758 (July 15, 1981) and 46 FR 50422 (October 13, 1981). The notice of that finding did not include a determination of the geographical extent of Greenwood's VER, particularly with respect to the No. 5 mine. This notice defines the geographical extent of Greenwood's VER.

DATES: Effective December 15, 1982. Written comments: Accepted until 5:00 p.m., E.D.T. on January 14, 1983.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I–13L, Office of Surface Mining, Room 5315–L, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to:

Office of Surface Mining, Room 241, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240

or

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: William Larkin, Office of the Solicitor, Department of the Interior, 18th and C streets, NW., Washington, D.C. 20240, Phone: (202) 343–4591.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters.
II. Background.
III. Discussion of Decision.

I. Procedural Matters.

A. *Public Meetings.* Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the Director's finding. In order to schedule or attend such meetings, contact the individual listed under **"FOR FURTHER INFORMATION CONTACT."** OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays.

B. *Public Comments.* Written and oral comments should be as specific as possible. Comments not pertaining to those issues proposed here cannot be considered under this rulemaking. OSM appreciates any and all comments, but those most useful and likely to influence decisions on these findings will be those which include citation to legislative history, case law, technical literature or other relevant reasons for any given recommendation.

All written comments must be received by OSM by 5:00 p.m., E.D.T., on the date the comment period closes. OSM cannot ensure that written comments received after that hour, or delivered during the comment period to locations other than those specified above, will be considered and included in the Administrative Record. Notices of meetings, summaries of all meetings and telephone conversations, and all public comments received will be made available for public review in the Office of Surface Mining at the addresses noted above.

II. Background.

On July 15, 1981, OSM published at 46 FR 36758 its preliminary finding that Greenwood has VER, as that term is used in Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (Act) (30 U.S.C. 1272(e)), at three mines located in the Daniel Boone National Forest in Pulaski and McCreary Counties, Kentucky. In the explanation of that preliminary finding, OSM solicited public comments on the substance of the finding and specifically solicited information on methods of determining the geographical extent of the VER, particularly with respect to Greenwood mine No. 5 which consists of multiple openings *viz* 5, 5a, 5b, 5c, and 5d.

OSM received three letters of comments on the preliminary findings. However, the information received did not provide a sufficient basis for any substantive change in OSM's proposed finding. Therefore, OSM on October 13, 1981 (46 FR 50422), published its decision that Greenwood possesses valid existing rights at its Nos. 1, 5, and 6 mines and reserved the right to define, in supplemental findings, the geographical extent of Greenwood's VER. In the interim, OSM requested that Greenwood submit additional information to assist in reaching a final decision.

On December 8, 1981, Greenwood submitted additional information to OSM to assist in reaching a final decision on the geographical extent of its VER. In this submission Greenwood requested that OSM find that it had VER to conduct underground mining operations with respect to all mineral interests conveyed to it by Kentucky Land Shares Inc., by deed of October 24, 1974. OSM is in the process of evaluating this request for an additional finding of VER for Greenwood's mineral estate in the Daniel Boone National Forest.

The October 13, 1981, decision allowed Greenwood, upon compliance with all permitting requirements of appropriate State, Federal, and local authorities, to commence production at the mines involved without a compatibility determination, as would otherwise have been required under Section 522(e)(2) of the Act for mining in national forests. This notice announces OSM's determination of the geographical extent of Greenwood's VER.

III. Discussion of Decision.

OSM has reached a decision on the geographical extent of the valid existing rights (VER) of the Greenwood Land and Mining Company, under Section 522(e) of the Act, with respect to Greenwood's existing and planned underground mining activities for mine Nos. 1, 5 and 6 in the Daniel Boone National Forest in Pulaski and McCreary Counties, Kentucky. OSM previously found that Greenwood had valid existing rights at three underground mines, but reserved until later any determination of the geographic extent of those rights, particularly as they related to the No. 5 mine. The underground mines found to have VER, Nos. 1, 5 and 6, are all directed into the Stearns No. 3 coal seam.

OSM's finding that Greenwood had VER at the three mines in question was based on a determination that Greenwood had obtained or had made a good faith attempt to obtain all required permits for mining prior to August 3, 1977. "Required permits" included those issued by the State of Kentucky, a National Pollution Discharge Elimination System Permit, and a special use permit issued by the Forest Service, U.S. Department of Agriculture. Although the permits required prior to August 3, 1977, generally did not require that the ultimate geographical extent of proposed mining operations be specified, Greenwood has demonstrated, through the submission of additional information, that it intended to mine the entire coal seam prior to August 3, 1977. Therefore, since the company was not required to precisely define in "required permits" the geographical extent of its ultimate mining operations, or to precisely establish the boundaries of its intended mining operations, it would be unreasonable to now penalize Greenwood for these omissions. OSM believes that Greenwood should be allowed to fully mine the Stearns No. 3 coal seam as initiated through mine Nos. 1, 5, and 6, since VER has been previously determined for these mines. This decision would not permit Greenwood to conduct underground mining operations under the Beaver Creek Wilderness Area, as, according to the materials submitted by Greenwood, only the Stearns No. 2 and No. 1½ coal seams lie under this area.

Of course, OSM's finding in this matter in no way affects Greenwood's obligation to comply with the performance standards and other requirements of the Act and of all applicable laws and regulations

thereunder. OSM's determination that Greenwood has VER for underground mining operations into the Stearns No. 3 coal seam does not supersede the requirements or decisions of other State or Federal agencies. It merely acknowledges that Greenwood is not subject to the Section 522(e) prohibitions with respect to the Stearns No. 3 coal seam inside the Daniel Boone National Forest.

Thus, although finding VER for the Stearns No. 3 coal seam, OSM's decision does not allow Greenwood to operate the No. 5a mine unless and until that, or any other, mine site is approved by the Forest Service, U.S. Department of Agriculture, and by any other appropriate State or Federal agency.

This decision does not restrict the number or location of additional openings from which Greenwood may mine the Stearns No. 3 coal seam, provided that any openings not identified in permit applications submitted prior to August 3, 1977, or currently in operation must be permitted by the regulatory authority. Further, OSM wishes to emphasize that Greenwood, rather than the regulatory authority, must demonstrate that any new opening is in fact intended for mining the Stearns No. 3 coal seam.

This decision does not constitute agreement with, or a favorable decision on, all of the statements and arguments in Greenwood's request, nor does it affect Greenwood's obligation to comply with the permit and performance standards of SMCRA and all regulations. The decision means only that Greenwood need not seek a determination of compatibility pursuant to Section 522(e)(2) of SMCRA and 30 CFR 761.11(b) prior to commencing underground operations into the Stearns No. 3 coal seam within the Daniel Boone National Forest.

Dated: December 10, 1982.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 82-34058 Filed 12-14-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Burlington Northern Railroad Co., et al.; 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.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278, or Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
453	Burlington Northern Railroad Co., ICC-BN-C-0211 (Wheat).	3	Dec. 8, 1982.
454	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0073 (Industrial sand).	2	Do.
455	Burlington Northern Railroad Co., ICC-BN-C-0212 (Wheat flour).	2	Do.
456	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0278 (Bituminous coal).	3	Do.
457	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0289 (Sunflower, soybean and linseed meal).	1	Do.

[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. Member Dowell not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resouces.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-33827 Filed 12-14-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for 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 within 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.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Please direct status inquiries to Team 3 (202) 275-5223.

Volume No. OP3-MC-FC-51

MC-FC-81006. By decision of December 7, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to B.J.T., INC., Stratford, CT, of Certificate No. MC-31564 Subs 1, 5, and 8 issued March 2, 1964, December 4, 1969, and December 17, 1973, respectively, to FRANK CORSO, INC. Hamden, CT, authorizing the transportation of *bananas* from port

facilities in the New York, NY Commercial Zone, to points in CT and to Springfield, MA; from Baltimore, MD, to New Haven and Hartford, CT, and Springfield, MA; from Fall River, MA, to Hartford, New Britain, New London, and Torrington, CT, and Springfield, MA; from Albany, NY, to points in CT, and points in Union, Essex, Hudson, Bergen, Passaic, and Middlesex Counties, NJ, New York, NY, and points in Westchester, Suffolk, and Nassau Counties, NY, and Springfield, MA; and from Baltimore, MD, to Torrington, CT. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–FC–061

MC–FC–81036. By decision of December 7, 1982 issued under 49 USC 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to PHANTOM FREIGHTERS, INC., Omaha, NE, of Certificate No. MC–138627 Sub 122, issued October 28, 1981, to SMITHWAY MOTOR XPRESS, INC., Fort Dodge, IA, authorizing the transportation of general commodities (except classes A and B explosives), between the facilities of Clow Corporation, at points in the U.S. on the one hand, and, on the other, points in the U.S. Transferee is not a carrier.

No application for temporary authority has been filed. Representative: Arlyn L. Westergren, 9202 West Dodge Rd., Omaha, NE, for both parties.

Volume No. OP4–FC–062

MC–FC–81060, filed November 23, 1982. By decision of December 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181 Subpart A, Review Board Number 3 approved the transfer to DEPENDABLE TRANSPORTATION, INC., of Ottawa, KS, of Certificate No. MC–5227 (Sub-No. 71), issued January 6, 1981, to ECKLEY TRUCKING, INC., of Mead, NE, authorizing the transportation of (1) *grain dryers, spring tooth harrows, riding power mowers, combine trailers, industrial trailers, wood-burning stoves, pollution control equipment, and iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in Reno and McPherson Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601 for transferee, and A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101 for transferor

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–FC–279

MC–FC–81042. By decision of December 6, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to STEPHEN B. LAMPMAN, d.b.a. LAMPMAN TRANSPORTATION, Fresno, CA, of Permit Nos. MC–153758 issued October 2, 1981, MC–153758 Sub 1 issued July 24, 1981, MC–153758 Sub 2 issued January 12, 1982, MC–153758 Sub 3 issued May 28, 1982 and MC–153758 Sub 4 issued November 18, 1982, authorizing the transportation of (1) *furniture and fixtures* and (2) *food and related products,* between points in the U.S., under continuing contract(s) in (1) with Northern Kitchens, Inc., of Rib Lake, WI, and in (2) with Pacific Cheese Company, Inc., of San Francisco, CA and Armour & Company, of Phoenix, AZ, (3) *food and related products,* between points in the U.S., under continuing contract(s) with Calavo Growers of California Inc., of Los Angeles, CA, (4) *ice cream products,* between points in the U.S., under continuing contract(s) with Woodbridge Sweets, Inc., of Woodbridge, NJ, (5) *foodstuffs,* between points in the U.S. (except AK and HI), under continuing contract(s) with Tolibia Cheese, Inc., of Fond du lac, WI and (6) *food and related products,* between points in CA, under continuing contract(s) with Monterrey Cheese Company of San Francisco, CA. Application for temporary authority has been filed. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33972 Filed 12–14–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 315]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: December 9, 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 74 (Sub-12)X, filed November 19, 1982. Applicant: VALLEY TRANSIT COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Subs 9, 10, and 11 certificates: (A) authorize passenger carrier service at all intermediate points along described regular routes generally between Edinburg and San Antonio, TX (Sub 9) and over routes terminating at Mission, Rom, Harlingen, Houston, and San Antonio, TX and various interstate highway junctions at points in TX (Subs 10 and 11).

MC 146671 (Sub-11)X, filed November 8, 1982. Applicant: REBEL LEASING, INC., P.O. Box 25437, Kansas City, MO 64119–0737. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. Subs 5F, 6F, 7F, 8F, and 10F certificates, acquired in MC–FC–79671: (1) Eliminate the "except commodities in bulk" restriction, named Subs; (2) authorize radial authority to replace existing one-way authority, named Subs; (3) broaden foodstuffs (Sub 5F) and cider, apple (Sub 10F) to "food and related products", and charcoal, charcoal briquets, fireplace logs, wood chips, and lighter fluid (Subs 6F, 7F, and 8F) to "petroleum and coal products, lumber and wood products and chemicals and related products"; and (4) replace authority to serve named points to countywide authority: Wyandotte, Johnson, and Leavenworth Counties, KS for Bonner Springs, KS

(Sub 6F); Osage County, MO for Meta, MO (Sub 5F); Stark County, ND for Dickinson, ND (Sub 7F); Taney County, MO for Branson, MO (Sub 8F); and Madison County, IL and St. Louis County, MO for Alton, IL and Richland County, IL for Olney, IL (Sub 10F).

[FR Doc. 82-33973 Filed 12-14-82; 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 of 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 noted. Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-311

Decided: December 7, 1982.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC 693 (Sub-4), filed November 29, 1982. Applicant: JOHN L. GRIFFIN, SR., d.b.a. JOHN GRIFFIN & SON, 2659 Mascher St., Philadelphia, PA 19133. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, 215-561-1030. Transporting *chemicals and related products and textile mill products*, between Philadelphia, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, TN, and AL.

MC 123133 (Sub-13), filed November 26, 1982. Applicant: DENNY TRANSPORT, INC., 3405 Industrial Parkway, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589-5400. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 136202 (Sub-5), filed November 30, 1982. Applicant: REBEL VAN LINES, INC., 2150 South Alameda, Compton, CA 90221. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904-632-2300. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164103, filed November 26, 1982. Applicant: G. D. EASTLICK, INC., 212 South 22nd St., Billings, MT 59101. Representative: G. D. Eastlick (same as applicant), (406) 252-8446. Transporting *such commodities* as are dealt in or used by grocery and food distributor houses (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, CA, UT and ID, on the one hand, and, on the other, points in MT.

Volume No. OP2-312

Decided: December 8, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 148023 (Sub-4), filed November 29, 1982. Applicant: HACKE TRUCKING, INC., 13482 West Wadsworth Road, Waukegan, IL 60087. Representative: Joel H. Steiner, 135 South LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236-9375. Transporting *food and related*

products, between points in Lake County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162663 (Sub-1), filed November 29, 1982. Applicant: J & M TRUCKING INC., Route 3, Long Prairie, MN 56347. Representative: W. E. Seliski, P.O. Box 8255, 2 Commerce St., Missoula, MT 59807, (406) 543–8369. Transporting *food and related products,* between those points in the U.S., in and west of MI, IL, MO, AR and LA (except AK and HI).

Volume No. OP2–314

Decided: December 6, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 99373 (Sub-3), filed November 22, 1982. Applicant: CITY DELIVERY SERVICE, INC., 56 Nashua St., Leominster, MA 01453. Representative: Jeanne M. Hession, 141 Milton Rd., Braintree, MA 02184, 617–722–7486. Transporting *machinery,* between points in Worcester County, MA, and points in ME, NH, VT, CT, RI, MA, NY, and NJ.

CONDITION.—Issuance of this certificate is subject to prior or coincidental cancellation of applicant's written request of Certificate of Registration No. MC–99373 (Sub-2), issued May 18, 1964.

MC 119903 (Sub-15), filed November 23, 1982. Applicant: D. J. WALRAVEN, P.O. Box 1045, Rome, GA 30161. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *primary metal products,* between points in Floyd County, GA, and Montgomery County, OH, on the one hand, and, on the other, points in AL, GA, IN, KY, MI, NY, NC, OH, SC, TN, VA, and WV.

MC 128302 (Sub-30), filed November 26, 1982. Applicant: THE MANFREDI MOTOR TRANSIT CO., 14841 Sperry Rd., Newbury OH 44065. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 138732 (Sub-37), filed November 26, 1982. Applicant: OSTERKAMP TRUCKING INC., P.O. Box 5546, Orange, CA 92667. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357, 303–892–6700. 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).

Note.—This application is filed pursuant to the provisions of 49 U.S.C. 10925(e) and seeks conversion of existing contract-carrier authority to common carriage.

Condition.—Issuance of the authority in this proceeding is subject to prior or coincidental cancellation of applicant's contract-carrier authority under MC 138732 (Sub-P32)X, issued August 21, 1982, and the underlying authority under MC 133928 (Sub-15 and 18), and MC 138732 (Sub-34), issued June 15, 1982.

MC 145042 (Sub-20), filed November 29, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Ave., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *glass, metal and metal products, and plastic and plastic products,* between points in MI, on the one hand, and, on the other, points in OH, IL, and PA.

MC 159103, filed November 29, 1982. Applicant: KEN GEBERT d.b.a. KEN GEBERT TRUCKING, Mill Creek Rd., Frenchtown, MT 59803. Representative: W. E. Seliski, 2 Commerce St., POB 8255, Missoula, MT 59807, (406) 543–8369. Transporting *such commodities* as are dealt in or used by lumber yards, farm supply stores, and metal product dealers, between points in WA, OR, CA, ID, MT ND, SD, NE, KS, MN, IA, MO, WI, IL, OH, and AL, on the one hand, and, on the other, those points in the U.S. in and west of MI, IL, MO, AR, and TX (except AK and HI).

MC 164072, filed November 23, 1982, 1982. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th, Omaha, NE 68102. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *general commodities* (except household goods and classes A and B explosives), between council Bluffs, IA, and points in NE and CO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164392, filed November 29, 1982. Applicant: METZGER & SON TRUCKING COMPANY, Box 8, Silver Lake, IN 46982. Representative: Norman R. Garvin, 1301 Merchants Plaza. Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in IN on or north of Interstate Hwy 70, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164753, filed November 15, 1982. Applicant: MERIT TRUCKING, INC., P.O. Box 2851, Grand Junction, CO 81502. Representative: Manuel Andrade, Jr., 770 Grant St., Suite 228 Denver, CO 80203 (303) 861–4273. Transporting *petroleum and petroleum products,* between points in CO, NM, UT, and WY, under continuing contract(s) with Morrison Refining Company, of Grand Junction, CO.

MC 164763, filed November 16, 1982. Applicant: JAMES P. LINN d.b.a. JAMES LINN IMPLEMENT, Box 97, Lane, SD 57358. Representative: Dolores J. Linn, (same address as applicant), (605) 539–1794. Transporting *farm machinery,* between points in the U.S. (except AK and HI).

MC 164792, filed November 15, 1982. Applicant: WILLIAM L. ADKINS AND SANDRA K. ADKINS, d.b.a. K–LEE TRUCK LEASING, 5326 Newcomb Creek Rd., Huntington, WV 25704. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004, (202) 737–1030. Transporting *building materials, lumber and wood products,* between points in WV, VA, and KY, on the one hand, and, on the other, points in WV, VA, KY, OH, IN, TN, NC, SC, PA, GA, NY, IL, and MD.

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–43

Decided: December 9, 1982.

By the Commission, Review Board No. 2 Members Carleton, Williams, and Ewing.

MC 157375 (Sub-4), filed November 29, 1982. Applicant: WINDY HILL FOLIAGE, INC., P.O. Box 642, Eustis, FL 32726. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household good, and commodities in bulk) between points in FL, IL, IN, IA, MI, MN, NE, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157485 (Sub-1), filed November 23, 1982. Applicant: EVES TRUCKING CO., INC., RT. 724, R.D. 1, Phoenixville, PA 19460. Representative: Raymond A. Thistle, Jr., Five Cottman Court, 426 Cottman Street, Jenkintown, PA 19046, (215) 576–0131. Transporting *petroleum and petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Herbert R. Imbt, Inc., of State College, PA.

MC 160215, filed November 22, 1982. Applicant: KEN GIBERSON TRANSPORT LTD., 135 Bridge Rd. Chatham Head, New Brunswick, Canada E1V 3J1. Representative: Ken Giberson, P.O. Box 362, Newcastle, New Brunswick, Canada E1V 3M5, (506) 622–2761. Transporting *horticultural products,* between ports of entry on the International Boundary line between the U.S. and Canada, in ME, on the one

hand, and, on the other, points in CT, NY, PA, OH, TN, NC, SC, VA, GA, KY, AL, NJ, ME, NH, MA, and MD, under continuing contract(s) with JPA, of West Chicago, IL.

MC 160304, filed November 26, 1982. Applicant: APPLIED TECHNOLOGY TRANSPORTATION, INC., 25 South Shore Dr., Toms River, NJ 08753. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting (1) *hazardous materials,* and (2) *waste or scrap materials not identified by industry producing,* between points in the U.S. (except AK and HI).

Condition.—The authority granted in part (1), to the extent it authorizes the transporting of hazardous materials is limited in point of time to a period of five (5) years from the date of issuance.

MC 161434, filed November 29, 1982. Applicant: ACME LEASING COMPANY, d.b.a. ACME TRANSPORT, 157 Stanford Pkwy., P.O. Box 1026, Findlay, OH 45840. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162634 (Sub-1), filed November 29, 1982. Applicant: UNITED SUPREME TRANSPORTATION, INC., Hwy 14, Greer, SC 29651. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Package Supply and Equipment Company, Inc. of Greenville, SC, Service Supply Systems, Inc. of Cordele, GA and J. M. Hirsch Office Equipment Corp. of Union City, N.J.

MC 163645, filed November 26, 1982, Applicant: PLASTIPAK PACKAGING, INC., 18015 St. Rt. 65, Jackson Center, OH 45334. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163704, filed December 1, 1982. Applicant: MIKE BAILEY, INC., Rt. 6, Box 202, Alexander City, AL 35010. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL 36104, (205) 262–2756. Transporting *pet food,* between points in Fulton County, GA, on the one hand, and, on the other, points in AL, FL, SC, and TN.

MC 164825, filed November 22, 1982. Applicant: BARKLEY TRANSPORTATION, INC., 392 Terrace View Dr., P.O. Box 3535, Stateline, NV 89449. Representative: Michael S. Rubin, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, OR, WA, ID, NV, AZ, UT, WY, MT, CO, NM, TX, OK, KS, NE, SD, and ND.

MC 164834, filed November 22, 1982. Applicant: TRIOLI TRUCKING COMPANY, INC., 34 Upham St., Revere, MA 02151. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

MC 164844, filed November 23, 1982. Applicant: BARBARA J. BYRD AND STEPHEN C. SMYTHE, d.b.s. PUGET-WILLAMETTE EXPRESS, 22517 N.E. 237th Ave., Battle Ground, WA 98604. Representative: Barbara J. Byrd, (same address as applicant), (206) 687–1234. Transporting *construction material, equipment, and supplies,* between points in OR, WA, CA, ID, NV, and MT.

MC 164864, filed November 24, 1982. Applicant: DIXIE WAREHOUSE & CARTAGE CO., INC., Grade Lane at Fern Valley Rd., Louisville, KY 40223. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227–2254.Transporting *general commodities* (except classes A and B explosives, househod goods, and commodities in bulk), between points in Jefferson, Bullitt, Shelby, and Oldham Counties, KY, and Clark and Floyd Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164934, filed November 24, 1982. Applicant: YELTON TRUCKING COMPANY INC., 313 Pemberton Dr., Wilmington, NC 28403. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006, (202) 331–3700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in New Hanover and Carteret Counties, NC, and those in Charleston County, SC, on the one hand, and, on the other, points in NC, SC, GA, VA, and TN.

MC 164945, filed November 29, 1982. Applicant: AERIAL FLIGHT SERVICES, INC., 5801 Magnolia Ave., Pennsauken NJ 08109. Representative: Stephen L. Snyder, (same address as applicant), (609) 663–2234. Transporting *oil,* between points in PA, NJ, and NY.

MC 164954, filed November 29 1982. Applicant: G. L. & B. LEASING CO., INC., 510 Thatcher St., St. Louis, MO 63147. Representative: B. G. Sellers, (same address as applicant), (314) 621–4467. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis, MO, points in St. Louis, St. Charles, Franklin, Jefferson, and Warren Counties, MO, and points in Madison, St. Clair, Monroe, and Clinton Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–058

Decided: December 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 15546 (Sub-7), filed November 22, 1982. Applicant: KIRCHWEHN BROS. CARTAGE CO., INC., 1700 W. Carroll Ave., Chicago, IL 60612. Representative: Ronald C. Kirchwehm, (Same address as applicant), (312) 226–4433. 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 (1) Certified Grocers of Illinois, of Chicago, IL, (2) Dart Warehouse Corporation, of Bellwood, IL and its subsidiaries, Dart International, Dart Information Systems, Dart Equipment Corp., Dart Public Warehouses, Inc., all of Los Angeles, CA, and (3) Chicago Manufacturing Company, of Cicero, IL, and its subsidiaries: CMCA of Georgia, Inc., of Winder GA, and Energatic Systems, Inc., of Lisle, IL.

MC 108207 (Sub-567), filed November 29, 1982. Applicant: FFE TRANSPORTATION SERVICES, INC., P.O. Box 225888, Dallas TX 75265. Representative: Makr C. Irvin, (Same address as applicant), (214) 428–7661. 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 Campbell Soup Company of Camden, NJ and its subsidiaries: Champion Valley Farms, Inc., of Bloomsburg, PA, German Village Products, Inc., of Wauseon, OH, Pepperidge Farm Inc., of Norwalk, CT, and Vlasic Foods, Inc., of W. Bloomfield, MI.

MC 146496 (Sub-17), filed November 29, 1982. Applicant: JOSEPH MOVING & STORAGE CO., d.b.a. ST. JOSEPH MOTOR LINES, 5724 New Peachtree

Rd., Chamblee, GA 30341. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Contract Freight Brokers, Inc., of Chamblee, GA.

MC 152156, filed November 26, 1982. Applicant: ATLANTIC COASTAL TRUCKING CO., INC., 515 River Rd., Clifton, NJ 07014. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ME, VT, NH, MA, CT, RI, NY, PA, NJ, DE, MD, VA, and DC.

MC 163797, filed December 1, 1982. Applicant: HEM EXPRESS CO., 11075 Billmyer Hwy., Clinton, MI 49236. Representative: Harold J. Amstutz, 408 Brown St., Tecumseh, MI 49286, (517) 423–2243. Transporting (1) *farm products,* (2) *lumber and wood products,* (3) *metal products,* and (4) *machinery,* between points in the U.S. (except AK and HI).

MC 164877, filed November 26, 1982. Applicant: KNOXVILLE TRANSPORT, INC., 301 N Line St., Knoxville, IL 61448. Representative: Edward D. McNamara, Jr., P.O. Box 5039, Springfield, IL 62705 (217) 528–8476. 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).

Volume No. OP4–060

Decided: December 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

W–16 (Sub-13), filed November 26, 1982. Applicant: S. C. LOVELAND CO., INC., 520 S. Front St., Philadelphia, PA 19147. Representative: Donald Macleay, 1625 K St., NW, Washington, DC 20006 (202) 393–3390. Transporting by water, by self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities,* and by towing vessels in the performance of general towage, (1) between ports and points along all rivers, streams and other waterways constituting the Mississippi River System, including without limitation, in addition to the Mississippi River itself, the Missouri, Ohio, Monongahela, Allegheny, Cumberland, Green, Tennessee, White, Arkansas-Verdigris Waterway, Black, Red, Barkley Canal, Kaskaskia, Rough, Barren, Kanawha, Licking, Clinch, Kentucky, Ouachita, Wolf, Yazoo, Minnesota, St. Croix and their tributaries and the Illinois Waterway to Lake Michigan including the Sag and all other connections; (2) between ports and points on the Great Lakes, its interconnecting waterways, and tributary waterways; (3) between ports and points on the entire New York State Barge Canal System; (4) between ports and points on the Hudson River above the area defined in the Commission's order of March 26, 1941, in Ex Parte 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto;* (5) between ports and points specified in 1 above, on the one hand, and on the other, those specified in 2, 3, and 4 above; (6) between ports and points specified in 2 above, on the one hand, and, on the other, those specified in 3 and 4 above; (7) between ports and points specified in 3 above, on the one hand, and, on the other, those specified in 4 above; and (8) between ports and points specified in 1, 2, 3, and 4 above, on the one hand, and, on the other, ports and points the carrier is presently authorized to serve as a common carrier by water in the transportation of general commodities.

MC 99787 (Sub-2), filed November 24, 1982. Applicant: LONNIE CASE TRUCKING, INC., 3211 S. Sanger Ave., Sanger, CA 93657. Representative: Edward L. Fanucchi, 2409 Merced St., Ste. 3, Fresno, CA 93721 (209) 268–8771. Transporting *frozen fruits and vegetables,* between points in CA, on the one hand, and, on the other, points in OR, WA, and AZ, under continuing contract(s) with Gerawan Foods, Inc., of Sanger, CA.

MC 105656 (Sub-20), filed November 29, 1982. Applicant: PASQUALE TRUCKING COMPANY, INC., P.O. Box 295, Logansport, IN 46947. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 102, Park Ridge, IL 60068 (312) 698–2237. Transporting *food and related products,* between points in Henry County, OH, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MN, MO, NE, and WI.

MC 136246 (Sub-54), filed November 26, 1982. Applicant: GEORGE BROS., INC., Hwy 6 and Saunders Ave., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114 (402) 397–7033. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 136316 (Sub-4), filed November 29, 1982. Applicant: SMITH TRUCKING CO., INC., Route 4, Riverside Rd., Lancaster, SC 29720. Representative: David Popowski, P.O. Box 1064, Charleston, SC 29402 (803) 722–8301. Transporting (1) *metal products,* and *those commodities which because of size or weight require the use of special handling or equipment,* between points in the U.S. (except AK and HI), and (2) *lumber,* and *building materials,* between those points in the U.S. in and east of LA, AR, MO, IA, and MN.

MC 142186 (Sub-11), filed December 1, 1982. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW., Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421 (206) 383–3998. 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 T. O. Plastics, Inc., of Minneapolis, MN.

MC 144757 (Sub-26), filed November 26, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701 (605) 343–4036. Transporting *building and construction materials,* between points in the U.S., under continuing contract(s) with Reserve Supply Company, of Minneapolis, MN.

MC 164146, filed November 23, 1982. Applicant: SLOW FREIGHT LINES, INC., 7810 Rideout Rd., Tampa, FL 33619. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345 (404) 321–1765. Transporting *metal and metal products,* between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164876, filed November 26, 1982. Applicant: SIGNODE EXPRESS CORPORATION, 3610 W. Lake Ave., Glenview IL 60025. Representative: Joel H. Steiner, 135 S. LaSalle St., Chicago, IL 60603 (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Signode Corporation, of Glenview IL, and its subsidiaries of Angleboard, Inc., of Cincinnati, OH, Dallas, TX, Pittsburgh, CA, and Tomonium, MD, Electrocal Products Identification Corp., of South Windsor, CT, Minigrip, Inc., of Orangeburg, NY, Products Identification Corp., of Chicago, IL, Reichel & Drews, Inc., of Itasca, IL, Geo. T. Schmidt, Products Indentification Corp., of Chicago, IL, Los Angeles, CA, East

Hartford, CT, and Houston, TX, Truswal Systems Corporation, of Colorado Springs, CO, Anaheim, CA, Owing Mills, MD, Madison Heights, MI, and Miami, FL, and Signode Wrapping Systems, of Itasca, IL.

MC 164897, filed November 26, 1982. Applicant: ERICH RAUCHLEITNER dba RAUCHLEITNER TRUCKING, 106 Inverray Lane, Deerfield, IL 60015. Representative: Erich Rauchleitner (same address as applicant) (312) 537–4215. Transporting *steel and steel articles,* between points in MN, on the one hand, and, on the other, points in IL, OH, KY, and IN.

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–275

Decided: December 6, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35628 (Sub-446), filed November 22, 1982. Applicant: IMFS, INC., d.b.a. INTERSTATE SYSTEM, 110 Ionia Avenue, N.W., Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant) (616) 774–0400. 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 CIBA–GEIGY Corporation, of Ardsley, NY, Davidson Rubber Division, of Dover, NH, Ex-Cell-O Corporation, of Troy, MI, and Gulf & Western, of Southfield, MI.

MC 41098 (Sub-89), filed November 24, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202–833–8884. Transporting *machinery,* between points in the U.S. under continuing contract(s) with International Power Machines Corporation of Mesquite, TX.

MC 121469 (Sub-3), filed November 26, 1982. Applicant: A&D Freight Lines, Inc., 319–A Andover St., Wilmington, MA 01887. Representative: Salvatore P. D'Alessandro (same address as applicant) (617) 658–4140. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MA, ME, NH, and RI.

MC 128878 (Sub-49), filed November 22, 1982. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 5518, Bossier City, LA 71111. Representative: C. Wade Shemwell (same address as applicant) (318) 747–4300. Transporting *lumber, lumber products, and forest products,* between points in the U.S., under continuing contract(s) with Cox Lumber Company, Inc., of Hot Springs, AR.

MC 136228 (Sub-46), filed November 22, 1982. Applicant: LUISI TRUCK LINES, INC., P.O. Box "H", Milton-Freewater, OR 97862. Representative: Philip G. Skofstad, 529 S.E. Grand Avenue, Portland, OR 97214, 503–239–4157. Transporting *food and related products,* between points in Ada County, ID and Walla Walla County, WA on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151878 (Sub-6), filed November 23, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., N.W., Suite 800, Washington, D.C. 20036, 202–785–3420. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Synertek, Inc. of Santa Clara, CA.

MC 151118 (Sub-26), filed November 23, 1982. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson St., Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, 601–335–3576. 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 152568 (Sub-6), filed November 19, 1982. Applicant: KISTLER AMELING TRANSPORTATION, INC., P.O. Box 460, Kouts, IN 46347. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 152649 (Sub-11), filed November 23, 1982. Applicant: RIVERLAND TRUCKING CO., INC., West 10th Ave., P.O. Drawer BC, Reserve, LA 70084. Representative: Edward A. Winter, 235 Rosewood Dr., Metairie, LA 70004, (504) 835–4724. Transporting *such commodities* as are dealt in or used by a manufacturer of containers and paper and plastic products, between points in the U.S., under continuing contract(s) with The James River Corporation, of Richmond, VA.

MC 152668 (Sub-1), filed November 19, 1982. Applicant: CHEM-NUCLEAR SYSTEMS, INC. TRANSPORTATION DIVISION, P.O. Box 726, Barnwell, SC 29812. Representative: Jerry L. Mason (same address as applicant), (803) 259–1781. Transporting (1) *radioactive materials* and (2) *such commodities* as are dealt with or used by nuclear facilities in the treatment or disposal of radioactive materials between points in the U.S. under continuing contract(s) with Chem-Nuclear Systems, Inc., of Bellevue, WA. Condition: Any permit issued in this proceeding to the extent it authorizes transportation of dangerous commodities shall be limited in point of time to a period expiring 5 years from the date of issuance of the permit.

MC 154048 (Sub-3), filed October 25, 1982. Applicant: LAMAR K. HAAS, INC., RD 2, Box 652, Slatington, PA 18080. Representative: Lamar K. Haas (same address as applicant), (215) 767–5548. Transporting *such commodities* as are dealt in or used by food and feed business houses, between points in PA, NJ, NY, VA, MI, MD, DE, CT, MA, VT, NH, ME, OH, IN, IL, RI, WI, and DC.

MC 160159, filed November 23, 1982. Applicant: SUFFOLK SERVICES, INC., 98 Taylor Street, Boston, MA 02122. Representative: Rick Shaffer (same address as applicant), (617) 825–9043. Transporting *hazardous materials,* between points in the United States 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 United States and Canada, and including all points in LA. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of dangerous commodities shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 163159, filed November 17, 1982. Applicant: MIMCO TRANSPORTATION COMPANY, 3100 Marwin Ave., Bensalem, PA 19020. Representative: Sander M. Bieber, Suite 1100, 1730 Pennsylvania Ave., N.W., Washington, DC 20006, 202–783–0200. Transporting *food and related products,* between points in MI, NJ, NY, OH, and PA.

MC 163238, filed November 22, 1982. Applicant: BUDDY B. SIBOLD, Route 1, Box 261, Lexington, VA 24450. Representative: T.C. Spencer, 31 West Washington St., Lexington, VA 24450, 703–463–7138. Transporting *lumber and wood products,* between those points in the U.S. in and east of MI, IN, IL, KY, TN, and MS, under continuing contract(s) with Owens-Illinois, Inc., of Buena Vista, VA; Bear Paw Timber Co.,

of Fryeburg, ME, and Trussell Export Log and Lumber Co., of Lexington, VA.

MC 164819, filed November 23, 1982. Applicant: METROLINA EXPRESS, INC., P.O. Box 39, U.S. Highway 276 South, Mauldin, SC 29662. Representative: Marvin S. Maltzman, 13400 Riverside Dr., Sherman Oaks, CA 91423, 213–995–7000. Transporting *such commodities* as are used by retail fabric stores in the conduct of their business, between points in Greenville County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with House of Fabrics, Inc. of Sherman Oaks, CA.

Vol. No. OP5–277

Decided: December 7, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 65019 (Sub-12), filed November 22, 1982. Applicant: BEATRICE MOTOR FREIGHT, INC., 123 Court St., Beatrice, NE 68310. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Douglas County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI) .

MC 148018 (Sub-11), filed November 24, 1982. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705, 208–344–7714. Transporting *building materials,* and *construction equipment,* between points in the U.S. (except AK and HI).

MC 148799 (Sub-6), filed November 29, 1982. Applicant: HARDEE'S TRANSPORT, INC., 1314 Eastport Road, P.O. Box 26159, Jacksonville, FL 32217–0159. Representative: Norman J. Bolinger, 3100 University Blvd., S. Suite 225, Jacksonville, FL 32216, (904) 724–7539. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, MS, NC, SC, TN, and VA.

MC 157668 (Sub-1), filed November 26, 1982. Applicant: G & S HAULING COMPANY, Rt. 1, P.O. Box 268, Wapakoneta, OH 45895. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 54017, 614–889–2531. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the (except AK and HI).

MC 164718, filed November 26, 1982. Applicant: DON C. BURLESON, d.b.a. WJ'S TRUCKING, South Interstate 45, Corsicana, TX 75110. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *clay, concrete, glass or stone products,* between Chattanooga, TN and points in Mount Vernon County, OH, Mineral County, WV, Harrison County, MS and Navarro County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164869, filed November 23, 1982. Applicant: J. R. HENLEY, INC., d.b.a. J. R. HENLEY TRUCKING COMPANY, 445 Blackshaw Lane, San Ysidro, CA 92073. Representative: James R. Henley (same address as applicant) (714) 428–2831. Transporting (except AK and HI)(except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33974 Filed 12–14–82; 8:45 am]

BILLING CODE 7935–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 7, 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 oppostion.

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.

Volume No. OP3–46

MC 117465 (Sub-25), filed October 29, 1982. Applicant: BEAVER EXPRESS SERVICE, INC., d.b.a. BEAVER EXPRESS, P.O. Box 1147, Woodward, OK 73802. Represntative: Timothy J. Jerman, 522 First Federal Plaza, Austin, TX 78701, (512) 474–7300. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Shamrock, TX and Clinton, OK over U.S. Hwy 66 and Interstate Hwy 40, serving all intermediate points.

Volume No. OP3-50

MC 128235 (Sub-31), filed November 18, 1982. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall Street NE, Minnesapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., P.O. Box 18300, Minneapolis, MN 55418, (612) 781-6653. Transporting (1) *food and related products,* between points in AR, IA, IL, IN, KY, MN, MO, TN, TX, and WI, (2) *Scrap metal and related products,* between points in AR, MN, NE, and WI, and (3) *general commodities* (except classes A and B explosives, houshold goods, and commodities in bulk), between points in MN, ND, SD, and WI.

[FR Doc. 82-34006 Filed 12-14-82; 8:45 am]
BILLING CODE 7035-10-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of 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 problemss (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.

By the Commission, Review Board No. 1, Members Packer, Chandler, and Fortier.

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 inquires to Team 2, (202) 275-7030.

Volume No. OP2-313

Decided: December 8, 1982.

MC 161183, filed November 29, 1982. Applicant: ANDRE GUITON, d.b.a. GUITON CHARTER BUS SERVICE, 3421 Hollis St., Oakland, CA 94608. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986-8696. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI). NOTE: Applicant seeks to provide privately-funded charter and special transportation.

MC 164813, filed November 23, 1982. Applicant: CLEMONS COACHES, INC., 213 19th Ave. Northeast, Waseca, MN 56093. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612-333-1341. Transporting *passengers* in special and charter operations, beginning and ending at points in MN, ND, SD, IA and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164853, filed November 23, 1982. Applicant: ROBERT C. WILKEN, d.b.a. WILKEN BUS SERVICE, R.R. #1, Onarga, IL 60955. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217-544-5468. Transporting *passengers* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 164932, filed November 30, 1982. Applicant: TRAFFIX, A DIVISION OF 517653 ONTARIO LIMITED, 6033 Shawson Dr., Unit 30, Mississauga, Ontario, CD L5T 1H8. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, 716-854-5870. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164993, filed December 3, 1982. Applicant: GRANADA TRAVEL, INC., 67—22 Roosevelt Avenue, Woodside, NY 11377. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, DC 20036, (202) 466-3892. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165012, filed November 26, 1982. Applicant: R & E, INC., 33 Longview Circle, Council Bluffs, IA 51501. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and other edible products and by-products 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.

Volume No. OP2–315

Decided: December 6, 1982.

MC 164913, filed November 29, 1982. Applicant: WILSON R. AND VIRGINIA E. BRANT, d.b.a. VEB COMPANY, 22725 De Soto, Grand Terrace, CA 92324. Representative: Terry E. Morgan, 2131 Almanor St., Oxnard, CA 93030, 805–485–2040. 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 calls to Team 1 (202) 275–7992.

Volune No. OP1–222

Decided: December 8, 1982.

MC 2661 (Sub-20), filed November 22, 1982. Applicant: INDIAN TRAILS, INC., 109 East Comstock St., Owosso, MI 48867. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202)–466–3892. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK and HI)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 3600 (Sub-12), filed November 22, 1982. Applicant: FRANK MARTZ COACH COMPANY, P.O. Box 1007, Wilkes-Barre, PA 18702. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave, NW., Washington, DC 20036, (202)–659–5157. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343 or an appropiate 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.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 48501 (Sub-21), filed November 30, 1982. Applicant: INDIANNA MOTOR BUS COMPANY, 715 South Michigan St., P.O. Box 958, South Bend, IN 46624. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202)–466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 54591 (Sub-11), filed November 29, 1982. Applicant: SOUTHEASTERN TRAILWAYS, INC., P.O. Box 1207, Indianapolis, IN 46206. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 80730 (Sub-7), filed December 2, 1982. Applicant: MAGNOLIA TRANSPORTATION CO., INC., P.O. Box 24458, Houston, TX 77013. Representative: Lester R. Gutman, 1919 Pennsylvania Ave., NW., Suite 500, Washington, D.C. 20006, (202) 828–5017. 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 111191 (Sub-3), filed November 24, 1982. Applicant: BORTNER BUS COMPANY, 3900 Saranac Drive, Sharpsville, PA 16150. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, D.C. 20036, (202)–466–3892. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139630 (Sub-1), filed November 29, 1982. Applicant: EVERGREEN EQUIPMENT CORP., Box 488, Blairstown, NJ 07825. Representative: Ronald I. Shapes, 450 Seventh Ave., New York, NY 10123, (212)–239–4610. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151061 (Sub-2), filed November 29, 1982. Applicant: ROBERTS HOLIDAY LINES, INC., 930 Poinsettia St., Santa Ana, CA 92701. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers,* in special and charter operations, beginning and ending at points in CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special or charter transportation.

MC 162901 (Sub-1), filed November 23, 1982. Applicant: ROYAL LIVERY, INC., 101 Merritt 7, Norwalk, CT 06852. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers,* in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164381 (Sub-1), filed December 6, 1982. Applicant: JOHN J. WAGGONER, 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 *food and other edible products and by-products 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 between points in the U.S. (except AK and HI).

MC 164801, filed November 22, 1982. Applicant: POE-BROAD TRAVEL AGENCY, 2927 Maple Ave., Suite 202, Dallas, TX 75201. Representative: Robert J. Brooks, 1828 L. St., NW., Suite 1111, Washington, D.C. 20036, (202) 466–3892. (1) Privately-funded motor common carrier of passenger charter transportation, and (2) Privately-funded motor common carrier of passengers special transportation. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK and HI).

MC 164810, filed November 22, 1982. Applicant: SAFEWAY STAGES, INC., 450 Sanford Blvd., Mt. Vernon, NY 10550. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. (1) Privately-funded motor common carrier of passenger charter transportation; and (2) Privately-funded motor common carrier of

passengers special transportation. Transporting *passengers,* in special and charter operations, between points in the U.S. (including AK, but excluding HI).

MC 164870 filed November 23, 1982. Applicant: COASTAL TOURS, 6608 White Bluff Rd., Savannah, GA 31405. Representative: Nathaniel Carswell, (same adress as applicant), (912) 352–0254. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164881, filed November 26, 1982. Applicant: WARREN H. HIGGINS, Route 1, Box 110–A, Montgomery, LA 71454. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *food and other edible products and by-products 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 164931, filed November 30, 1982. Applicant: INTERNATIONAL RELOCATION SERVICES, INC., 14207 Ridgeboro, San Antonio, TX 78232. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036–5391, (202) 887–5868. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 164940, filed December 1, 1982. Applicant: SAMUEL M. DARDEN, d.b.a. D&R BUS LINES, P.O. Box 2515, Washington, DC 20013. Representative: Thomas N. Willess, 5300 Holmes Run Parkway #604, Alexandria, VA 22304, (703) 370–0682. Transporting *passengers,* in special and charter operations, beginning and ending at points in MD, VA, and DC, and extending to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, KY, LA, ME, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT and WV.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164991, filed December 3, 1982. Applicant: DELTA SALES COMPANY, 1003 South Main, Fairfield, IA 52556. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and by-products 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 165000, filed December 3, 1982. Applicant: NEVIN G. STONER, Rt. 1, Box 1183, Jonestown, PA 17038. Representative: Irene Gebe, 635 S.E. 11th, Portland, OR 97214, (503) 233–5766. Transporting *food and other edible products and by-products 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 165011, filed December 3, 1982. Applicant: MID-AMERICA TRANSPORTATION BROKERS, INC., 3045 West 78th St., Tulsa, OK 74132. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

[FR Doc. 82–34007 Filed 12–14–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–221

The following applications were filed in region I. Send protest to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152291 (Sub-1–6TA), filed November 29, 1982. Applicant: ASSEMBLY SQUARE TRANSPORATION, INC., 20 Sturtevant Street, Somerville, MA 02145. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *Footwear* between all points in the 48 contiguous U.S. (except AK and HI), under continuing contract(s) with MCF Footwear, New York, NY. Supporting shipper: MCF Footwear, 1 Park Avenue, New York, NY 10016.

MC 30464 (Sub-1–1TA), filed November 24, 1982. Applicant: BESTWAY FREIGHT LINES, INC., 30 Wood Rock Road, Weymouth, MA 02189. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *General commodities (except classes A and B explosives, household good, and commodities in bulk)* between points in Plymouth, Norfolk, Suffolk and Middlesex Counties, MA, NH, and ME. Supporting shipper(s): E. B. Harvey Company, 163 Chestnut Hill Avenue, Brighton, MA 02135; Ben Elfman & Son, 124 Second Street, Chelsea, MA 02150; Recycling Industries, 385 Quincy Avenue, Braintree, MA 02184; Advance Brands Limited, 892 Main Street, Waltham, MA 02154; Aunyx Corporation, 65 Industrial Park Road, Hingham, MA 02043.

MC 164912 (Sub-1–1TA), filed November 30, 1982. Applicant: BEOTHUCK TRANSPORT LIMITED, Donovan's Industrial Park, Pratt Building, Glencoe Drive, St. John's, Newfoundland, CD A1C 586. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Meat and meat products* from Somerville, MA to ports of entry on the U.S./CD Boundary Line located in ME. Supporting shipper: World Meat Exports Corp., 549 Windsor Street, Somerville, MA 02143.

MC 164890 (Sub-1–1TA), filed November 29, 1982. Applicant: CROZIER-DIX, LTD., 1560 Broadway, Room 807, New York, NY 10036. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Unique oil paintings, drawings, and sculptures,* between New York City, NY, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, Minneapolis, MN, Milwaukee, WI, Indianapolis, IN, Pittsburgh, PA, and Boston, MA. Supporting shipper(s): Sperone, Westwater, Fischer, 142 Green Street, New York, NY 10012; Leo Castelli Gallery, 420 W. Broadway, NY 10013.

MC 155370 (Sub-1–3TA), filed November 23, 1982. Applicant: KEM CONTRACT CARRIERS, INC., Kirkwood Industrial Park, P.O. Box 1245, Binghamton, NY 13902–1245. Representative: Donald C. Carmien, Esq., Midtown Mall—Suite 501, 15 Chenango Street, P.O. Box 1922, Binghamton, NY 13902–1922. *Books and related publishers supplies* between Buffalo, NY, Pittston, PA and Kirkwood, NY, under continuing contract(s) with Putnam Publishing Co., Inc., E. Rutherford, NJ. Supporting shipper: Putnam Publishing Co., Inc., 390 Murry Hill Parkway, East Rutherford, NJ 07073.

MC 164711 (Sub-1–1TA), filed November 29, 1982. Applicant: KING ROAD MATERIALS, INC., 145 Cordell Road, Schenectady, NY 12303. Representative: Neil D. Breslin, Esq., 11 North Pearl Street, Albany, NY 12207. *Contract carrier:* irregular routes: *Salt and salt products* between Schenectady County, NY and Berkshire County, MA, under continuing contract(s) with Cargill, Inc., Lansing, NY. Supporting shipper: Cargill, Inc., 191 Portland Point Road, Lansing, NY 14882.

MC 138758 (Sub-1–2TA), filed November 29, 1982. Applicant: SHEFFIELD POTATO CO., INC. d.b.a., NORTHERN GAS TRANSPORT CO., Route 22, Box 106, Lyndonville, VT 05851. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641. *Propane* from Ports of Entry on the U.S./CD Boundary Line of ME, NH, NY and VT, to points in ME. Supporting shipper: Profax Gas Corp., P.O. Box 2521, Houston, TX 77001.

MC 151583 (Sub-1–5TA), filed November 23, 1982. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Contract carrier:* irregular routes: *Tire, automobile parts and accessories* between points in the U.S. (except AK and HI), under continuing contract(s) with Laramie Tire Distributors, Inc., Norristown, PA. Supporting shipper: Laramie Tire Distributors, Inc., 700 Markley Street, Norristown, PA 19040.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

WC 1344 (Sub-II–6TA), filed November 22, 1982. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H Street, NW., Washington, DC 20006. Contract, water: *Articles exceeding 19 ft. in height, or 12 ft. in width, or 90 ft. in length, or 100 net tons in weight, component parts thereof, and related equipment,* between Kingston, NY and Lorton, VA, under continuing contract(s) with Rainwater Concrete Company, Inc., for 180 days. Supporting shipper(s): Rainwater Concrete Company, Inc., 9917 Richmond Hwy., Lorton, VA 22079.

Application was originally published in **Federal Register** November 8, 1982.

MC 40600 (Sub-II–1TA), filed October 25, 1982. Applicant: THE HATHAWAY TRANSFER, INC., 910 S. Belmont St.—Box 518, Bellaire, OH 43906. Representative: F. James Hathaway, P.O. Box 518, Bellaire, OH 43906. *Meats and packing house products,* from points in Belmont County, OH to points in Monongalia, Marion, Harrison, Barbour, Wentzel, Taylor, Tyler, and Preston Counties, WV for 270 days. Applicant intends to tack the authority sought here with authority held under MC 40600. Supporting shipper(s): The Rath Packing Co., 108 Dalmation Drive, Bethel Park, PA 15102. The purpose of this republication is to include tacking.

MC 161496 (Sub-II–1TA), filed November 22, 1982. Applicant: BALTIMORE INTERNATIONAL TRANSPORT, INC., P.O. Box 2757, Baltimore, MD 21225. Representative: ROBERT J. GALLAGHER, ESQ., 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. *Household Goods, as defined by the Commission and General Commodities* (except Class A & B Explosives and Commodities in Bulk) restricted to transportation for the United States Government, between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY for 270 days. An underlying ETA seeks 120 days authority.

MC 164887 (Sub-II–1TA), filed November 29, 1982. Applicant: COUNTRY LINES, INC., P.O. Box 1717, Salisbury, MD 21801. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Petroleum and petroleum products, chemicals and related products, materials, equipment and supplies used in the manufacture and distribution thereof,* between points in CT, DE, MA, MD, NJ, NY, NC, PA, RI, VA, WV, and DC for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): George L. Ralph, Inc., 315 Lake St., Salisbury, MD 21801.

MC 99969 (Sub-II–2TA), filed November 22, 1982. Applicant: HUNTLEY TRUCKING CO., Route 1—Box 66A, New Plymouth, OH 45654. Representative: A. CHARLES TELL, 100 E. Broad St., Columbus, OH 43215. *Coal* from points in Vinton County, OH to Detroit, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sands Hill Coal Co., Inc., 1203 N. Pennsylvania Ave., Wellston, OH 45692.

MC 114015 (Sub-II–4TA), filed November 22, 1982. Applicant: HUS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: EUGENE M. MALKIN, Suite 1832, Two World Trade Center, New York, NY 10048. Contract, Irregular: *metal products and machinery,* between Chalfont, PA and Chase City, VA, under continuing contract(s) with Asplundh Manufacturing, Div. of Asplundh Tree Expert Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Asplundh Manufacturing, Div. of Asplundh Tree Company, 50 East Hamilton St., Chalfont, PA 18914.

MC 164027 (Sub-II–1TA), filed November 22, 1982. Applicant: LaPORTE TRUCK LINES, INC., 64 LaPorte Dr., Route 3, Mars, PA 16046. Representative: William A Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Contract irregular: *General commodities (except Classes A & B explosives and household goods)* between the facilities of GroPro, Inc. in Forward Township, Butler County, PA, on the one hand, and, on the other, points in the U.S., under a continuing contract(s) with GroPro, Inc. Supporting shipper(s): GroPro, Inc., 740 Wedge Way, Warrington, PA.

MC 107012 (Sub-II–250TA), filed November 22, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler, (same as applicant). Contract irregular: *General commodities* (except household goods, classes A & B explosives and commodities in bulk.) Between points in the U.S. under continuing contract(s)

with Semi Fab Inc. of Hollister, CA for 270 days. Supporting shipper: Semi Fab Inc., 307 Fallon Rd., Hollister, CA 95023.

MC 107012 (Sub-II–251TA), filed November 22, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract irregular: *General commodities* (except classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Technicare Corporation of Solon, OH for 270 days. Supporting shipper: Technicare Corporation, 29100 Aurora Road, Solon, OH 44139.

MC 107012 (Sub-II–252TA), filed November 29, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same as applicant). Contract irregular: *General commodities* (except household goods, classes A & B explosives and commodities in bulk) between points in the United States under continuing contract(s) with Raytheon Data Systems Company of Norwood, Massachusetts, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Raytheon Data Systems Company, 115 Norwood Park South, Norwood, MA 02062.

MC 154569 (Sub-2–1 TA), filed November 22, 1982. Applicant: S.T.C. TRUCKING CO., INC., P.O. Box C, Corriganville, MD 20524. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Salt* from points in Washington County, MD to points in WV, VA, PA, DC, DE and NJ, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Cargill, Inc., 518 E. 4th St., P.O. Box 150, Watkins Glen, NY 14891

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 104430 (Sub-3–2 TA) filed November 30, 1982. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 488, McComb, MS 39468. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Contract:* irregular *General commodities (except household goods and classes A and B explosives)* between points in the U.S., under continuing contract(s) with U.S. Comex Corporation of Geismar, LA. Supporting shipper: U.S. Comex Corporation, P.O. Box 130, Geismar, LA.

MC 151316 (Sub-3–4 TA), filed November 26, 1982. Applicant: BROOKS INTERNATIONAL, INC., d.b.a. HARPER'S/AERO DISTRIBUTION SERVICE, 60 NW 37th St., Miami, FL 33127. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW 53d St., Miami, FL 33166. *General commodities (except classes A and B explosives, household gooods and commodities in bulk)* between points in FL RESTRICTED to traffic having an immediately prior or subsequent movement in interstate or foreign commerce. Supporting shippers: Modern Wholesale Drugs Southern, Inc., 6601 NW 12th Ave., Ft Lauderdale, FL, 33309; and Fox Electric Supply Co., Front & Girard Aves., Philadelphia, PA, 19123.

MC 119903 (Sub-No. 3–1 TA), filed November 30, 1982. Applicant: D. J. WALRAVEN, P.O. Box 1045, Rome, GA 30161. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345. *Sheet-Steel, in coils,* between points in Floyd County, GA, and Montgomery County, OH, on the one hand, and, on the other, points in AL, GA (See Note), IN, KY, MI, NY, NC, OH (See Note), SC, TN, VA and WV. Supporting shipper: Dayton Steel Service, Inc., 1 Sou. Industrial Blvd., Rome, GA 30061.

Note.—Restricted on traffic between Floyd County, GA and points in GA, and between Montgomery County, OH and points in OH, to movements having an immediate prior or subsequent movement from or to a point(s) outside of state.

MC 142181 (Sub-3–8 TA), filed November 30, 1982. Applicant: COBLE EXPRESS, INC., P.O. Box 1104, 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Building, Nashville, TN 37219. *Contract,* irregular: *Such commodities as are sold or dealt in by a manufacturer of home appliances* between points in the U.S. (except AK and HI), under a continuing contract(s) with Sunbeam Appliance Company, a division of Sunbeam Corporation of Oakbrook, IL. Supporting shipper: Sunbeam Appliance Company, a division of Sunbeam Corporation, 2001 S. York Rd., Oakbrook, IL 60521.

MC 164845 (Sub-.3–1TA), filed November 30, 1982. Applicant: GILCO EXPRESS, INC., 1410 Kerry Drive, Apartment 160, Atlanta, GA 30318. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *contract:* Irregular: *Cleaning compounds, weed killers, insecticides, cleaning equipment, chemicals dispensing apparatuses, chemical products, and materials, equipment, and supplies used in the manufacture, sale, or distribution of these commodities,* between the facilities of Oxford Chemicals, Inc. at or near Chamblee and Smyrna, GA, on the one hand, and, on the other, Birmingham, AL, Miami, FL, Charlotte, NC, Camp Hill, PA, Memphis, TN, and Houston, TX and points in the commercial zone of each, under continuing contract with Oxford Chemicals, Inc. of Chamblee, GA. Supporting shipper: Oxford Chemicals, Inc., 5001 Peachtree Industrial Boulevard, Chamblee, GA 30341.

MC 156778 (Sub-3–7TA), filed November 30, 1982. Applicant: 7 HILLS TRANSPORT, INC., P.O. Box 6205, Rome, GA 30161. Representative: Don Moore, P.O. Box 6205, Rome, GA 30161. *Contract carrier:* Irregular *Home Furnishings,* between points in the U.S. excluding AK and HI, under continuing contract(s) with Liken Home Furnishings, d.b.a. Del Mar Window Coverings. Supporting shipper: Liken Home Furnishings, d.b.a. Del Mar Window Coverings, 7130 Fenwick Lane, Westminster, CA 92683.

MC 146377 (Sub-3–3TA), filed November 30, 1982. Applicant: EDWARD McGILL, INC., 3 General Avenue, Rome, GA 30161. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *Contract carrier:* irregular: *General Commodities (except Classes A and B explosives, household goods and commodities in bulk),* between points in the United States, under continuing contract with Dayton Steel Service, Inc., Rome, GA. Supporting shipper: Dayton Steel Service, Inc., No. 1 Southern Industrial Blvd., Rome, GA 30161.

MC 141652 (Sub-3–9TA), filed November 30, 1982. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: Paul M. Daniell, 235 Peachtree Street, NE., Suite 1200, Atlanta, GA 30303. *Food and related products* from Montezuma, GA and Dallas and Garland, TX and points in their commercial zone to Indianola, MS and points in its commercial zone. Supporting shipper: Lewis Grocery Company, P.O. Box 670, Indianola, MS 38751.

MC 140569 (Sub-3–1TA), filed December 1, 1982. Applicant: ROGERS TRUCKING, INC., P.O. Box 271, Columbia, KY 42728. Representative: William L. Willis, Suite 702, McClure Building, Frankfort, KY 40601. *Such commodities as are dealt in or used by manufacturers or distributors of tobacco products,* between Rocky Mount and Winston-Salem, NC, on the one hand, and, on the other, Glasgow and Owensboro, KY. Supporting shipper: Phillip Morris U.S.A., P.O. Box 26603, Richmond, VA 23261.

MC 147886 (Sub-3–12TA), filed December 1, 1982. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Contract* carrier: Irregular: *General commodities (except classes A and B explosives, household goods, and commodities in bulk)* between points in the US (except AK and HI) under continuing contract or contracts with United Freight, Inc. of Morrow, GA. Supporting shipper: United Freight, Inc., 1260 Southern Rd., Morrow, GA 30260.

MC 164948 (Sub-3–1TA), filed December 1, 1982. Applicant: QUALITY OIL COMPANY, INC., Pleasant Valley Road, P.O. Box 63, Owensboro, KY 42302. Representative: William H. Booth (Same address as Applicant). *Contract:* Irregular: *Gasoline and Diesel Fuels* from Evansville, IN, to Owensboro, KY. Supporting shipper: Amoco Oil Company, 5775 Peachtree-Dunwoody Road, Suite 560–F, Atlanta, GA 30342.

MC 156782 (Sub-3–2TA), filed December 1, 1982. Applicant: JACKWIC, INCORPORATED, 1206 Sunset Drive, Thomasville, GA 31792. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers So., 3390 Peachtree Road, NE., Atlanta, GA 30326. *"Meat, meat products, and meat by-products,* between points in Thomas County, GA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX." Supporting shipper: Sunnyland Foods, Inc., P.O. Box 1138, Thomasville, GA 31792.

MC 150193 (Sub-3–4TA), filed December 1, 1982. Applicant: DARCIA TRUCKING CO., INC., 338 South Oliver Street, Elberton, GA 30635. Representative: Roger A. Kirschenbaum, 3390 Peachtree Road, NE., Suite 520, Atlanta, GA 30326. *General commodities (except classes A and B explosives, household goods and commodities in bulk),* between points in GA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Georgia Marble Company, 2575 Cumberland Parkway, N.E., Atlanta, GA 30339.

MC 146869 (Sub-3–9TA), filed December 1, 1982. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Furniture and fixtures,* from the facilities of Montclair Furniture Company in Catawba County, NC to points in the U.S. under continuing contract with Montclair Furniture Company. Supporting shipper: Montclair Furniture Company, Clairmont, N.C.

MC 135068 (Sub-3–1TA), filed December 1, 1982. Applicant: PAULK'S MOVING & STORAGE CO., INC., 724 North Kraft Avenue, Panama City, FL 32401. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. *Household Goods, as defined by the Commission AND General Commodities (except Class A & B Explosives and Commodities in Bulk)* restricted to transportation for the United States Government, between points in AL, AK, AZ, AR, CA, CO CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY, and DC. Supporting shippers: (1) Air Land Forwarders-Suddath, Inc., 5266 Highway Ave., P.O. Box 37977, Jacksonville, FL 32236, (2) American Forwarding Co., Inc., 15052 Springdale, Suite H, Huntington Beach, CA 92647, (3) Delcher Intercontinental Moving Service, Inc., P.O. Box 10880, 4219 Central Avenue, St. Petersburg, FL 33733.

MC 151407 (Sub-3–8TA), filed December 2, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th Street, Miami, FL 33127. Representative: D. Paul. Stafford, P.O. Box 45538, Dallas, TX 75245. *Such commodities as are used by passenger air lines in in-flight service* from Atlanta, GA to Houston, Corpus Christi, San Antonio, Dallas and El Paso, TX; Phoenix, AZ; Las Vegas, NV; Los Angeles and San Francisco, CA; Portland, OR and Seattle, WA. Supporting shipper(s): Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148.

MC 164797 (Sub-3–1TA), filed December 2, 1982. Applicant: SUNDANCE ENTERPRISES, INC., P.O. Box 749, Wake Forest, NC 27587. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288. *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* from Raleigh and Fayetteville, NC, to points in the US, (except AK and HI). Supporting shippers: Kings Point Manufacturing, Inc., 219 Gray Street, Fayetteville, NC 23301; Pine Glo Products, Inc; 310 Hoke Street, Raleigh, NC 27603; Quline Corporation, 5605 Spring Court, Raleigh, NC 27658.

MC 164335 (Sub-3–1TA), filed December 2, 1982. Applicant: G & G TRUCKING, INC., Route 3, Dublin, GA. 31021. Representative: Virgil H. Smith, 74 Highway N., Box 245, Tyrone, GA 30290. *General commodities (usual exception)* between Clayton, AL, Dumas, AR, Adel, Dillions, SC, Memphis, TN, Bassett, VA, and Franklin, VA, on the one hand and Dublin, GA on the other hand. Supporting shipper: Bassett Furniture Industries of North Carolina, Inc., P.O. Box 1267, Dublin, GA 31021.

MC 149283 (Sub-3–1TA), filed December 2, 1982. Applicant: HAYWARD TRUCKING, INC., 6549 Robinson Road, Jacksonville, FL 32217. Representative: Norman J. Bolinger, Esq., 3100 University Blvd., S., Suite 225, Jacksonville, FL 32216. *Salt* and *Salt Products,* from Wilmington, NC to points in FL. Supporting shipper: Cargill, Inc., Salt Division, P.O. Box 5621, Minneapolis, MN 55440.

MC 164972 (Sub-3–1TA), filed December 2, 1982. Applicant: COMMERCIAL HAULING CO., INC., P.O. Box 10061, Birmingham, Alabama 35202. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, Alabama. *Petroleum and chemicals in bulk* between Walker and Jefferson Counties, AL, on the one hand, and, on the other, Helina, AR; Tampa, FL; Atlanta, GA; and Baton Rouge, LA. Supporting shipper: Bell Chemical Co., Inc., Box 22238, Knoxville, TN 37922.

The following applications were filed in Region 4. Send Protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–41TA), filed November 26, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680 *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Anacomp, Inc. and its subsidiaries. Supporting shipper: Anacomp, Inc. of Indianapolis, IN.

MC 15735 (Sub-4–42TA), filed November 29, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Such commodities as are dealt in or used by medical facilities and manufacturers of medical equipment* between points in the U.S. (except AK and HI) under a continuing contract with Technicare Corp. Supporting shipper: Technicare Corp. of Solon, Ohio.

MC 87113 (Sub-4–5TA), filed November 24, 1982. Applicant: WHEATON VAN LINES INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, D.C. 20006. Transporting *Household goods*

between points in the U.S., under continuing contract(s) with Computer Sciences Corporation of El Segundo, CA for 270 days. Supporting shipper: Computer Sciences Corporation, 650 N. Sepulveda, El Segundo, CA 90245.

MC 113855 (Sub-4–7TA), filed November 24, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road S.E., Rochester, MN 55903. Representative: LEONARD L. BENNETT, 2450 Marion Road S.E., Rochester, MN 55903. *General commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in the U.S., under a continuing contract(s) with Hampton Lumber Sales Company, its subsidiaries and affiliates. Supporting shipper: Hampton Lumber Sales Company, 9400 S.W. Barnes Road, 400 Sunset Business Park, Portland, OR 97005.

MC 148257 (Sub-4–1TA), filed November 24, 1982. Applicant: GEORGE J. WEBB JR. AND GEORGE J. WEBB III d.b.a. WEBB TRUCKING COMPANY, Route No. 2, McLeansboro, Il 62859. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk)* between points in the U.S. (except HI and AK). Restricted to shipments for the account of Mobile Transportation, Inc. Supporting shipper: Mobile Transportation, Inc., P.O. Box 8167, Longview, TX 75607–8167.

MC 157497 (Sub-4–4TA), filed November 30, 1982. Applicant: IVAN HABECK, Route 1, Box M–8, Ipswich, SD 57451. Representative: John T. Wirth, 717, 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier*, irregular routes: *Lumber and wood products*, from points in ID, MT, OR and WA to points in AR, IL, IA, KS, MI, MN, MO, NE, ND, OK, SD, and WI, under continuing contract(s) with Chanute Wholesale Company of Ketchum, OK; Idaho Timber Corporation of Boise, ID; Mueth Lumber & Plywood Company of St. Charles, MO; Hearin Forest Industries, Inc. of Portland, OR; Sprenger Midwest, Inc. of Sioux Falls, SD; Morgan Stanley Lumber Co., Inc. of Sherwood, OR; and North Star Forest Materials, Inc. of South St. Paul, MN, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 7 supporting shippers. Their statements may be examined at ICC Regional Office, San Francisco, CA.

MC 160942 (Sub-4–4TA), filed November 29, 1982. Applicant: DESTINY PARCEL SERVICE, INC., 525 Friendly Road, Pontiac, MI 48053. Representative: Eugene C. Ewald, Esquire, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. General commodities (except household goods, Classes A and B explosives and commodities in bulk) between points in IN, MI, OH, Oak Brook, IL, Pittsburgh, PA, and that part of PA on and west of I–79, Louisville, KY and that part of KY north of I–64 and that part of West Virginia west of I–79 and north of I–64. An underlying ETA seeks 30 days plus one 90 day extension. Supporting shippers: Multiple Distribution Services, Inc., 6465 Transit Road, East Amherst, NY 14051 and Polaroid Corporation, 140 Kendrick Street, Needham Heights, MA 02194.

MC 161909 (Sub-4–1TA), filed November 26, 1982. Applicant: JNC ENTERPRISES, INC., 1540–1550 W. 33rd St., Chicago, IL 60608. Representative: Martin J. Kenndey, 120 West Madison Street, Suite 1306, Chicago, IL 60602. *Sand, stone, brick, rubbish, excavated materials, scrap iron and metal* between points in the Chicago, IL Commercial Zone and points in IA, IL, IN, MI, MO and WI. Supporting shippers: Action Iron and Metal; Chicago, IL 60608 and Brandenburg Demolition, Inc., Chicago, IL 60608.

MC 162610 (Sub-4–7TA), filed November 26, 1982. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th Street, Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601. *Contract, irregular; Such commodities* as are dealt in by manufacturers of wires, forms and springs, between Romeoville, IL; St. Paul, MN; Marshalltown, IA; Muskegon, MI; Mentone, IN; and Dallas, TX, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Midwest Spring Manufacturing Company, Inc. of Romeoville, IL. Supporting shipper: Midwest Spring Manufacturing, Company, Inc., 8 Greenwood Avenue, Romeoville, IL 60441.

MC 163591 (Sub-4–1TA), filed November 26, 1982. Applicant: FALGERS, INC., 91 Lee Road, Northbrook, IL 60062. Representative: Martin J. Kennedy, 120 West Madison, Suite 1306, Chicago, IL 60602. *Scrap metals and slag* between Spring Grove, IN and points within the Chicago, IL Commercial Zone and Rockford, IL and Sterling, IL. An underlying ETA seeks 90 days authority. Supporting shipper: Erman-Howell Division; Luria Steel and Trading Corp., Bannockburn, IL 60015.

MC 163844 (Sub-4–1TA), filed November 26, 1982. Applicant: CLOVERLEAF TRANSPORTATION, INC., 8801 S. 78th Ave, Bridgeview, IL 60455. Representative: Richard M. Keltner (same address as applicant). *Contract;* irregular; *paint products as described under that heading in the NMFC; buffing, cleaning and polishing compounds; petroleum distillate; plastic materials, other than expanded; and deodorants or disinfectants, other than medicinal,* between points in the Chicago, IL. Commercial Zone on the one hand, and, on the other, points in IL, IN, IA, MI, OH, and WI. Supporting shipper: Atlas Coatings, Ltd., 1049 Republic Drive, Addison, IL 60101.

MC 164636 (Sub-4–1TA), filed November 24, 1982. Applicant: GEORGE, MABEL, JERRY AND TOM LIEFERT, d.b.a. LIEFERT TRUCKING, P.O. Box 441, Monticello, MN 55362. Representative: Robert D. Gisvold, 121 S. 8th Street, 1600 TCF Tower, Minneapolis, MN 55402. *Metal windows and doors,* between Lake Mills, IA, Monticello, MN and Brookings, SD. Supporting shipper: Larson MFG. Co., Box 127 Oakwood Industrial Park, Monticello, MN 55362.

MC 164888 (Sub-4–1TA), filed November 29, 1982. Applicant: TAX AIRFREIGHT, INC., 4430 South Kansas Avenue, Milwaukee, WI 53207. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Batteries, flashlights, lamps, and such commodities as are dealt in or used by manufacturers of the afore-mentioned commodities* between West Chicago, IL, and points in WI. Supporting shipper: Ray-O-Vac, A Corporation of Inco Electro-Energy, 1701 Hawthorne Lane, Chicago, IL 60185.

MC 164902 (Sub-4–1TA), filed November 29, 1982. Applicant: ZASTROW TRUCKING CORP., Box 105, Haefford Junction, WI 53542. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *farm equipment and machinery* from Milwaukee, WI, to points in and east of CO, ND, SD, and TX. RESTRICTION: restricted to transportation performed under continuing contract(s) with Belarus Machinery, Inc. Supporting shipper: Belarus Machinery, Inc. Box 23608, 7075 W. Parkland Court, Milwaukee, WI 53223.

MC 164960 (Sub-4–1TA), filed December 1, 1982. Applicant: ABC TRUCKING CO., 4134 Payne Koehler Road, New Albany, IN 47150. Representative: Charles E. Ross (same as above). Contract; Irregular: *Rock,*

sand, gravel, salt, asphalt, dirt, coal, waste or scrap materials not identified by industry producing between IN, OH, KY, IL. Supporting shipper: A & J Paving Company, Inc., 5101 Shungate Road, Jeffersonville, IN 47130.

MC 163873 (Sub-4–3TA), filed December 1, 1982. Applicant: TIM'S MOTOR SERVICE, INC., P.O. Box 501, Bensenville, IL 60106. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, 312/782–8880. *General commodities,* (except household goods, commodities in bulk, and Classes A and B explosives), between Chicago, IL and its commercial zone on the one hand, and, on the other, points in IL, WI, MN, MI, and IN. Supporting shippers: L & D Associates, Inc., 201 East Ogden Avenue, Suite 15, Hinsdale, IL 60521. Acme Fast Freight, Inc., 2641 South Leavitt Avenue, Chicago, IL 60608. Midwest Warehouse, 111 West Lake Street, Northlake, IL 60164. L & J Transportation Consultants, Inc., 7667 West 95th Street, Suite 6E, Hickory Hills, IL 60457.

MC 147546 (Sub-4–4TA), filed December 1, 1982. Applicant: DEPENDON, INC., 875 East Rand Rd., Des Plaines, IL 60016. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Contract, irregular, *Copy machine parts, copy machine accessories and supplies,* between Des Plaines and Franklin Park, IL on the one hand, and on the other, points in OH and WV. Restricted to traffic moving under continuing contract(s) with Xerox, Inc. Supporting shipper: Xerox, Inc., 300 Des Plaines Ave., Des Plaines, IL 60018.

MC 150716 (Sub-4–3TA), filed December 1, 1982. Applicant: J.R.S. LEASING CHARTER, INC., 9445 South 51st Ave., Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract; irregular; Recycled boardmill stock,* from the facilities of Smurfit Diamond Packaging Corporation at or near Middletown and Lockland, OH, to the facilities of Smurfit Diamond Packaging Corporation at or near Morris, IL, under continuing contract(s) with Smurfit Diamond Packaging Corporation, of Alton, IL. Supporting shipper: Smurfit Diamond Packaging Corporation, 1000 East Armstrong Street, Morris, IL 60450.

MC 164654 (Sub-4–1TA), filed December 1, 1982. Applicant: HOCKERSMITH & SONS, INC., P.O. Box 1740, Richmond, IN 47374. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *General commodities* (except household goods, Classes A and B explosives and commodities in bulk) between Winchester, Richmond and Indianapolis, IN; Cleveland, Columbus, Dayton, Cincinnati, Eaton and Lewisburg, OH; Detroit and Grand Rapids, MI; Port Allegheny, Emporium and Pittsburgh, PA; Parkersburg and Keyser, WV; Chicago, IL; Elizabethtown, Lexington, and Louisville, KY. Supporting shippers: There are (6) six.

MC 164985 (Sub-4–1 TA), filed December 2, 1982. Applicant: KENNETH A. JENNINGS, d.b.a. JENNINGS TRUCKING, 1144 W. Blodgett, Marshfield, WI 54449. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. *Contact* irregular: *Furniture of fixtures and equipment, materials or supplies used in the manufacture or distribution* between Marshfield, WI on the one hand, and, on the other points in CO, IA, ID, IL, IN, KS, MI, MN, MO, MT, ND, NE, and SD under contract to Modern of Marshfield, Inc., Marshfield, WI. Supporting shipper: Modern of Marshfield, Inc., 137 W. 9th Street, Marshfield, WI 54449.

MC 15735 (Sub-4–43 TA), filed December 2, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* Irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Hills Department Stores of Canton, MA. Supporting shipper: Hills Department Stores, 15 Dan Road, Canton, MA 02021.

MC 146108 (Sub-4–9TA), filed December 2, 1982. Applicant: BIG T TRANSFER, INC., P.O. Box 287, 222 West 4th Street, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201 (812) 379–2556. *Contract* irregular: *Such commodities as dealt in by wholesale and retail chain groceries, drug and food business houses, and any products required in the production of same including plastic containers and other packing materials.* Between Clark and Floyd Counties, IN, on the one hand, and, on the other, Anniston, Birmingham, Mobile, and Montgomery, AL; Bentonville, Little Rock, Mandeville, and Searcy, AR; Los Angeles and San Francisco, CA; Hialeah, Jacksonville, Lake City, Lakeland, Largo, Miami, Orlando, Pompano Beach, St Petersburg, Sarasota, and Tampa, FL; Atlanta, Augusta, Newnan, and Vadalia, GA; Chicago, IL; Bowling Green, East Bernstadt, Greenville, Lexington, Nicholasville, Richmond, and Scottsville, KY; Baton Rouge, Broussard, Lafayette, Monroe, and New Orleans, LA; Detroit, Grand Rapids, Lansing, and Plymouth, MI; St Paul, MN; Indianaola, MS; Bellefontaine, Cincinnati, Cleveland, Columbus, Lima, and Toledo, OH; Portland, OR; Charleston, Greenville, and Spartonburg, SC; Memphis, TN; Houston, TX; and Milwaukee, WI; under continuing contract(s) with the Colgate-Palmolive Co., Jeffersonville, IN. An underlying ETA seeks 120 days authority. Supporting shipper: The Colgate-Palmolive Co., Jeffersonville, IN.

MC 125894 (Sub-4–7TA), filed November 23, 1982. Applicant: J & R SCHUGEL TRUCKING, INC., 2026 North Broadway, New Ulm, MN 56073. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Mobile home building materials,* (1) between Elkhart, IN on the one hand, and, on the other, points in CO, MN, SD, and WI; and (2) between points in Marion County , FL; Thomas County, GA; Elkhart and Kosciusko Counties, IN; Reno County, KS; Yamhill County, OR; Lancaster County, PA; Charleston and Greenville Counties, SD; Bell and Galveston Counties, TX and Clark County, WI; and *Home entertainment devices and parts, accessories and supplies thereto,* from Monroe County, IN to Des Moines, IA, Omaha, NE, and Fargo, ND. Two Supporting shippers.

MC 146123 (Sub-4–2TA), filed November 23, 1982. Applicant: MIDWEST CARGO SYSTEMS, INC., 1932 S. Wentworth Ave., Chicago, IL 60616. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *General commodities (except Classes A and B explosives, household goods and commodities in bulk).* Between Mendota, Rochelle, DeKalb, Hoopeston and Danville, IL, on the one hand, and, on the other, Chicago, IL, and points in the Chicago, IL Commercial Zone. Restricted to Traffic having a prior or subsequent movement by rail. Supporting shippers: Genex Terminal Company, 5901 North Cicero, Chicago, IL 60646; Bay Area Piggyback, Inc., 1355 Fifth Street, Oakland, CA 94607.

MC 152015 (Sub-4–1TA), filed November 23, 1982. Applicant: BLACK BEAUTY TRUCKING CO., INC., P.O. Box 312, Evansville, IN 47702. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Commodities in bulk, in dump vehicles,* from Charleston, Danville and Marshall, IL to points in IN. An underlying ETA seeks 120 days authority. Supporting shippers: Potash Corporation of Saskatchewan Sales Ltd., 401 West Center, P.O. Box 606, Catlin, IL 61817

and Quality Lime Company, P.O. Box 39, Rural Route 1, Marshall, IL 62441.

MC 163395 (Sub-4–2TA), filed November 23, 1982. Applicant: DAVID A. McFARLAND d.b.a. BLACK HAWK TRANSPORT, Hereford Route, Box 46, Sturgis, SD 57785. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Authority sought to operate as a common carrier by motor vehicle over irregular routes for 270 days transporting: *Lumber, wooden posts and rails* from points in ID, MT and OR to CL, CA and NV. An ETA application has been filed for 120 days. Supporting shippers: S. E. Ross, P.O. Box 2146, Kalispell, MT and North Fence Co., P.O. Box 2146, Kalispell, MT 59901.

MC 163455 (Sub-4–1TA), filed November 23, 1982. Applicant: ALL TRUCK TRANSPORTATION CO. INC., 9010 S. Odell, Bridgeview, IL 60455. Representative: Dennis James Stolfo, 189 N. LaSalle St., Suite 2405, Chicago, IL 60601. *Paper products, pulp, paper* and related products, between Chicago, IL and Chicago Commercial Zone, on the one hand, and, points and places in IN, on the other. Supporting shipper: Alton Packaging Corporation, 5025 W. 65th St., Chicago, IL 60638

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 52460 (Sub-5–48TA), filed December 2, 1982. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: William L. Tipton (same as above). Stove pipe and accessories, between the facilities of Simpson Dura-Vent at or near Vicksburg, MS, and Redwood City, CA, on the one hand, and, on the other, points in MT, WY, ND, SD, MD, DE, NJ, NY, PA, CT, RI, MA, VT, NH, ME, and DC. Supporting shipper: Simpson Dura-Vent, Redwood City, CA.

MC 105413 (Sub-5–2TA), filed December 2, 1982. Applicant: PETROLEUM TRANSPORT SERVICE, INC., 3908 Richland Drive, Council Bluffs, IA 51501. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Petroleum products,* between points in MN, NE, IA, MO, and KS. Supporting shippers: Jones Oil Co., Inc., Lincoln, NE; Oil Products Co., Omaha, NE; Lauver Oil Co., Council Bluffs, IA and McClure Gas Co., Bradyville, IA.

MC 144413 (Sub-5–1TA), filed December 2, 1982. Applicant: THOMPSON TRUCK TRANSPORTATION, 11281 Elm Street, Omaha, NE 68144. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular. *Foodstuffs,* From the facilities of Victor's Iowa Pack, Inc., Council Bluffs, IA to Commercial zone of Dallas-Fort Worth, TX and Sherman, TX. Supporting shipper: Victor's Iowa Pack, Inc., Council Bluffs, IA.

MC 148152 (Sub-5–17TA), filed December 2, 1982. Applicant: K & H TRUCKING, INC., 3301 So. Lamar St., Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between points in the U.S. Under continuous contract(s) with Winn-Dixie Texas; R. J. Stern Co., Inc.; NAP Consumer Electronics Corp.; Petro-Chem Drum Corp.; and Wallace International Division of The Wallace Co. Supporting shippers: 5.

MC 158295 (Sub-5–1TA), filed December 2, 1982. Applicant: CHEYENNE TRANSPORTATION, INC., 4094 Summerhill Rd., Texarkana, TX 75503. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. Contract, irregular; *soft drinks,* from Random Lake, WI and Minneapolis, MN to points in ND, SD and MN. Supporting shippe: Double Cola Bottling Tri-State, Inc., Wyoming, MN.

MC 164412 (Sub-5–1TA), filed December 2, 1982. Applicant: LIBERTY SERVICES, INC., 1700 W. Oakwood, Tyler, TX 75702. Representative: Dale D. Warnasch, 1210 Cardwell, Tyler, TX 75701. Contract: Irregular. *Repossessed Automobiles* from Points in LA to Tyler, TX. Supporting shipper: GMAC, Tyler, TX.

MC 164779 (Sub-5–1TA), filed December 2, 1982. Applicant: YOUSEY TRUCK DRIVERS, INC., Rt. 2, Box 94, Pea Ridge, AR 72751. Representative: Lloyd Burrow, Box 237, Bentonville, AR 72712. *General Commodities as dealt in or used by wholesale, retail discount or variety stores,* between points in the U.S. originating or destined to the facilities of Wal-Mart Stores, Inc. Supporting shipper: Wal-Mart Stores, Inc., Bentonville, AR.

MC 164978 (Sub-5–1TA), filed December 2, 1982. Applicant: FINIS MARTIN d.b.a. RAY'S TRANSFER, P.O. Box 347, Corsicana, TX 75110. Representative: James W. Hightower, Suite 301, Allied Bank-Southwest Bldg., Dallas, TX 75237–2385. *General Commodities (except Class A and B explosives, household goods and commodities in bulk),* between Dallas, Navarro, Smith and McLennan Counties, TX, restricted to shipments having a prior or subsequent movement by rail. Supporting shippers: Southern Pacific Transportation Company, Houston, TX; and Ft. Worth & Denver-Burlington Northern Railroad, Ft. Worth, TX.

MC 164981 (Sub-5–1TA), filed December 2, 1982. Applicant: HOGAN TRANSPORTS, INC., 1000 North 14th Street, St. Louis, MO 63106. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular; *General Commodities (except Classes A and B explosives, household goods and commodities in bulk)* between points in the United States (except AK and HI) under continuing contract with Venture Stores, a division of May Department Stores Company. Supporting shipper: Venture Stores, a division of May Department Stores Company, St. Ann, MO.

MC 109780 (Sub-5–2TA), filed November 30, 1982. Applicant: TRAILWAYS, INC., 1500 Jackson Street, Dallas, TX 75201. Representative: Rebecca Patton (same address as applicant). Common; regular; *passengers, their baggage, express and newspapers in the same vehicle with passengers,* between Dewey, AZ and the junction of AZ Highway 169 and Interstate Highway 17, serving all intermediate points as follows: From Dewey over AZ Highway 169 to the junction of Interstate Highway 17 and return over the same route.

MC 115730 (Sub-5–8TA), filed November 30, 1982. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. Contract; Irregular. *General commodities (except commodities in bulk, household goods and classes A and B explosives),* between points in the U.S. (except AK and HI) under continuing contract(s) with Copperweld Corporation of Pittsburgh, PA. Supporting shipper: Copperweld Corporation, Shelby, Ohio.

MC 146853 (Sub-5–14TA), filed November 29, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Cabinets and vanities and materials, equipment, and supplies used in the manufacture, sale, and distribution of cabinets and vanities,* between Otter Tail County, MN, on the one hand, and, on the other, points in the U.S. in and west of the states of MI, IN, KY, MO, AR, and LA. Supporting

shipper: Medallion Kitchens, Inc., Hopkins, MN.

MC 160634 (Sub-5–1TA), filed November 30, 1982. Applicant: DALLAS G & G EXPRESS, INC., 14001 Goldmark, Suite 242, Dallas, TX 75240. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General commodities (except classes A and B explosives, or hazardous materials)* between Dallas County, TX and Harris County, TX on the one hand, and, on the other, points in TX. Restricted to shipments for the account of Sunbelt Consolidators, Inc. Supporting shipper: Sunbelt Consolidators, Inc., Dallas, TX.

MC 164686 (Sub-5–2TA), filed November 29, 1982. Applicant: DANNIE GILDER, INC., Route 1, Whitewater, MO 63785. Representative: Georgia Helderman, Route 1, Box 152, Whitewater, MO 63785. *Wooden beverage cases and wooden boxes* between the facilities of Gideon Anderson Lumber Co., Inc., Gideon, MO, on the one hand, and, on the other, points in the U.S. Supporting shipper: Gideon Anderson Lumber. Co., Inc., Gideon, MO.

MC 164886 (Sub-5–1TA), filed November 29, 1982. Applicant: BECHTOLD TRUCKING, 10 Charleroi, Lake St. Louis, MO 63367. Representative: Steven E. Bechtold (address same as above). *(1) Fresh and frozen meats and (2) Alcoholic beverages (beer)* (1) from Omaha, NE and points in KS to Wentzville, MO; (2) from St. Louis, MO to Arkansas City, KS. Supporting shippers: Prestige Packing Co., Wentzville, MO and Ark Valley Distr., Inc., Arkansas City, KS.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board (RMBC), 211 Main St., Suite 501, San Francisco, CA 94105.

MC 164925 (Sub-6–1TA), filed December 1, 1982. Applicant: ARVIN SWASEY, d.b.a., C & R TRUCKING, 1600 Manzanita Dr., Salt Lake City, UT 84107. Representative: Arvin Swasey, P.O. Box 639, Bountiful, UT 84010. (1) *Lumber, building materials and related products,* (2) *sheet metal products and by-products, air conditioners, furnaces, heating units, and related products, and* (3) *precious metal ores, ore concentrates, mining and milling products and by-products, materials, equipment and supplies used in the manufacture* of these products. Between points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, TX, UT, WA, and WY, for 270 days. An underlying ETA seeks authority for 120 days. Supporting shippers: Moore Sheet Metals, 858 East 100 North, Payson, UT 84651; Gold Dome Mining Co., 819 East 700 South, Orem, UT; Davidson Lumber Sales, Inc., 7902 So. 1410 West, West Jordan, UT 84084; Bio-Way Mining Co., 816 North 970 East, Springville, UT 84663.

MC 164963 (Sub-6–1TA), filed November 30, 1982. Applicant: CASSO TRUCKING, P.O. Box 34, Nevada City, CA. 95959. Representative: Marjil Casso II (same as applicant). *General commodities* (except classes A and B explosives and used household goods) between points CA, AZ, CO, ID, LA, MT, NV, NM, OK, OR, TX, UT, WA, WY, KS, for 270 days. Supporting shippers: Mucso Olive Products, Inc., P.O. Box 368, Orland, CA 95963; Forest Products Marketing Inc., P.O. Box 286, Oroville, CA. 95965; American Forest Products Co., 2740 Hyde Street, San Francisco, CA 94108.

MC 151139 (Sub-6–1TA), filed December 1, 1982. Applicant: CELESTIAL TRANSPORT INC., 1780 55th St., Boulder, CO 80301. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Such commodities as are dealt in by manufacturers and distributors of solar products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Terra-Light Division of Butler Manufacturing Company, Inc. of Danvers, MA, for 270 days. Supporting shipper: Terra-Light Division of Butler Manufacturing Co., Inc., 54 Cherry Hill Dr., Danvers, MA 01923.

MC 41098 (Sub-6–12TA), filed December 1, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *machinery* between points in the U.S. under continuing contract(s) with International Power Machines Corporation of Mesquite, TX, for 270 days. Supporting shipper: International Power Machines Corporation, 3328 Executive Blvd., Mesquite, TX 75114.

MC 164975 (Sub-6–1TA), filed December 2, 1982. Applicant: HENERY F. TRAMMELL, d.b.a. T & T TRUCKING, P.O. Box 1146, Mills, WY 82644. Representative: Henery F. Trammell (same as applicant). (1) *Machinery, Equipment, Materials and Supplies* used in and in connection with the Exploration, Development, Extraction, Transportation and Storage of Petroleum, Natural Gas, Their Products, Ores and Minerals, Coal and Coal Products and By-Products except in bulk. (2) *Materials, Equipment and Machinery* used for Building and in General Construction and those Commodities which because of their size and weight require the use of special handling or equipment from, to, or between points in AZ, CA, CO, ID, KS, LA, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, for 270 days. Supporting Shippers: Darenco, Inc., P.O. Box 3320, Casper, WY 82602; Ingersoll-Rand Air Center A Corp., 201 N. Wolcott Suite 201, Casper, WY 82601; High Country Fabrication, Inc., P.O. Box 1406, Mills, WY 82644; and Energy Services & Equipment, Inc., P.O. Box 9269, Casper, WY 82609.

MC 136183 (Sub-6–1TA), filed December 1, 1982. Applicant: JOE COSTA, d.b.a. TRINIDAD FREIGHT SERVICE, Santa Fe Yards, Trinidad, CO 81082. Representative: Joe Costa (same as applicant). *General commodities* (except classes A and B explosives, commodities in bulk, those commodities which because of their size or weight require the use of special handling or equipment and household goods), between points in CO and NM, for 270 days. Supporting shippers: Pachorek Tire & Parts, 224 Elm, Trinidad, CO 81082; Frank A. Montera Dist., 205 Nona Ave., Trinidad, CO 81082; H & M Implement Co., 2425 E. Main St., Trinidad, CO 81082; and Morse Chevrolet & Buick, Inc., 709 N. Commercial St., Trinidad, CO 81082.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-33975 Filed 12-14-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collections

The proposed information collections are for use by the Commission in connection with the following investigation:

Investigation No. 332–149, Competitive Assessment of the U.S. Metalworking Machine Tool Industry.

Summary of Proposal

The following summarizes the information collection proposal submitted to OMB for investigation No. 332–149:

(1) Number of forms submitted: Three.

(2) Title of forms: Questionnaire for Producers of Metalworking Machine Tools; Questionnaire for Importers of Metalworking Machine Tools; Questionnaire for Purchasers of Metalworking Machine Tools.

(3) Type of request: New.

(4) Frequency of use: Nonrecurring.

(5) Description of respondents: Businesses (U.S. producers, importers, and purchasers of metalworking machine tools).

(6) Estimated number of respondents: 400.

(7) Estimated total numbers of hours to complete the forms: 10,000.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 350(h) of Pub. L. 96–511 does not apply.

Additional Information of Comments

Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (telephone 202–523–4463). Comments and questions about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting the promptly, you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: December 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34021 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-116]

Drill Point Screws for Drywall Construction

AGENCY: International Trade Commission.

ACTION: The scheduling of a public hearing and written submission in investigation No. 337–TA–116, Certain Drill Point Screws for Drywall Construction.

In the matter of certain drill point screws for drywall construction; commission hearing on the presiding officer's recommendation and on relief, bonding, and the public interest, and the schedule for filing written submissions.

Notice is hereby given that the presiding officer in this investigation has issued a recommended determination that there is no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the unauthorized importation into the United States and in the sale of the drill point screws that are the subject of the investigation. Accordingly, the presiding officer's recommendation and the record have been certified to the Commission for review and a Commission determination. Interested persons may obtain copies of the nonconfidential version of the presiding officer's recommendation (as well as any other public documents on the record of the investigation) by contacting the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

Commission Hearing

The Commission will hold a public hearing on January 18, 1983, in the Commission's Hearing Room, 701 E Street NW., Washington. D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that no violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden upon the parties.

Oral Arguments

Parties to the investigation and interested Government agencies may present oral arguments concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i.e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainant, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

Oral Presentations on Relief, Bonding, and the Public Interest

Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or

disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

Time Limit for Oral Argument and Oral Presentation

Complainant, respondents (taken collectively), the Commission investigative attorney, and Government agencies will be limited to a total of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

Written Submissions

In order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violation (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written submissions on the question of violation must be filed not later than the close of business on December 30, 1982; written submissions on the questions of remedy, bonding, and the public interest must be filed not later than the close of business on January 6, 1983. During the course of the hearing, the parties may be asked to file posthearing briefs.

Notice of Appearance

Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by January 12, 1983.

Additional Information

Persons submitting briefs and/or written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to discuss confidential information or to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment wil be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of March 3, 1982, 47 FR 9113.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0079.

Issued: December 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34011 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-179 through 181 (Final)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 3, 1982.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that the government of Brazil is providing subsidies to the manufacturers, producers, or exporters of certain stainless steel products within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 701–TA–179 through 181 (Final) under section 705(b) of the Act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of hot-rolled stainless steel bar, cold-formed stainless steel bar, provided for in item 606.90 of the Tariff Schedules of the United States (TSUS) and stainless steel wire rod provided for in items 607.26 and 607.43 of the TSUS. Unless the investigation is extended, the Department of Commerce will make its final subsidy determination in the case on or before January 27, 1983, and the Commission will make its final injury determination by March 18, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter (202–523–0300), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1982, the Commission unanimously determined, on the basis of the information developed during the course of investigations Nos. 701–TA–179 through 181 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of the above-named products alleged to be subsidized by the government of Brazil. The preliminary investigation was instituted in response to a petition filed on June 16, 1982, by counsel for Al Tech Specialty Steel Corp., Carpenter Technology Corp., Colt Industries, Inc. (Crucible Specialty Metals Division), Cyclops Corp., Guterl Special Steel Corp., Joslyn Stainless Steels, and Republic Steel Corp. all of which manufacture, produce, or wholesale stainless steel bar and/or stainless steel wire rod products in the United States.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 1, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., e.s.t., on February 14, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 13, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., e.s.t., on February 3, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 9, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on February 22, 1983.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 22, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 3, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34024 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-121]

Plastic-Capped Decorative Emblems; Grant of Suspension of Investigation

AGENCY: International Trade Commission.

ACTION: Suspension of investigation.

SUMMARY: Notice is hereby given that the Commission has granted a joint motion by complainant, the Commission investigative attorney, and all respondents to suspend the above-captioned investigation.

Authority: The authority for the Commission's action is contained in section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and section 210.15 of the Commission's Rules of Practice and Procedure (19 CFR 210.15).

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by D. L. Auld Company, the Commission instituted investigation No. 337-TA-121 to determine whether there is a violation of section 337 of the Tariff Act of 1930 by reason of unfair methods of competition and unfair acts in the importation and sale of certain plastic-capped decorative emblems alleged to infringe claim 1 of U.S. Letters Patent 4,100,010 ('010 patent), claim 1 of U.S. Letters Patent 4,139,654, and claim 1 of U.S. Letters Patent 4,259,388. Notice of the Commission's investigation was published in the Federal Register of May 19, 1982 (47 FR 21639).

Complainant Auld, the Commission investigative attorney, and all respondents moved on November 22, 1982, for a suspension of the investigation pending appeal to the Court of Appeals for the Federal Circuit of a U.S. District Court ruling that the '010 patent is invalid. On November 29, 1982, the presiding officer recommended that the motion for suspension be granted.

FOR FURTHER INFORMATION CONTACT: Clarease Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

Issued: December 9, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34018 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-153 (Final)]

Prestressed Concrete Steel Wire Strand From France

Determination

On the basis of the record[1] developed in its countervailing duty investigation on prestressed concrete steel wire strand from France, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports of steel wire strand for prestressing concrete (PC strand), provided for in item 642.11 of the Tariff Schedules of the United States, upon which bounties or grants are being paid.

Background

On August 6, 1982, the Department of Commerce made a preliminary determination that there was reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in France of PC strand.

Accordingly, effective August 25, 1982, the Commission insitituted an investigation under section 705(b) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materialy retarded by reason of imports of PC strand from France.

Notice of the institution of the Commission's investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on September 1, 1982 (47 FR 38647). The hearing was held in Washington, D.C. on October 19, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

On the basis of the record in this investigation, we find that an industry in the United States is not being materially injured or threatened with material injury, nor is the establishment of an industry in the United States being materially retarded,[2] by reason of subsidized imports of steel wire strand for prestressing concrete (PC strand) from France.

Domestic industry

Under title VII of the Tariff Act of 1930 (the Act), our analysis of the information gathered in this investigation begins with a definition of the scope of the relevant domestic industry. Section 771(4)(A) of the Act defines the domestic industry as consisting of "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[3] "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"[4]

The imported article that is the subject of this investigation is PC strand from France, a product consisting of one center wire and six helically placed outer wires that is used in prestressing concrete. This same product was involved in the recent Commission investigation regarding imports of PC strand from Spain[5] and in recent preliminary investigations regarding imports of PC strand from Brazil, France, and the United Kingdom.[6] In our opinion in those preliminary investigations we noted:

> The U.S. product that is like the imported product is all wire strand of steel for prestressing concrete. The domestic and imported products are made to the same ASTM specifications and are devoted to the same uses.[7]

The Commission found that the domestic industry consisted of the U.S. producers of this like product. We made the same finding in the investigation of PC strand from Spain.[8]

In this investigation, the parties have not suggested, nor does the information that has been developed supported, a revision of this industry definition.[9] We therefore find it appropriate to adopt the same definition of the domestic industry in this case.[10]

No material injury by reason of subsidized imports from France[11]

The record in this investigation reveals that with respect to many of the important economic factors the condition of the U.S. industry is healthy.[12] [13] Domestic production steadily increased from 1979 to 1981, although the period January–June 1982 showed some decline when compared to the same period in 1981.[14] U.S. producers' shipments of PC strand followed the same trend as production.[15] The domestic industry's capacity to produce PC strand has increased steadily and significantly each year from 1979 through June 1982.[16] Further, one domestic producer recently has increased its productive capacity significantly and another has stated that it will increase its productive capacity in the near future.[17] Despite the rapid increase in capacity, capicity utilization has remained at relatively high levels throughout this period, failing only in the first six months of 1982.[18] Employment, when measured by the number of production and related workers and by hours-worked, showed no appreciable change over the period 1979 to June 1982, and hourly wages, total consumption, and worker productivity all increased.[19] The only significant negative trend in this industry is profitability. Although the industry's net sales increased from 1979 to 1981, net profits declined, with a net loss occurring in the first half of 1982.[20] [21]

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[2] Since there is an established domestic industry, material retardation is not an issue in this investigation and will not be discussed further.

[3] 19 U.S.C. 1677(4)(A).

[4] 19 U.S.C. 1677(10).

[5] Prestressed Concrete Steel Wire Strand from Spain, Inv. No. 701–TA–164 (Final), USITC Pub. 1281 (1982) (PC Strand from Spain).

[6] Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Inv. Nos. 701–TA–152 and 153 (Preliminary) and 731–TA–89 (Preliminary), USITC Pub. 1240 (1982).

[7] *Id.* at 4.

[8] PC strand from Spain, p. 4.

[9] Although there was some discussion at the Commission's hearing that there are quality differences between the domestically-produced and French PC strand, these allegations have not been substantiated.

[10] Two domestic producers—Sumiden and CF&I—were neither petitioners nor interested parties in support of the petitioners in this investigation.

[11] At the Commission's hearing, the petitioners argued for the first time that this case should be considered on a regional basis, pursuant to section 771(4)(C) of the Tariff Act of 1930. 19 U.S.C. 1677(4)(C). Petitioners urged the Commission to divide the United States into two regions—an Eastern Region and a Western Region—but offered no factual basis for delineation between the two in the hearing. Hearing transcript, pp. 12–13, 91. Petitioners did not follow-up on these allegations in their post-hearing brief. The evidence of record reveals that there is not the requisite concentration of imports—either into the East or into the West—to permit us to find a regional industry. Although we do not believe that a regional industry finding is appropriate in this investigation, this does not preclude an examination of competition in certain markets as part of our analysis of the presence of material injury by reason of the subject imports. *See* PC Strand from Spain; *see also* the views of Commissioner Stern in Anhydrous Sodium Metasilicate from France, Inv. No. 731–TA–25 (Preliminary), USITC Pub. No. 1080 (1980).

[12] Most of the statistical data developed by the Commission in this investigation constitute confidential business information. Therefore, the information can be discussed only in general terms.

[13] Petitioner argued that the Commission should consider only the narrow period from January 1981 to the present in this investigation. Under the circumstances of this case, we deem it appropriate to examine the more representative period from 1979 to June 1982.

[14] Report Table 5, p. A–14.

[15] Report, Table 9, p. A–17.

[16] *Id.* Table 5.

[17] Report, p. A–15.

[18] *Id.*, Tables 5 and 9, pp. A–14 and 17.

[19] *Id.*, Table 11, p. A–19.

[20] *Id.*, Table 13, p. A–21.

[21] As noted in the legislative history to the Trade Agreements Act of 1979—

The foregoing economic data suggest that the only period of time in which the domestic industry could have suffered injury is the first half of 1982. Even assuming that this injury meets the statutory standard of "material injury," [22] our analysis of the effects of imports of PC strand from France during that six month period demonstrates that any such injury is not by reason of the subject imports. Our analysis has focused on both the absolute and relative levels of imports, on pricing data, on information regarding allegations of price suppression and depression, and on lost sales.

Imports from France increased irregularly, from 2.0 million pounds in 1978 to a peak of 6.1 million pounds in 1981. However, these imports declined from 3.9 million pounds in January–June 1981 to 1.8 million pounds in January–June 1982.[23] Imports from France as a share of increasing domestic consumption [24] reached their peak in 1981, and decreased significantly in the first half of 1982 compared with the first half of 1981. Thus, during the only period in which there is any evidence of deterioration in the condition of the domestic industry, the quantity of PC strand imported from France has decreased significantly, both in absolute terms and a a percentage of increasing domestic consumption.[25] [26] [27]

Data gathered on the pricing of imports from France do not demonstrate any casual connection between such imports and the condition of the domestic industry. As a part of our analysis, we compared domestic producers' f.o.b. mill price with the importer's f.a.s. duty-paid price. This comparison shows that the range of prices offered by domestic producers on a quarter-by-quarter basis was consistently greater than that offered by the importer. In fact, from 1980 through the third quarter of 1982, with one exception, the lowest price offered by domestic producers was consistently lower than the lowest price offered by the French importer.[28] [29]

The more informative price comparison for this industry is a comparison of delivered prices of French and domestic PC strand to purchasers in selected urban areas.[30] [31] Although the data show that there was some underselling in both markets in 1981, the single instance of underselling in January–June 1982 does not represent a pattern of significant underselling.[32]

Although PC strand prices have remained relatively level since 1979, despite increased production costs, any apparent suppression of domestic prices is not attributable to the effects of imports from France. Information gathered in response to the domestic industry's allegations of price suppression/depression fails to support those allegations. None of the seven allegations of price suppression/depression—three of which involve transactions in the first six months of 1982—were confirmed by the purchaser contacted by the Commission's staff. Three of the purchasers indicated that they did not purchase French PC strand, rather they purchased PC strand from either domestic producers or from other foreign sources. Others indicated that they did not even obtain price quotes from the French. Another purchaser indicated that he had not spoken to the French for six months because their price was too high. Another only indicated that French and domestic prices were in the same range, but this purchaser denied a specific allegation of price suppression in 1982.[33]

Finally, lost sales information supports the conclusion that there has been no significant underselling. Although certain allegations of sales lost to imports from France because of price occurring in 1980 and 1981 were confirmed, only one of four such allegations regarding the period January–June 1982 was confirmed.[34] The information gathered in the process of investigating the allegations of lost sales indicates that price is only one of several factors affecting the decision to purchase PC strand from a specific supplier. Strand purchasers noted other factors, including availability of service, delivery time, proximity of the vending firm, and quality of the product. Of the eight purchasers who responded to this section of the questionnaire, four firms ranked proximity of the vending firm highest, while only one firm ranked price highest.[35] Other available information indicates that in six of eight cases during 1981, factors other than price induced these firms to purchase higher-priced strand, for reasons such as packaging, quality, service, and supplier's inventory levels.[36]

The conditions of trade [37] in this industry suggest a further analysis of the impact of French imports. Generally, U.S. producers tend to ship the major portion of their production to customers located in relatively close proximity to their plants.[38] Similarly, the importer of PC strand from France markets in three geographic areas.[39] Consequently, it is appropriate to consider the impact of French imports on those domestic producers who most directly compete [40] with those imports. This comparison demonstrates that those companies competing most directly with the imported product from France are expanding vigorously.[41] [42] The combined capacity, production, and shipments of these firms have increased steadily during the period covered by this investigation. Further, their capacity utilization compares favorably with the capacity utilization for the rest of the domestic industry. The profits of these firms are generally higher than the profits of other domestic producers. The profitability of U.S. producers has been evaluated in light of the sizable start up and expansion costs for certain of the

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The Significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor listed in the [statute] can necessarily give decisive guidance with rspect to an injury determination.

H.R. Rep. 96–317, 96th Cong., 1st Sess., 46 (1979). In this investigation, the profitability data alone are not sufficient, when considered with all the other facts in this case, to support a finding of material injury.

[22] 19 U.S.C. 1677(7).

[23] Report, p. A–32.

[24] Consumption has increased steadily throughout the period of this investigation. Domestic consumption of PC strand is expected to grow in the near future. Report, p. A–7.

[25] We also note that at the same time that the market penetration of French PC strand has decreased significantly, imports from "other countries" have substantially increased their share of domestic consumption. Report, Table 22.

[26] We did not reach the issue of cumulation of the impact of imports from inports from France to be a contributing cause of material injury. See our discussion on pricing, price suppressison/depression, an lost sales, *infra*. Although we did not cumulate imports from France withimports from other countries, we did consider these imports, to the exten;t information was available, as factos in the market which may have contributed to the overall condition of the domestic industry.

[27] Report, Table 22, p. A–29.

[28] Report, Table 26, p. A–36.

[29] U.S. producers' prices were compared to the importer's prices using weighted average prices calculated from information supplied by domestic producers nationwide, while the average price for the importer was limited to the f.a.s. price at its ports of entry. Report, Table 26. Thus, these figures do not reflect the fact that many, if not most, of the reported sales by U.S. producers were in areas other than those in which the French imports competed. These price comparisons are also of limited value because they do not reflect transportation costs, which can be a significant share of the delivered price of PC strand.

[30] This comparison is based on Tables 28 and 29 of the Report.

[31] Table 27, p. A–37 of the Report, presents a comparison of delivered prices primarily of two domestic producers with the delivered prices of the sole importer of French PC strand. This table is of limited value because the locations of the domestic producers' customers and the importer's customers differ; their respective customers are located in widely dispersed geographic markets.

[32] Tables 28 and 29.

[33] Report, pp. A–38–40.

[34] Report, pp. A–40–41.

[35] Report, p. A–38.

[36] Report, pp. A–37 and 38.

[37] The legislative history make it clear that the Commission is to focus on the conditions of trade and development within the industry under examination. *See, e.g.*, H.R. Rep. 96–317, 96th Cong., 1st Sess., 46 (1979).

[38] Report, Table 1, p. A–9.

[39] Id.

[40] Report, Table 1, p. A–9.

[41] This contrasts markedly with the situation in the carbon steel industries which we have recently examined.

[42] Report, Table 6, p. A–15.

producers, which would normally result in decreased profitability.

Based on the information on the record in this investigation—especially data relating to the condition of the domestic industry during the first six months of 1982 and the impact of imports of PC strand from France during the same period—we determine that an industry in the United States is not being materially injured by reason of subsidized imports of prestressed concrete steel wire strand from France.

Threat of material injury by reason of the subsidized imports

With respect to threat of material injury, the Commission examines, among other factors, demonstrable trends in the following areas: (1) Rate of increase in importation of the dumped merchandise in the United States market; (2) importers's inventories; (3) capacity in the exporting country to generate exports; and (4) the likelihood that such exports will be directed to the United States market taking into account the availability of other export markets.[43] In this case, the imports from France into the United States are decreasing, both in absolute terms, and as a share of total imports and apparent domestic consumption.[44] Importer's inventories have decreased dramatically during the first six months of 1982 when compared with the same period in 1981, and the absolute level of inventories is insignificant.[45] There is no available capacity of the French producer of PC strand to generate additional exports and there are other significant available markets for French PC strand.[46] Therefore, we find that imports of PC strand from France pose no threat of material injury to the domestic industry.

Issued: December 3, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34025 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-182 (Final)]

Rail Passenger Cars and Parts Thereof From Canada

AGENCY: International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: November 29, 1982.

SUMMARY: As a result of a preliminary determination by the United States Department of Commerce that the government of Canada is providing subsidies to the manufacturers, producers, or exporters of rail passenger cars and parts thereof within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671), the United States International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-182 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of rail passengers cars, assembled or unassembled, finished or unfinished, components and parts and accessories thereof and/or to be used therewith. Unless the investigation is extended, the Department of Commerce will make its final subsidy determination in the case on or before February 4, 1983, and the Commission will make its final injury determination by March 28, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis, Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436; telephone 202-523-0296.

SUPPLEMENTARY INFORMATION:

Background.—On August 3, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, by reason of imports of the above-named products alleged to be subsidized by the government of Canada. The preliminary investigation was instituted in response to a petition filed on June 24, 1982, by the Budd Co. of Troy, Michigan.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on January 31, 1983, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on February 15, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 11:00 a.m., on February 3, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 10, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on February 22, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written

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[43] Section 207.26 of the Commission's Rules (19 CFR 207.26); H.R. Rep. 96-317, 96th Cong., 1st Sess., 46 (1979); Stainless Steel Sheet and Strip from West Germany, inv. No. 731-TA-92 (Preliminary), USITC Pub. No. 1252, pp. 14-15 (1982).

[44] Report, Tables 21 and 22, pp. A-27 and 29.

[45] Report, p. A-25.

[46] Report, p. A-11 and 12.

statement of information pertinent to the subject of the investigation on or before February 22, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

Issued: December 10, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34019 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-13]

Rayon Staple Fiber From Sweden; Hearing

AGENCY: International Trade Commission.

ACTION: Change of date of public hearing.

SUMMARY: Notice is hereby given that the public hearing to be held in connection with United States International Trade Commission investigation No. 104-TAA-13, Rayon staple fiber from Sweden, will begin at 10:00 a.m., Monday, February 7, 1983, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. A hearing date of February 9, 1983, had previously been announced in the Commission's notice of institution of investigation as published in the **Federal Register** of November 24, 1982 (47 FR 53151). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) January 20, 1983. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., on January 24, 1983, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before February 1, 1983. A staff report containing preliminary findings of fact in this investigation will be available to all interested parties on January 21, 1983.

Issued December 7, 1982.

By order of the Commission.

Kenneth R. Mason.

Secretary.

[FR Doc. 82-34022 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-118]

Sneakers With Fabric Uppers and Rubber Soles; Request for Public Comments on Recommended Termination of Seven Respondents Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Request for public comments on proposed termination of seven respondents in this investigation on the basis of a settlement agreement.

SUMMARY: On September 24,1982, complainant Van Doren Rubber Co. and respondents Thom McAn Shoe Company, Inc., Melville Corporation, Stride-Rite Footwear, Inc., Stride-Rite International, Ltd., Stride-Rite Corporation, Genesco, Inc., and San Shoe Trading Corporation filed a joint motion to terminate investigation No. 337-TA-118 with respect to the above-mentioned respondents. This motion is based on a settlement agreement entered into between these parties. On November 8, 1982, the presiding officer recommended that the Commission grant the joint motion. Before taking final action on this motion, the Commission seeks written comments from interested members of the public on the proposed termination. A nonconfidential synopsis of the settlement agreement is set forth below.

Synopsis: Each respondent joining the motion agrees not to import "Exluded soles" after August 26, 1982 or sell shoes having an excluded sole which were imported after that date. An excluded sole is defined as a sole which is the same as five specified patterns of confusingly similar to the Van Doren sole pattern. Two sole patterns have been specified as not similar to the Van Doren pattern. In addition, in an addendum to the agreement between complainant and the Stride-Rite respondents, another pattern was specified as not similar to the Van Doren pattern. San Shoe Trading Corp. has the right to import prior to December 31, 1982, a specified number of excluded soles already on order. None of the parties to the agreement waive any right to damages or defenses in a civil action, or do respondents admit liability or the validity of Van Doren's claims. Any aforementioned respondent may terminate the agreement with respect to any area of the country where a final judgement is subsequently entered in litigation between Van Doren and a third party which holds that Van Doren does not have proprietary rights in the sole pattern in that area of the country. Furthermore, after such a holding, any aforementioned respondent may move to modify any exclusion order issued by the Commission.

DATE: Comments will be considered if received within thirty (30) days of the date this notice appears in the **Federal Register.** Comments should conform with Commission rule 201.8 (19 C.F.R. 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-118 to determined whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain sneakers with fabric uppers and rubber soles by reason of (1) unfair competition, (2) false designation of source, (3) common-law trade mark infringement and (4) passing off in the manufacture and sale of these sneakers. The alleged effect or tendency of these unfair acts is to destroy or substantially injured an industry, efficiently and economically operated, in the United States. Notice of the institution of this investigation was published in the **Federal Register** on March 9, 1982. 47 FR 10103.

COMMENTS REQUESTED: In light of the Commission's duty to consider the public interest in this investigation, the

Commission requests written comments from interested persons concerning the effect of the termination of this investigation based upon the settlement agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the prodution of like or directly competitive articles in the United States, and (4) U.S. consumers. Written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open for public inspection at the Secretary's office, as is a copy of the settlement agreement.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq. Office of the General Counsel, U.S. International Trade Commission. 701 E Street N.W., Washington, D. C. 20436, Telephone (202) 523–0143.

Issued: December 7, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–34020 Filed 12–14–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–201–48]

Stainless Steel and Alloy Tool Steel

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 9, 1982.

SUMMARY: Following receipt of a request by the United States Trade Representative (USTR) for an investigation under section 201 of the Trade Act of 1974 of certain imported stainless steel and alloy tool steel products, the United States International Trade Commission hereby gives notice of the institution of investigation No. TA–201–48 under section 201(b)(1) of the act (19 U.S.C. 2251) to determine whether bars; wire rods; and plates, sheets, and strips, not cut, not pressed, and not stamped to rectangular shape; all the foregoing of stainless steel or certain alloy tool steel; and round wire of high speed tool steel, provided for in items 606.90, 606.93, 606.94, 606.95, 607.26, 607.28, 607.34, 607.43, 607.46, 607.54, 607.72, 607.76, 607.88, 607.90, 608.26, 608.29, 608.34, 608.43, 608.49, 608.57, 608.64, and 609.45 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The Commission must report its determination to the President by May 23, 1983; however, the Commission intends to expedite this investigation and transmit its report by May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Senior Investigator (202/523–1369) or James McClure, Suprervisory Investigator (202/523–0439), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background.—In accordance with a determination of the President on November 17, 1982 (47 FR 51717), under section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)), the USTR, in a letter received by the Commission on November 23, 1982 (copy attached), requested that the Commission conduct an expedited investigation under section 201 of the act concerning imports of certain stainless steel and alloy tool steel products. The President's action followed the completion of investigations under section 301 of the act initiated by USTR on February 26, 1982 (47 FR 10107) and on August 9, 1982 (47 FR 36387). These investigations were instituted on the basis of petitions, filed by the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, alleging that the European Community, Belgium, France, Italy, the United Kingdom, Austria, and Sweden had subsidized the production of stainless and alloy tool steel (specialty steel) in a manner inconsistent with their obligations under Articles 8 and 11 of the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on February 9, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436(19 CFR 201.13). Request to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 26, 1983.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and fourteen copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on February 2, 1983 (19 CFR 201.8). Confidential submissions should be in accordance with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statement submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Thursday, January 27, 1983, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Written submissions.—As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than close of business on February 18, 1983. In addition, any person who has not entered an appearance as a party to the

investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 18, 1983. A signed original and fourteen copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

November 19, 1982.

The Honorable Alfred Eckes
Chairman, United States International Trade Commission,
Washington, D.C.

Dear Mr. Chairman: In accordance with the determination of the President under Section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411 (a)(2)(A)) of November 17, 1982 (47 FR 51717, November 17, 1982), and pursuant to my authority under Section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), I am hereby requesting that the U.S. International Trade Commission promptly make an investigation under Section 201 to determine whether the specialty steel articles described in attachment 1 are being imported into the U.S. in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing like or directly competitive articles. I further request that the Commission expedite its investigation and submit its report to the President through me as soon as possible.

Representations have been made to USTR to the effect that certain specialty steel products included in the scope of this request are not produced domestically or are produced in small quantities and that restrictive action under Section 201 with respect to these products would be inappropriate. Therefore, in conducting its examination, the Commission is further requested to examine and provide advice on the impact of exempting the products listed in Attachment 2 from any import relief measures which the Commission may recommend.

Very truly yours,

William E. Brock.

Attachment 1

The specialty steel products provided for in the following item numbers of the Tariff Schedules of the United States Annotated (TSUSA) constitute the subject of this request for an investigation under Section 201 of the Trade Act of 1974.

1. Stainless steel sheet and strip

607.7610	608.2900
607.9010	608.4300
607.9020	608.5700
608.2600	

2. Stainless steel plate

607.7605	607.9005

3. Stainless bar

606.9005	606.9010

4. Stainless steel rod

607.2600	607.4300

5. Alloy tool steel

606.9300	607.5420
606.9400	607.7205
606.9505	607.7220
606.9510	607.8805
606.9520	607.8820
606.9525	608.3405
606.9535	608.3420
606.9540	608.4905
607.2800	608.4920
607.3405	608.6405
607.3420	608.6420
607.4600	609.4520
607.5405	609.4550

Attachment 2

Described below are the articles with respect to which USTR has requested the Commission to examine and provide advice on the impact of exemption from any recommended import relief measures.

1. Razor blade steel provided for in TSUSA item number 608.2600;

2. Chipper knife steel provided for in the following TSUSA item numbers:

606.9300	607.8805
606.9400	608.3405
607.3405	608.4905
607.5405	608.6405
607.7205	

3. Band saw steel provided for in the following TSUSA item numbers:

606.9520	607.8805
606.9525	608.3405
607.3405	608.4905
607.5405	608.6405
607.7205	

4. The following stainless steel sheet product, provided for in TSUSA item numbers 607.9020:

Stainless steel sheet not under 0.055 inch and not over 0.065 inch in thickness, not under 25.5 inches and not over 26.25 inches in width, which contains in addition to iron, each of the following elements by weight in the amount specified and which is certified at the time of entry to be imported for use in the manufacture of stainless-steel-clad aluminum automotive trim:

Carbon: none, or not more than 0.12 percent;

Chromium: not less than 16 percent nor more than 18 percent;

Molybdenum: not less than 0.75 percent nor more than 1.25 percent.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Remedy.—In the event that the Commission makes an affirmative injury determination in this investigation, a public hearing on the subject of remedy recommendations will be held beginning at 10:00 a.m., on April 5, 1983, at the U.S. International Trade Commission Building. A prehearing conference will be held on Friday, March 25, 1983 at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs will be due to the Secretary no later than the close of business on March 31, 1983, and must conform with the requirements of sections 201.6 and 201.8 of the Commission's rules. Posthearing briefs will be due to the Secretary no later than the close of business on April 8, 1983.

Inspection of request for investigation.—The request for an investigation filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rules of Practice and Procedure, 19 CFR § 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982, and part 206, subparts A and B (19 CFR 206 subparts A and B).

Issued: December 10, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-34018 Filed 12-14-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-124]

Textile Spinning Frames With Automatic Doffers; Proposed Termination of Investigation as to Two Respondents on the Basis of a Settlement Agreement and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the proposed termination of two respondents in the above-captioned investigation based on a settlement agreement.

SUMMARY: Notice is hereby given that a joint motion has been filed to terminate the above-captioned investigation with respect to respondents Toyoda Automatic Loom Works, Ltd., and Toyoda Textile Machinery, Inc. ("Toyoda") on the basis of a settlement agreement executed by complainant Platt Saco Lowell Corp. (PSL) and the aforementioned respondents. Before taking final action on the motions, the Commission requests that interested members of the public submit written comments on the proposed termination

of the respondents based on the settlement agreement.

DATES: In order to be considered, comments must be received within 30 days of publication of this notice in the **Federal Register**. Comments should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR § 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain textile spinning frames with automatic doffers. Notice of the institution of the investigation was published in the **Federal Register** of August 4, 1982 (47 FR 33816).

On October 1, 1982, the complainant and Toyoda filed a joint motion (Motion 124–13) to terminate the investigation with respect to Toyoda pursuant to section 210.51(c) of the Commission's Rules of Practice and Procedure on the basis of a settlement agreement.

On October 26, 1982, the presiding officer recommended that Motion 124–13 be granted.

The Settlement Agreement

The settlement agreement provided that Toyoda agrees not to import the allegedly infringing spinning frames during the life of the patent in issue, except under license or if the patent is determined to be invalid or unenforceable. Toyoda agrees not to contest infringement of the patent in this investigation only, but does not admit infringement and reserves the right to contest it in any other proceeding, as well as to assert invalidity or unenforceability.

In an ancillary agreement, Toyoda agrees to pay PSL a certain sum of money for a paid-up license granted by PSL to TNS Mills, Inc., with respect to 10 allegedly infringing spinning frames already imported by Toyoda and sold to TNS Mills. PSL agrees to defend TNS Mills and Toyoda and to indemnify them for any damages and costs in any patent infringement suit instituted by a PSL licensor, or its assignees of licensees.

The complete text of the settlement agreement, except for one provision which contains confidential business information, is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: December 8, 1982.

By order of the Commission.

Kenneth R. Mason.

Secretary.

[FR Doc. 82–34023 Filed 12–14–82; 8:45 am]

BILLING CODE 7020–02–M

NATIVE HAWAIIANS STUDY COMMISSION

Draft Report of Findings; Extension of Comment Period

The Native Hawaiians Study Commission announces its decision to extend the public comment period on the Commission's Draft Report of Findings to January 23, 1983. See 47 FR 42043, Sept. 23, 1982. This is a 60-day extension to the previous deadline of November 23, 1982. Comments should be sent to: Native Hawaiians Study Commission, U.S. Department of the Interior, 18th and C Sts., NW., Room 6220, Washington, D.C. 20240.

The Commission's final report, pursuant to Title III of Public Law 96–565, will be submitted to the U.S. Congress and to the President no later than June 23, 1983.

For further information, call Kina'u Boyd Kamali'i, Chairperson (808–546–3180) or Mary Lyon-Allen, Executive Director (202–343–3107).

Mary M. Lyon-Allen,

Executive Director.

[FR Doc. 82–34005 Filed 12–14–82; 8:45 am]

BILLING CODE 6820–BE–M

OFFICE OF MANAGEMENT AND BUDGET

[Circular A–102]

Uniform Requirements for Grants to State and Local Governments

AGENCY: Office of Management and Budget.

ACTION: Final notice.

EFFECTIVE DATE: Effective immediately.

This announces the availability of a document, entitled *Compliance Supplement,* that revises a similar publication issued previously to supplement the audit provisions of OMB Circular A–102, "Uniform requirements for grants to State and local governments."

The Supplement should be used when performing audits of State and local governments required by the audit provisions of Circular A–102. The use of this document in conjunction with the standard audit guide will facilitate a "single audit" that will encompass the needs of all users and will enable State and local governments to meet the Federal Government's need for assurance of compliance with applicable laws and regulations. It is expected that this will result in a more appropriate sharing of audit responsibilities among the levels of government, and further steamline the intergovernmental grants system. The Compliance Supplement was developed in consultation with the grantmaking agencies and relies on their interpretation of the major features of their programs.

The stock number of the Supplement is 041–001–00262–6; it is available only from the Government Printing Office (address below). The cost is $7.50. Make requests and send checks to: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Financial Management Division, Office of Management and Budget, Washington, D.C. 20503, Phone (202) 395–3993.

Candice C. Bryant,

Acting Deputy Associate Director for Administration.

[FR Doc. 82–33982 Filed 12–14–82; 8:45 am]

BILLING CODE 3110–01–M

POSTAL RATE COMMISSION

[Docket No. A83–9; Order No. 470]

Colon, North Carolina 27236; Nora Kelly McNeill, et al, Petitioners; Order of Filing of Appeal

December 10, 1982.

On December 6, 1982, the Commission received an appeal letter from Nora Kelly McNeill and others (hereinafter "Petitioners"), concerning the United States Postal Service's decision to close the Colon, North Carolina, post office. The appeal letter appears to request the review provided for by 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)).[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

"ensure that such persons will have an opportunity to present their views.[2] The petition requests that the decision to close the Colon post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining (39 U.S.C. 404(b)(2)(C)).

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issue described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed.

The Commission orders:

(A) The appeal letter from Nora Kelly McNeill and other users of the Colon post office be accepted as a petition for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

By the Commission.

David F. Harris,

Secretary.

December 6, 1982—Filing of Petition
December 10, 1982—Notice and Order of Filing of Appeal
December 21, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
December 27, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
January 5, 1983—Petitioners' Initial Brief [*see* 39 CFR 3001.115(a)].
January 20, 1983—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
February 4, 1983—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
April 5, 1983—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-34014 Filed 12-14-82; 8:45 am]
BILLING CODE 7715-01-M

[Docket No. MC83-2]

Mail Classification Schedule, 1983 ZIP+4 First-Class Subclasses; U.S. Postal Service's Filing of a Request for a Recommended Decision on Establishing ZIP+4 Subclasses for First-Class Regular Mail and Cards

December 10, 1982.

Notice is hereby given that on December 8, 1982, the United States Postal Service ("Postal Service"), pursuant to Chapter 36 of Title 39, United States Code, filed a request with the Postal Rate Commission for a recommended decision on establishing subclasses of first-class mail for ZIP+4 regular mail and ZIP+4 cards. This filing has been assigned Docket No. MC83-2.[1]

The Postal Service states that its request contains such information and data which explain the nature, scope, significance and impact of the request.[2] The Postal Service proposes that first-class mail which is either nonpresorted or presorted to the 5-digit code be given a discount of ½ cent per piece if it bears a proper ZIP+4 code and meets other eligibility and preparation requirements. The requirements are that (1) the mailing contains at least 500 pieces, (2) the pieces are machinable, (3) the addresses are readable by the Postal Service's processing equipment, and (4) postage is paid in a manner not requiring cancellation. The Postal Service's filing states further that mailings must be tendered at limited acceptance points, generally post offices, and must be in trays. The Postal Service says that its request will advance the policies of the Postal Reorganization Act generally, and the proposal particularly furthers the policies of providing types of mail service to meet the needs of different categories of mail and mail users, and to provide prompt, reliable and efficient services.

Hearings will be held on the proposal submitted by the Postal Service in Docket No. MC83-2. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before December 30, 1982, and must be in accordance with section 20 of the Commission's rule of practice (39 CFR 3001.20). We direct specific attention to section 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not the petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to

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[2] 39 U.S.C. 404(b)(1).
[3] 39 U.S.C. 101(b).
[4] 42 FR 59079-85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[5] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

[1] While this case has both rate and classification elements, we have followed the Postal Service's designation and the case has been docketed using the classification nomenclature of "MC." However, no particular significance should be attached to that nomeclature. The Commission contemplates following a 10-month schedule. 39 U.S.C. 3624(c).

[2] The specific additions to the Domestic Mail Classification Schedule are set out in legislative format in Attachment A of the Postal Service's Request.

participate actively in the hearing.[3] Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before December 30, 1982, file a written request for leave to be heard as a "limited participator," pursuant to section 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 19b of the Commission's rules, 39 CFR 3001.19b.

At the same time as it filed its Proposal, the Postal Service, pursuant to Commission rules 22 and 64(h)(3), filed a motion for waiver of the requirements of section 54(f) and 54(h), which are applicable through section 64(h)(2), and section 64(d). These sections require various cost analyses. The Postal Service seeks a waiver of these sections, insofar as they require the projection and allocation of costs through fiscal year 1984, the test year. The Postal Service says it should be granted a waiver for these cost analyses because it has quantified the pertinent test year cost consequences on a unit basis, with proposed rates designed to equal cost savings. The Postal Service asserts that the substantial equality of cost and revenue consequences make a Service-wide financial projection superfluous in this proceeding.

The Postal Service also requests waiver of sections 31(k) and 64(g), insofar as they require complete documentation of Postal Service Exhibit 2A, presenting the calculation of national coverage factors for the automated mail processing equipment during the test year. The Postal Service explains that the underlying data are facility-specific Origin Destination Information System (ODIS) data, which the Postal Service has previously held proprietary.

Persons who wish to address the Postal Service's motion should file their answers on or before January 7, 1983.

The request of the Postal Service for a recommended decision on establishing subclasses for ZIP + 4 first-class mail and the motion for waiver of certain filing provisions of the Commission's rules of practice and procedure are on file with the Commission and are available for public inspection during regular business hours.

[3] In this regard, parties who intend to participate actively in this proceeding are encouraged to inform the Postal Service informally and promptly of desired preliminary clarifications of the Postal Service's presentation wherever the participant believes such clarification will expedite this proceeding.

The Officer of the Commission (OOC) designated to represent the interest of the general public in this proceeding will be Stephen A. Gold. During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor such personnel will participate in or advise as to any Commission decision in this case. *See* 39 CFR 3001.8. The OOC will supply, for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding, the OOC shall be separately served with three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by section 10(c) of the rules of practice. 39 CFR 3001.10(c).

By order of the Commission.

David F. Harris,

Secretary.

[FR Doc. 82-34015 Filed 12-14-82; 8:45 am]

BILLING CODE 77150-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12872; 812-5321]

Boston Company Fund; Filing of Application

December 6, 1982.

In the matter of The Boston Company Fund, One Boston Place, Boston, Massachusetts 02106 (812-5321). Notice is hereby given that The Boston Company Fund ("Applicant"), a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 20, 1982 and amendment thereto on December 3, 1982 requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value the portfolio securities of The Boston Company Government Money Fund ("Fund") using the amortized cost method of valuation. 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. Such persons are also referred to the Act for the complete text of those provisions thereof for which an exemption is being sought.

Applicant states that it is a Massachusetts business trust authorized to issue an unlimited number of shares of beneficial interst of separate series. Applicant further states that shares of five series have been authorized, one of which is The Boston Company Government Money Fund, a "money market" fund.

Applicant states that the investment objective of the Fund is to seek a high level of current income, safety of principal and daily liquidity through investments solely in obligations of the United States Government and its agencies and instrumentalities that are supported by the full faith and credit of the United States of America ("Government Obligations"), and repurchase agreements secured only by such Government Obligations. The application states that Government Obligations that are supported by the full faith and credit of the United States include Treasury Bills and Government National Mortgage Association pass-through certificates. Applicant represents that the Fund may not invest in a repurchase agreement maturing in more than seven days if such investment together with other illiquid securities held by the Fund exceed 10% of the value of the Fund's net assets.

Applicant represents that investments by the Fund are presently valued in accordance with Rule 2a-4 under the Act, as that rule was interpreted for money market funds in Investment Company Release No. 9786 (May 31, 1977). Applicant states that it has maintained a constant net asset value of $1.000 per share of the Fund since it began issuing shares of the Fund to the public on May 3, 1982. As of November 19, 1982, the Fund had total shares outstanding of 27,440,450.34, and total net assets of 27,450,192.92, with a dollar-weighted average portfolio maturity of 67 days. Applicant states that the discrepancy of 9,742.58 now existing between the Fund's total net assets and number of outstanding shares is represented by realized gain on the sale of certain of the Fund's portfolio securities. Applicant represents that before December 31, 1982, Applicant will restructure the Fund's portfolio so that, on the date of transition to amortized cost valuation (which will be the earliest possible date after the Commission issues an order of exemption on the application), the Fund will have a dollar-weighted average portfolio maturity of under 60 days, and no instrument in its portfolio will have a maturity of 60 days or more. Applicant states that in the process of restructuring its portfolio, Applicant may dispose of portfolio securities for the Fund, thus realizing gains or losses. Applicant states that it will distribute the Fund's net realized gains for the year, if any, as part of the

dividend to be declared on December 31, 1982, the end of Applicant's fiscal year. Applicant states, conversely, that if the Fund has net realized losses at December 31, 1982 (although Applicant does not anticipate a net realized loss at fiscal year end), Applicant will reduce the number of the Fund's total outstanding shares by December 31, 1982. In view of the fact that, on the date of transition, the Fund will have no portfolio securities with maturities of 60 days or more and will have a dollar-weighted average portfolio maturity of under 60 days, Applicant anticipates that any variation on that date between the Fund's total number of shares outstanding and its total net assets will be due to unrealized appreciation or depreciation of a *de minimis* amount. Applicant therefore believes that no adjustment in the Fund's total number of shares outstanding on the day of conversion to amortized cost valuation for the Fund is warranted. Applicant states that on the day of conversion, because they will all have maturities of under 60 days, instruments in the Fund's portfolio will be valued at amortized cost.

Applicant states that it believes that for the Fund to be in a position to meet the needs and expectations of potential investors and to offer its shareholders relative stability of principal and a relatively smooth stream of income at currently competitive rates, it must be able to price its portfolio at amortized cost. Applicant states that if it is not permitted to price the Fund's portfolio at amortized cost, this could result in artificial yield differentials caused by insignificant changes in the market price of securities in the Fund's portfolio, and the Fund will have difficulty maintaining a constant net asset value per share. Applicant asserts that artificial yield differentials and an unstable net asset value per share would be clearly contrary to the best interests of the Fund's shareholders.

Applicant asserts that the Commission has expressed its view that, among other things, Rule 2a–4 requires that portfolio instruments of money market funds be valued with reference to market factors and that it would be generally inconsistent with the provisions of Rule 2a–4 for a money market fund to value its portfolio instruments having maturities in excess of 60 days on an amortized cost basis. Investment Company Act Release No. 12206 (February 1, 1982); Investment Company Act Release No. 9786 (May 31, 1977).

Applicant also asserts that in Investment Company Act Release No. 10666 (April 18, 1979), the Commission published the position of its Division of Investment Management regarding investment companies entering into repurchase agreements with broker-dealers. Applicant asserts that the Division took the position that it would not recommend that enforcement action under Section 12(d)(3) of the Act be brought against investment companies with respect to repurchase agreements if such a transaction is structured in a manner reasonably designed to collateralize fully the investment company loan, i.e., the value of the security transferred to the investment company is, and during the entire term of the agreement remains, at least equal to the amount of the loan including accrued interest earned thereon. Applicant further asserts that the Division made statements regarding repurchase agreements in the areas of accounting, disclosure, and compliance with the Act. Applicant states that while the statements in Release 10666 are directed to repurchase agreements with broker-dealers, Applicant's board of trustees represents that, in supervising the Fund's operations and delegating special responsibilities to Applicant's investment adviser, they will undertake, as part of the procedure referred to in condition 1 below, to ensure that Applicant will comply with Release No. 10666 when entering into repurchase agreements on behalf of the Fund with banks as well as broker-dealers.

Applicant states that it undertakes to determine the maturity of portfolio instruments for the Fund in accordance with the provisions of proposed Rule 2a–7, set forth in Investment Company Act Release No. 12206, except that if that rule should ultimately be adopted, the maturity of an instrument shall be determined in accordance with the provisions of the Rule as adopted.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption 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. Applicant states that it believes an exemption to the extent necessary to permit Applicant to employ the amortized cost method of pricing portfolio instruments of the Fund is consistent with the standards set forth in Section 6(c) of the Act for the following reasons: (1) The amortized cost method of valuation will permit the Fund to provide the stability of principal and steady flow of investment income demanded by investors; (2) The Fund will make investments only in instruments having a remaining maturity of one year or less and its average portfolio maturity will not exceed 120 days; (3) Given the nature of the Fund's policies and operations, only a relatively negligible discrepancy will exist between the market value and the amortized cost value of the Fund's portfolio securities; (4) The possibility of change in the Fund's price per share is largely obviated by the Fund's investment policies; (5) Investors in the Fund will receive a yield related to yields available in the general debt market that otherwise would not be available if the Fund were required to maintain a portfolio having an average maturity of a duration shorter than proposed; and (6) Applicant's trustees have determined in good faith, in light of the Fund's characteristics and the needs of investors that, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable and will reflect the fair value of the Fund's securities.

Applicant states that in order to enhance investor protection, Applicant consents to issuance of the requested order of exemption subject to the following conditions:

1. In supervising the Fund's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Applicant's trustees shall be the following:

(a) Review by the board of trustees as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Fund's $1.00 amortized cost price per

share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of the Fund; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Applicant's board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicants board of trustees.

6. Applicant will include in each of quarterly report for the Fund, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than December 29, 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 reason 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 the 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 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. 82-34068 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by Applicant's trustees in the exercise of their discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 22761; 70–6802]

Central and South West Services, Inc.; Proposed Changes in Charges and Billing by Subsidiary Service Company

December 6, 1982.

In the matter of Central and South West Services., Suite 2700, One Main Place, Dallas, Texas 75202 (70–6802).

Central and South West Services, Inc. ("CSWS"), a service company subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed a declaration with this Commission pursuant to Section 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 86, 87, 88, 90, and 91 thereunder.

By order dated March 30, 1969 (HCAR No. 16317), CSW was authorized to establish CSWS to perform services for CSW and its operating utility subsidiaries. CSWS commenced operations in 1969 and provides a variety of management and administrative services; engineering planning; construction management; tax, accounting, budgeting, and financing services; employee benefit plan supervision and development; employee and public relations services; operations of the corporate data center; shareholder and corporate activities; and other work for the CSW System.

The present declaration is being filed by CSWS for the purpose of: (1) providing for the billing of services rendered to Transok Pipe Line Company ("Transok") and subsidiary companies which may be formed in the future, (2) securing authorization for a change in the cost allocation method previously established, and (3) providing for joint construction project payments made by CSWS on behalf of the operating utility subsidiaries of CSW. Use of the proposed allocation method will commence as of January 1, 1983.

On September 30, 1982, Public Service Company of Oklahoma, a subsidiary of CSW, transferred the ownership of Transok to CSW, and, now that Transok is a first-tier subsidiary, CSWS will provide services to Transok on a regular basis. For this reason, it is proposed to bring Transok into the billing structure. In addition, to the extent CSW is authorized to and does in the future form or otherwise acquire other non-operating company subsidiaries, it is proposed that such subsidiaries also be brought into the billing structure.

It is stated that the three formulas for allocating indirect costs are no longer adequate and that, therefore, it is proposed that the cost allocation

method be amended. Under the proposed allocation method, costs will continue to be captured in work orders in accordance with the Commission's Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies. These costs will be billed to System companies as follows: I. Costs incurred in connection with services performed for a specific company (including subsidiary companies formed in the future) will be billed to that company. II. Costs incurred in connection with services performed for two or more companies will be allocated among and billed to those companies. The appropriate method of allocation will be determined by CSWS at the time the work order is initiated, and notice of the allocation method will be given to the companies affected. III. Costs incurred by CSWS which are not directly allocable to one or more of the System companies are known as indirect costs. Indirect costs of each functional area will be allocated among and billed to the System companies based on one or more of the billing methods named below. No substitution or change in the proposed methods of allocation will be made without further approval of the Commission.

The various bases of allocation to be employed by CSWS for billings to CSW System companies are as follows: (1) Total Assets with 20% Allocated to CSW, (2) Total Assets, (3) Peak Load, (4) Average Number of ultimate Customers, (5) KWH Sales, (6) Peak Load/Average Customers/KWH Sales, (7) Average Peak Load for Past Three years, (8) Computer Resource Units, (9) Number of Employees, (10) Total Gross Utility Plant, and (11) Total Common Stock Equity with 20% Allocated to CSW. The above bases of allocation will be used to allocate both direct and indirect costs.

CSWS is proceeding with plans to construct jointly-owned generating units and direct-current interconnections ("joint projects"). It is anticipated that approximately $130 million will be spent on such projects during 1983. CSWS proposes to treat accumulation for billing of expenditures associated with joint projects in accordance with Instruction 01-4 of the Commission's Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies. Under this Instruction, CSWS salaries and allocated overheads will be accumulated in CSWS expense accounts and billed monthly as capital items directly to the participating companies. Such amounts will reimbursed monthly by the subsidiary companies through the CSW System Money Pool. Amounts for materials and outside services associated with joint projects will be paid by CSWS from a bank account established for the project. Each project will have a unique bank account dedicated for that project only. Disbursements from the account will be excluded from the CSWS accounting system; the charges will be accumulated in a series of work order accounts and communicated monthly to the participating companies for direct entry to their accounting systems. As disbursements are made, the participating companies will reimburse the project daily through the CSW System Money Pool.

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 29, 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 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. 82-34063 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22766; 70-6805]

Middle South Utilities, Inc. et al.; Sale of Common Stock by Subsidiaries to Holding Company and Acquisition by Holding Company

December 9, 1982.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205 and Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, (70-6805). Middle South Utilities, Inc. ("Middle South"), a registered holding company, and two utility subsidiaries, Mississippi Power & Light Company ("Mississippi") and Arkansas Power & Light Company ("Arkansas"), have filed an application-declaration with this Commission pursuant to Sections 6, 7, 9(a), 10, and 12(f) of the Public Utility Holding Company Act of 1935 and Rules 43 and 50(a)(3) promulgated thereunder.

Certain of the operating subsidiaries of Middle South, including Arkansas and Mississippi (collectively "Operating Subsidiaries"), were authorized by order dated December 17, 1981 (HCAR No. 22321) to issue and sell to Middle South, from time to time through December 31, 1982, up to 6,400,000 shares and 870,000 shares, respectively, or common stock.

On October 18, 1982, Arkansas issued and sold to Middle South 3,200,000 shares of its previously authorized common stock. It is currently anticipated that Arkansas and Mississippi will have issued and sold to Middle South by the end of 1982, the remaining authorized shares of their common stock.

To meet Arkansas' financing requirements through December 31, 1983, Arkansas proposes to issue and sell to Middle South and Middle South proposes to acquire up to 5,200,000 additional shares of common stock, having a par value and price of $12.50 per share, of Arkansas ("Arkansas Stock") for an aggregate cash consideration of up to $65,000,000. The Arkansas Stock is in addition to the remaining 3,200,000 shares of Arkansas' common stock that are presently authorized to be sold to Middle South during 1982.

To meet Mississippi's financing requirements through December 31, 1983, Mississippi proposes to issue and sell to Middle South and Middle South proposes to acquire up to 2,175,000 additional shares of common stock, without nominal or par value, of Mississippi ("Mississippi Stock") at a price of $23.00 per share or an aggregate cash consideration of up to $50,025,000. The Mississippi Stock is in addition to the 870,000 shares of Mississippi's common stock that are presently authorized to be sold to Middle South during 1982.

The respective net proceeds derived from the issuance and sale of the Arkansas Stock and the Mississippi Stock will be used by the particular subsidiary for the financing in part of (including the retirement of short-term indebtedness incurred in financing) its construction program and for other corporate purposes. Therefore, each of the Operating Subsidiaries and Middle South believe it is preferable for each subsidiary's common stock sales to be timed to coincide with that subsidiary's cash needs, which are primarily determined by the nature and pace of

the construction program of that subsidiary. As of September 30, 1982, the construction program of Arkansas and Mississippi for 1983 were estimated to cost $337.8 million and $76.9 million, respectively.

Upon each issuance and sale of shares of the Arkansas Stock and the Mississippi Stock, Arkansas and Mississippi propose to credit their respective Common Stock Capital Accounts with the amount (in the aggregate of up to $65,000,000 for Arkansas and up to $50,025,000 for Mississippi) received by them for such stock, and Middle South proposes to debit its Investment Account with the amount (in the aggregate of up to $115,025,000) of its cash investment in such stock.

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 30, 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. 82-34070 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12885; 811-2779]

Minneapolis Shareholders Co.; Filing of Application

December 8, 1982.

In the matter of Minneapolis Shareholders Company, 1215 Marshall Street N.E., Minneaplois, Minnesota 55440 (811-2779). Minneapolis Shareholders Company ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application for an order of the Commission pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company as defined in the Act. 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.

On October 13, 1977, Applicant, a Minnesota corporation, filed a notification of registration pursuant to Section 8(a) of the Act and was deemed registered under the Act on that date.

Applicant represents that on January 5, 1979 it transferred substantially all of its funds to a separate bank account entitled "Liquidation Account" for the purpose of making liquidation distributions to its shareholders. Applicant further represents that the first distribution payment was set at $5.38 per share and that a final distribution of $0.56 per share to shareholders of record on December 27, 1978, was paid on February 14, 1980. Applicant states that following the payment of final liquidation expenses, the sum of $113,234.22 was deposited in a non-interest bearing account with the Dakota Bank and Trust Company of Fargo, North Dakota, representing funds held for payment on the 19,063 shares that had not been tendered to the Applicant. Applicant further states that on March 1, 1982, $74,337.02 was still being held in the account, representing 12,163 shares that had not been tendered for payment; $472.80 represented amounts that had been held by Applicant's transfer agent for payment of uncashed dividend checks dating back to 1974; the remaining amount of $1,616.00 represented funds designated to pay legal and accounting fees, mailing and other expenses of liquidation. Applicant further represents that funds held for payment of unclaimed proceeds will be paid to the Minnesota State Treasurer pursuant to chapter 345 of the Minnesota Statutes, the statute dealing with the disposition of unclaimed property.,

Applicant represents that it has no other debts or outstanding liabilities; it has no other assets or securityholders, and is not a party to any litigation or administrative proceedings. Applicant states that it is not now engaged, and does not propose to engage in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is hereby given that any interested person may, not later than January 3, 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/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she 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 a matter 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34064 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12883; 812-5315]

Prudential-Bache Securities, Inc. et al.; Filing of Application

December 8, 1982.

In the matter of Prudential-Bache Securities, Inc. (formerly Bache Halsey Stuart Shields Incorporated), Chancellor Cash Fund, Inc., Chancellor Equity Fund, Inc., Chancellor Government Securities Trust, Chancellor High Yield Fund, Inc., Chancellor High Yield Municipals, Inc., Chancellor New Decade Growth Fund, Inc., Chancellor Quality Income Fund, Inc., Chancellor Tax-Free Money Fund, Inc., Chancellor Tax-Managed Utility Fund, Inc., Money Mart Assets, Inc., 100 Gold Street, New York, NY 10292, (812-5315). Notice is hereby given that Chancellor Cash Fund, Inc. ("Cash"), Chancellor Equity Fund, Inc. ("Equity"), Chancellor Government Securities Trust

(Intermediate Term Series ("Intermediate") and Money Market Series ("Money Market"), Chancellor High Yield Fund, Inc. ("High Yield"), Chancellor High Yield Municipals, Inc. ("Municipals"), Chancellor New Decade Growth Fund, Inc. ("New Decade"), Chancellor Quality Income Fund, Inc. ("Quality Income"), Chancellor Tax-Free Money Fund, Inc. ("Tax-Free"), Chancellor Tax-Managed Utility Fund, Inc. ("Utility"), Money Mart Assets, Inc. ("MMA") (collectively, the "Funds") and Prudential-Bache Securities, Inc. ("PrudentialBache," collectively with the Funds, "Applicants") filed an application on September 15, 1982, and an amendment thereto on November 12, 1982, requesting an order of the Commission pursuant to Section 11(a) of the Investment Company Act of 1940 ("Act") approving certain proposed offers of exchange on a basis other than relative net asset values of the shares involved in the exchanges, and pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act in connection with those exchanges. 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 state that each of the Funds, except Intermediate and Money Market, is registered under the Act as an open-end, management investment company. Intermediate and Money Market are series of Chancellor Government Securities Trust, which is registered under the Act as an open-end, management investment company. Prudential-Bache is the principal distributor for, and maintains continuous public offerings of the shares of, each of the Funds. Shares of Cash, Money Market, Tax-Free and MMA (the "No-Load Funds") are offered at net asset value without a sales charge; shares of Equity, High Yield, New Decade, Quality Income and Utility (the "Load Funds"), Intermediate and Municipals are offered at their respective net asset values plus a sales charge, as set forth below.

Size of transaction at offering price	Sales charge as a percentage of offering price		
	Intermediate	Municipals	Load funds
Less than $25,000	1.00	4.50	6.75
$25,000 to $49,999	.75	4.00	5.25
$50,000 to $99,999	.50	3.50	4.25
$100,000 to $249,999	.25	3.00	3.25
$250,000 to $499,999	.125	2.50	2.50
$500,000 to $999,999	.125	2.00	2.00
$1,000,000 or more	.0625	1.25	1.25

Applicants state that exchanges of shares of the Funds at relative net asset values are permitted under Section 11(a) of the Act and are presently available to shareholders of the Funds. Applicants further state that pursuant to an order of the Commission (Investment Company Act Release No. 12139, January 5, 1982), the following additional exchanges of shares of certain of the Funds are available to shareholders of those Funds:

(1) Shares of High Yield, New Decade and Utility, including reinvested shares, may be exchanged for shares of Municipals at their relative net asset values, plus the difference between the sales charges of Municipals and each of High Yield, New Decade and Utility.

(2) Shares of High Yield, New Decade and Utility, including reinvested shares, may be exchanged for shares of Tax-free and MMA, acquired in exchange for shares of Municipals, at their relative net asset value plus the difference between the sales charges of Municipals and each of High Yield, New Decade and Utility.

Applicants state that each of the foregoing exchanges is subject to the condition that the shares to be exchanged must have a net asset value of the minimum initial amount required for investment or the minimum amount required for reinvestment in the shares to be acquired, as the case may be.

Applicants propose to permit the following additional exchanges:

1. The Load Funds and Municipals propose to offer their shares to shareholders of Intermediate in exchange for shares of Intermediate at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of each Load Fund or Municipals (in the case of each Load Fund, a maximum of 6.75%, and, in the case of Municipals, a maximum of 4.50%), less an amount equal to the sales charge previously paid on the shares of Intermediate. The Load Funds also propose to offer their shares to shareholders of each of the No-Load Funds, in exchange for shares of each of the No-Load Funds acquired in exchange for shares of Intermediate, at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of each Load Fund or Municipals, less an amount equal to the sales charge previously paid on the shares of Intermediate exchanged for the shares of each of the No-Load Funds.

2. Equity and Quality Income propose to offer their shares to shareholders of Municipals in exchange for shares of Municipals at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of Equity or Quality Income (in each case, a maximum of 6.75%), less an amount equal to the sales charge previously paid on the shares of Municipals. Equity and Quality Income also propose to offer their shares to shareholders of each of the No-Load Funds, in exchange for shares of each of the No-Load Funds acquired in exchange for shares of Municipals, at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of Equity or Quality Income, less an amount equal to the sales charge previously paid on the shares of Municipals exchanged for the shares of each of the Funds.

3. High Yield, Utility and New Decade propose to offer their shares to shareholders of Cash and Money Market, in exchange for shares of Cash and Money Market, respectively, acquired in exchange for shares of Municipals, at their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of High Yield, Utility or New Decade (in each case, a maximum of 6.75%), less an amount equal to the sales charge previously paid on the shares of Municipals exchanged for the shares of Cash and Money Market, respectively.

4. Prudential-Bache also proposes to offer to shareholders of any registered investment company primarily distributed by Prudential-Bache, including the Funds, and funds to be created in the future (a "Prudential-Bache Fund"), shares of any of the Load Funds, Municipals, Intermediate or any other Bache Fund having a sales charge in exchange for shares of such first Bache Fund at their relative net asset value per share plus the sales charge described in the prospectus of such Load Fund, Municipals, Intermediate or such other Prudential-Bache Fund, less an amount equal to the sales charge previously paid on the shares of the first Prudential-Bache Fund. Bache also proposes to offer to shareholders of any No-Load Fund or other Prudential-Bache Fund having no sales charge, which shares have been acquired in exchange for shares of such first Prudential-Bache Fund, shares of any of the Load Funds, Municipals, Intermediate or any other Prudential-Bache Fund at their relative net asset value per share at the time of exchange, plus the sales charge described in the prospectus of such Fund, Municipals, Intermediate or such other Prudential-Bache Fund, less an amount equal to the sales charge

previously paid on the shares of the first Prudential-Bache Fund.

Applicants state that a shareholder acquiring shares of any of the Load Funds or Municipals, as the case may be, through any combination of exchanges or purchases of shares of the No-Load Funds and of Intermediate or Municipals, as the case may be, would pay the same overall sales charge as a proportion of net asset value (or of the public offering price) that he would have paid had he directly purchased shares of one of the Load Funds or Municipals, as the case may be, with the same asset value. For any other Prudential-Bache Fund to which this exchange privilege would apply, the same result will occur.

Applicants state that in the event they decide they will no longer provide the proposed exchange privilege, they propose that no notice thereof would be provided to shareholders of the Funds, other than through the next effective prospectus of such companies. However, the Applicants do not currently contemplate that any such termination would occur before the effective date of the post-effective amendment of which such prospectus formed a part.

Applicants propose that, in the event a shareholder desires to make any of the exchanges covered by the application, shares that may be exchanged at relative net asset value without sales charge will be exchanged first. The remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales charge.

Applicants state that the purpose of the proposed exchange plan is to permit a shareholder of Municipals, Intermediate or of one of the No-Load Funds whose shares were acquired as a result of an exchange for shares of Municipals or Intermediate to change his investment to an investment company with different investment objectives, but within the Prudential-Bache group of funds, without paying the full sales charge otherwise applicable. An exchange offer of one of the Load Funds to such a shareholder of Municipals or of one of the No-Load Funds, or an exchange offer of one of the Load Funds or Municipals to such a shareholder of Intermediate or of one of the No-Load Funds, at the relative net asset value of one of the Load Funds, would inequitably benefit such shareholders who would have paid substantially less sales charges on their initial investment in shares of Municipals or Intermediate than similarly situated investors in one of the Load Funds. Since the proposed offers would allow exchanges that would take place on a basis other than the net asset values of the shares proposed to be exchanged, the proposed offers must be submitted to the Commission for approval pursuant to Section 11(a) of the Act. In addition, since the proposed exchanges might be deemed to involve sales of shares of the Load Funds and Municipals at a sales charge other than that described in those Funds' prospectuses, Applicants request an order of the Commission pursuant to Section 6(c) of the Act exempting them from the provisions of Section 22(d) of the Act to the extent necessary to allow the proposed offers of exchange.

Section 6(c) provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent 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.

Applicants assert that the proposed exchange plan is fair and equitable to shareholders of all of the Funds while at the same time giving all of then desirable flexibility in their financial planning and that the orders requested hereby are 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 January 3, 1983, 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34065 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22764; 70-6822]

Public Service Company of Oklahoma; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

December 8, 1982.

In the matter of Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119, (70-6822). Public Service Company of Oklahoma ("Public Service"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(b) and 7 of the Public Utility Holding Company Act of 1935 and Rules 42 and 50 promulgated thereunder.

Public Service proposes to issue and sell up to $50 million principal amount of its first mortgage bonds, having a maturity of not less than five nor more than thirty years, in one or more transactions from time to time through the period ending December 31, 1983. The price and annual interest rate will be determined by competitive bidding at the time of the sale or sales. Public Service may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). Public Service also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) so that the bonds may be offered through a negotiated public offering or private placement.

The bonds will be issued under a mortgage indenture, dated July 1, 1945, as supplemented and amended, and as to be further amended by a proposed supplemental indenture. The net proceeds from the issuance and sale of the bonds will be used to repay, in part, amounts of short-term debt outstanding and to finance portions of Public Service's general construction program.

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 January 3, 1983, 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 or 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34072 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22767; 70-6819]

Southwestern Electric Power Co.; Proposal To Issue and Sell Preferred Stock at Competitive Bidding

December 8, 1982.

In the matter of Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156, (70-6819). Southwestern Electric Power Company ("SWEPCO"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

SWEPCO proposes to issue and sell at competitive bidding up to 400,000 shares of preferred stock, par value $100 per share, in one or more series from time to time during the period ending December 31, 1983. Each series of preferred stock will be sold at a price to SWEPCO of not less than $100 nor more than $102.75 per share, with dividends to accrue thereon only from the date of issue. The filing also states that, depending upon market conditions, the offering of the preferred stock may provide for periodic redemption through the operation of a cash sinking fund.

SWEPCO has stated to the Commission that it may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). It is also indicated, however, that SWEPCO may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) so that the preferred stock may be offered through a negotiated public offering or private placement. The net proceeds from the issuance and sale of the preferred stock will be used, in part, to finance SWEPCO's construction and fuel exploration and development program, and to retire certain amounts of outstanding short-term debt.

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 January 4, 1983, 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. 82-34071 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12878; 812-4754]

Technology Fund, Inc.; Filing of an Application

December 7, 1982.

In the matter of Technology Fund, Inc., Kemper Total Return Fund, Inc., Kemper Growth Fund, Inc., Kemper Summit Fund, Inc., Kemper Income and Capital Preservation Fund, Inc., Kemper Municipal Bond Fund, Inc., Kemper Option Income Fund, Inc., Kemper High Yield Fund, Inc., Kemper U.S. Government Securities Fund, Inc., Kemper International Fund, Inc., Investors National Trust Group Multiple Maturity Tax-Exempt, Bond Trust, Ninth Series, Investors National Trust Group, Tax-Exempt Bond Trust, Insured, Tenth Series, Kemper Tax-Exempt Income Trust, Series 11 and Subsequent Series, and Kemper Financial Services, Inc., 120 South LaSalle Street, Chicago, IL 60603, (812-4754).

Notice is hereby given that Technology Fund, Inc., Kemper Total Return Fund, Inc., Kemper Growth Fund, Inc., Kemper Summit Fund, Inc., Kemper Income And Capital Preservation Fund, Inc., Kemper Municipal Bond Fund, Inc., Kemper Option Income Fund, Inc., Kemper High Yield Fund, Inc., Kemper U.S. Government Securities Fund, Inc., and Kemper International Fund, Inc., each registered under the Investment Company Act of 1940 ("Act"), as a diversified, open-end, management investment company (collectively, "Funds"), Investors National Trust Group Multiple Maturity Tax-Exempt Bond Trust, Ninth Series, Investors National Trust Group Tax-Exempt Bond Trust, Ninth Series, Investors National Trust Group Tax-Exempt Bond Trust Insured Tenth Series, and Kemper Tax-Exempt Income Trust, Series 11 and subsequent Series (the "Trusts") and Kemper Financial Services, Inc. ("Kemper Financial") (hereinafter, Funds, Trusts and Kemper Financial are referred to as "Applicants"), filed an application on October 4, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act amending a previous order dated March 31, 1982 (Investment Company Act Release No. 11709). The prior order, pursuant to Section 6(c) of the Act, exempted the Funds and Kemper Financial from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit the sale of shares of the Funds, and shares of such other registered, open-end, management investment companies for which Kemper Financial may serve as principal underwriter in the future, at net asset value, without imposition of normal sales charges and without regard to minimum initial investment requirements, to Kemper Affiliated Employees as described herein. The amended order would further permit Kemper Affiliated Employees to purchase at net asset value without a sales charge, units of the Trusts and any other series of registered unit investment trust sponsored or underwritten by Kemper Financial in the future on the same basis purchases under the Plan are currently being effected with the Funds. The amended order would also expand the definition of Kemper Affiliated Employees to include the employees of Lumbermens Mutual Casualty Company and its various subsidiaries, as well as all of the directors of the Kemper Companies. 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.

According to the application, each of the Funds is organized as a corporation under the laws of the State of Maryland and is currently engaged in a continuous public offering of its shares through Kemper Financial as principal underwriter at public offering prices equal to net asset value plus a sales charge. Applicants state that sales charges on the Funds vary with the size of the purchase and, as set forth in the Funds' prospectuses, range from .40% to 8.50% depending upon the Fund in question. Applicants further state each of the Trusts is a unit investment trust issuing redeemable securities created by Kemper Financial as sponsor, all of which are similar but each of which is separate and is designated by a different series letter or number. Each series is created under the laws of the State of Missouri pursuant to a Trust Indenture and Agreement between Kemper Financial and Investors Fiduciary Trust Company. Applicants represent that Kemper Financial acts as principal underwriter of each Trust at public offering prices based on a pro rata share of the offering prices of the bonds in the protfolio of a series plus a sales charge during the initial offering period and a pro rata share of the bid side prices of the bonds in the portfolio of a series plus a sales charge for secondary market purposes.

Applicants state that Kemper Financial, is the parent and sole stockholder of Kemper Investors Life Insurance Company ("Kemper Life") which underwrites and distributes, through life insurance agents, broker/dealers and others, a line of products including life insurance, individual deferred annuities and tax-sheltered and group annuities. Kemper Financial, in turn, is a wholly-owned subsidiary of Kemper Corporation, a diversified, insurance and financial services holding company. Applicants further represent that Lumbermens Mutual Casualty Company ("Lumbermens Mutual") owns approximately 52% of Kemper Corporation. (Lumbermens Mutual, Kemper Corporation, Kemper Life and Kemper Financial, including any present subsidiaries of Kemper Corporation, and any Kemper Corporation of Kemper financial subsidiaries acquired or formed subsequent to the date of this application, hereinafter are referred to as the "Kemper Companies.")

Pursuant to the earlier order dated March 31, 1981, Kemper Financial currently permits employees of the Kemper Companies, with the exception of Lumbermens Mutual, ("Kemper Affiliated Employees") pursuant to an employee purchase plan (the "Plan") to purchase shares of the Funds at net asset value. Applicants state that participating Kemper Affiliated Employees are able to invest without paying a sale charge, in any of the Funds through the Plan (i) by direct purchases, (ii) through payroll deduction, which will be made available to employees by certain Kemper Companies in the amount of $25.00 or more for each investment, or (iii) through automatic periodic bank checking account plans in the amount of $25.00 or more for each investment; provided that those Kemper Affiliated Employees who do not participate in the Plan either through payroll deduction or automatic periodic bank checking account plans have to meet the appropriate Fund's initial, and subsequent minimum investment requirements. Under the Plan, shares of more than one Fund may be purchased simultaneously, and distributions on shares of the Funds acquired under the Plan may be reinvested at net asset value. Applicants also state that participants must agree not to resell Fund shares acquired through their participation in the Plan except by repurchase or redemption by or for the account of the Fund issuing such shares.

Applicants assert that few, if any, individual or in-person group sales solicitations or presentations concerning the Plan have been made. According to the application, all Kemper Affiliated Employees periodically receive a notice concerning the Plan, furnished at the expense of the Kemper Companies. That notice describes the Funds and their investment objectives, indicates that investments in the Plan are at net asset value and details the methods by which investments can be made. The notices also indicate where additional information concerning the Plan and the Funds, including prospectuses of the Funds, can be obtained. In all cases, a copy of the appropriate prospectus(es) are furnished to the employee prior to the time he is permitted to enroll in the Plan.

Applicants submit that the Plan as permitted pursuant to the Commission's Order or March 31, 1981, provides for the elimination of sales charges on the sale of shares of the Funds to participating Kemper Affiliated Employees based upon the rationale that employment by the Kemper Companies has been selected by the Funds as a criteria relating to the realization of economies of scale in sales effort and sales related expenses. Applicants further submit that features of the Plan which give rise to economies of scale and sales effort in sales related expense are as follows: (i) There is little, if any, personal solicitation of participants by Kemper Financial, its representatives or by any other broker/dealer; (ii) employees purchasing shares of any Fund through payroll deduction have shares purchased for their accounts at each payroll date with payment for such shares being funnelled through Kemper Financial thus relieving the Funds from concerns about check clearance and delays in processing; and (iii) all eligible employees receive periodic notice of the availability of the Plan, at the expense of their employers.

Applicants state that sales to Kemper Affiliated Employees under the Plan have resulted in substantial economies in sales effort and sales-related expense. According to Applicants, employees of the Kemper Companies have a basic understanding of the nature of an investment in an investment company a well as general familiarity with, and a significant degree of loyalty to, the Funds.

Applicants further submit that amendment of the Commission order of March 31, 1981, to permit Kemper Affiliated Employees to purchase at net asset value without a sales charge units of the Trusts and any other series of registered unit investment trust sponsored or underwritten by Kemper Financial in the future, and to expand the definition of Kemper Affiliated Employees to include the employees of Lumbermens Mutual and its present and future subsidiaries, as well as all directors of the Kemper Companies, on the same basis as purchases under the Plan are currently being effected, is consistent with the rationale and purposes underlying the earlier order. In light of the above, Applicants request that an order be entered, pursuant to Section 6(c) of the Act, amending the Commission's earlier order exempting Applicants from the provisions of Section 22(d) of the Act, and Rule 22d–1 thereunder, to include within the terms thereof the Trusts and any other series of registered unit investment trust sponsored or underwritten by Kemper Financial in the future, and expanding the definition of Kemper Affiliated Employees to include those employees cited above.

Section 6(c) of the Act provides, in pertinent part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act 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.

Notice is further given that any interested person may, not later than January 3, 1983, at 5:30 pm., 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 Applicants 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. 82-34061 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12886; 812-5338]

Territorial Money Market Fund; Filing of Application

December 9, 1982.

In the matter of The Territorial Money Market Fund, 421 Seventh Avenue, Pittsburgh, PA 15219 (812-5338).

Notice is hereby given that The Territorial Money Market Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 14, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. 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 it is a "money market" fund organized as a Massachusetts Business Trust and that Cash Management Services, Inc., a wholly-owned subdidiary of Federated Investors, Inc., serves as its investment adviser. Applicant further states that its investment objective is to seek current income consistent with stability of principal and that it may invest in money market instruments including United States Government obligations, instruments of United States Government agencies, prime commercial paper, repurchase agreements, instruments of domestic and foreign banks and savings and loans, such as certificates of deposit, demand and time deposits, bankers' acceptances and Eurodollar certificates of deposit, maturing in one year or less.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules 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 states that experience indicates that in order to attract investors two features are necessary in a "money market" fund: (1) Stability of principal, and (2) steady flow of investment income. Applicant asserts that by maintaining a portfolio of high quality, short-term "money market" instruments valued at amortized cost it can provide these features to investors. Applicant represents that its board of trustees has determined in good faith that, in light of the characteristics of Applicant, the amortized cost method of valuation of portfolio instruments is appropriate and preferable for the Applicant, reflects fair value of such instruments, and is in the best interest of Applicant's shareholders.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, the board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: Redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instrument, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of its meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that the granting of the requested exemptions 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 January 4, 1983, 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.82-34060 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12879; 812-5349]

Texaco Capital N.V.; Filing of an Application

December 7, 1982.

In the Matter of Texaco Capital N.V., c/o Carl B. Davidson, Texaco Inc., 2000 Westchester Avenue, White Plains, NY 10560 (812–5349).

Notice is hereby given that Texaco Capital N.V. ("Applicant"), a Netherlands Antiles corporation which is a wholly-owned subsidiary of Texaco Inc. ("Texaco"), a Delaware corporation, filed an appliction on October 21, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. 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 represents that it was incorporated on April 7, 1982, and that its principal executive offices are located at 15 Pietermaai, Curacao, Netherlands Antilles. Applicant further represents that all of its outstanding stock is owned by Texaco. According to the application, Texaco, is engaged in the worldwide exploration and production, transportation, refining, and marketing of crude oil and its products, including petrochemicals. For the year ended December 31, 1981, Texaco's consolidated net income was $2,310,000,000. Total consolidated revenues for that period were $59,297,000,000 of which $57,628,000,000 were from sales and other services and $1,669,000,000 were from equity and net income of nonsubsidiary companies, dividends, interest, and other income.

Applicant states that its sole business will be the lending of funds derived either from capital contributions or from funds borrowed within or outside of the United States to Texaco and its subsidiaries and, accordingly, substantially all of its assets will consist of amounts receiveable from Texaco or its subsidiaries. To this end, Applicant proposes to undertake, on behalf of Texaco, the issuance and sale of long-term, intermediate-term or short-term debt securities ("Securities") in the United States and worldwide. Payment of principal of and premium, if any, and interest on the Securities would be unconditionally guaranteed by Texaco. Applicant represents that the terms of the Texaco guarantees will be such that in the event of a default with respect to a Security legal proceedings may be instituted directly against Texaco to enforce the guarantee of such Security without first proceeding against the Applicant. Applicant further states that it would advance to, or deposit with, Texaco or subsidiaries of Texaco substantially all of the proceeds of sales of Securities made by the Applicant. The terms of the advances or deposits would allow the Applicant to make timely payments of principal and of premium, if any, and interest on such Securities. Applicant represents that, at the times of issuance and sale of Securities and so long as any Securities are outstanding, Applicant will remain a wholly-owned subsidiary of Texaco or one of Texaco's subsidiaries and Applicant will own or hold no equity securities other than equity securities of Texaco and subsidiaries of Texaco.

Applicant represents that its offerings of Securities would be limited to offerings of long-term, intermediate-term or short-term debt securities. Such offerings would either take the form of a public offering of securities registered under the Securities Act of 1933 (the "1933 Act") or a sale of securities by means of transactions exempt from the registration requirements of the 1933 Act.

The Applicant represents that Applicant and Texaco would, prior to any public offering of Securities in the United States not exempt from the registration requirements of the 1933 Act, file a registration statement under the 1933 Act with the Commission and would not sell such Securities until the registration statement was declared effective by the Commission and the related indenture was qualified under the Trust Indenture Act of 1939. Applicant and Texaco would also comply with the prospectus delivery requirements of the 1933 Act in

connection with the offering and sale of such Securities.

Applicant further represents that, in the case of an offering of Securities in the United State not requiring registration under the 1933 Act, Applicant and Texaco would undertake to provide to any offeree to whom they offer such Securities in the United States a memorandum at least as comprehensive as memoranda customarily used in such offerings of such Securities in the United States. In the event of subsequent offerings, the memorandum would be updated at the time thereof, as necessary, to reflect material changes in the financial position of Texaco. Applicant consents to having any order granting the relief requested under Section 6(c) of the 1940 Act expressly conditioned upon its compliance with its undertakings regarding disclosure memoranda.

Applicant also undertakes that, in connection with any issuance of Securities, Applicant would appoint an agent to accept service of process in any action based on such Securities and instituted in any state or Federal court located in New York City by any holder thereof, and Applicant would accept jurisdiction in any state or Federal court located in the City of New York in any action based on any Securities instituted by any holder. Such appointment and consent would be irrevocable until the amounts due or to become due on such Securities have been paid. No authorized agent for service of process would be a trustee for the holders of Securities or have any responsibilities or duty to act for such holders as would a trustee.

Applicant further represents that prior to any issuance of the Securities, the Securities shall have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicant shall have certified to its United States counsel that such rating has been received. No such rating shall be required to be obtained, however, if, in the opinion of United States counsel for Applicant, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

Applicant states that it may be deemed an investment company under Section 3(a)(3) of the Act on the ground that its proposed advances to, or deposits with, Texaco may be deemed "investment securities" and would constitute more than 40% of its total assets. However, having been organized solely for the purpose of financing operations of Texaco, Applicant does not view itself as an investment company. Accordingly, in order to eliminate any doubt that it would be entitled, without registration under the Act, to issue and sell the Securities, Applicant requests an exemption from all provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or 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.

In view of the Texaco guarantees and the fact that Applicant will derive all of the funds needed to repay the purchasers of its Securities from Texaco, Applicant asserts that it is appropriate that, as a subsidiary financing company of Texaco, it should be exempted from the requiremnents of the Act for the same reasons that Texaco itself would be exempt from the provisions of the Act. Therefore, Applicant requests that the Commission enter an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1983, 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. 82-34062 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12887; 812-5284]

Vantage Money Market Funds; Filing of Application

December 9, 1982.

In the Matter of Vantage Money Market Funds, 1345 Avenue of the America, New York, New York 10105 (812-5284). Notice is hereby given that Vantage Money Market Funds ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 23, 1982, and an amendment thereto on November 3, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. 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. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof from which an exemption is being sought.

According to the application, Applicant was organized as a business trust under the laws of the Commonwealth of Massachusetts on June 23, 1982. Applicant states that it is a "money market fund", having as its investment objective high current income consistent with preservation of capital and maintenance of liquidity. Smith Barney, Harris Upham & Co. Incorporated ("Smith Barney") is Applicant's manager and distributor. Applicant's shares will be offered at net asset value without a sale change initially in two portfolios, i.e, the Vantage Cash Portfolio and the Vantage Government Portfolio, and Applicant's trustees may in the future create additional series to be managed as separate portfolios (the "Portfolios"). Applicant states that its shares will be offered exclusively to participants in the Vantage Account, an integrated financial services program which will be offered by Smith Barney.

According to Applicant, the Vantage Government Portfolio may be invested in obligations issued or guaranteed by the United States, its agencies and instrumentalities, may enter into repurchase and reverse repurchase agreements with respect to such obligations, and may lend such obligations on a fully collateralized basis to recognized financial institutions. The Vantage Cash Portfolio may, in addition to United States Government obligations and the other investments and portfolio management techniques permitted for the Vantage Government Portfolio, invest in a variety of other money market instruments, including obligations of banks having assets of $1 billion or more and subject to regulation by the United States Government (including obligations of foreign branches of such banks) and obligations of domestic branches of foreign banks having assets of $10 billion or more, commercial paper, corporate obligations maturing in one year or less, and variable amount demand master notes. Although Applicant will generally not seek profits through short-term trading, it states that it may dispose of any portfolio security prior to its maturity if it believes such disposition advisable.

Applicant states that the investments of each Portfolio will consist of obligations maturing within one year and the average maturity per Portfolio of all the investments (on a dollar-weighted basis) will be 120 days or less. Applicant also states that each Portfolio may also invest in such obligations which were originally issued with maturities in exces of one year if, at the time of purchase, the remaining time to maturity is less than one year. It is further stated, however, that underlying securities used as collateral for repurchase agreements are not subject to these restrictions.

Applicant asserts that it may enter into repurchase agreements, but that repurchase agreements maturing in more than seven days are limited to 10% of a Portfolio's total assets, computed together with any other illiquid asset it may hold. Applicant represents that it will comply with the restrictions set forth in Investment Company Act Release No. 10666 regarding broker/dealers and other financial institutions that are parties to repurchase agreements. Applicant states that it may also invest in reverse repurchase agreements with brokers, dealers and other financial institutions, so long as its obligations with respect to such agreements would not exceed one third of its net assets, at market value. With respect to lending portfolio securities, Applicant states that it will require that the borrower of the securities will at all times maintain cash or equivalent collateral or secure a letter of credit in favor of Applicant equal in value to at least 100% of the value of securities loaned. In addition, Applicant represents that, in determining to which broker-dealers, banks or other recognized financial institutions securities will be loaned, Applicant's investment manager will consider all relevant facts and circumstances, including the creditworthiness of such financial institutions and/or creditworthiness of the bank issuing any letter of credit; Applicant will not enter into any portfolio lending agreement of more than one year's duration; any letter of credit securing a borrower's obligation to return borrowed securities will remain in effect at least as long as the securities remain on loan; and any securities with maturities in excess of one year that Applicant may receive as collateral for a particular loan will not become part of its portfolio either at the time of the loan or in the event that the borrower defaults on its obligation to return the borrowed securities.

According to Applicant, it has been the experience of its investment manager and distributor in distributing other funds, including two other "money market" type funds, that in order to attract investors and retain shareholder, each Portfolio should possess the two attributes of stability of principal, *i.e.*, a stable net asset value, and a steady flow of investment income. It is asserted that Applicant's management believes that Applicant's above-stated investment policies will provide both of these attributes and that it has been its management's experience with respect to securities within the investment policies of each Portfolio that with respect to instruments maturing in 120 days or less there is normally a negligible discrepancy between market value and the amortized cost value of such securities. Thus, Applicant states that it believes that valuation of its assets on the amortized cost basis, by enabling the maintenance of a stable price per share and allowing a flow of investment income less subject to fluctuation than under procedures whereby its dividend would be adjusted by all realized and unrealized gains and losses, will benefit its shareholders.

Applicant represents that its trustees have determined in good faith that, in light of the characteristics of Applicant, and each of its Portfolios, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and each of its Portfolios, and reflects fair value of such securities.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations 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 the requested exemption is consistent with the standards expressed in Section 6(c) of the Act. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share by using the amortized cost method of valuing its portfolio securities. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested.

1. The trustees in supervising the Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's manager, undertake—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize the net asset value per share of each Portfolio as computed for the purpose of purchases and redemptions at $1.00 per share.

2. Included within the procedures to be adopted by the trustees shall be the following:

(a) Periodic review by the trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, of the relationship for each Portfolio between the net asset value per share using amortized cost to value portfolio securities and net asset value per share based upon available indications of market value with respect to such portolio securities, and the maintenance or records of such review.[1]

[1] To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value

(b) In the event of a difference of more than one-half of one percent between the two methods of valuation for either or both Portfolios, a requirement that the trustees will promptly consider what action, if any, should be initiated.

(c) Where the trustees believe the differences between the two methods of valuation may result in any material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate on a Portfolio-by-Portfolio basis to reduce or eliminate, to the extent reasonably practicable, such dilution or unfair results which may include: Selling portfolio instruments prior to maturity to realize capital gains (to be declared as dividends) or losses or to shorten the average portfolio maturity of a Portfolio; suspending dividends; and utilizing a net asset value per share as determined by using available market quotations.

3. Each Portfolio will maintain a dollar-weighted average maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that neither Portfolio will (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, such Portfolio will invest its cash in such a manner as to reduce such maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and, it will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the investments of each Portfolio, including repurchase agreements and securities subject to repurchase agreements, to those United States dollar denominated instruments which the trustees determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the trustees.

6. If any action were taken pursuant to paragraph 2(c) above, Applicant will file a statement describing with specificity the nature and circumstances of such action within 30 days after the close of each calendar quarter during which such action was taken.

Notice is further given that any interested person may, not later than January 4, 1983, 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 reason 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 the 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 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. 82-34059 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

reflecting current market conditions chosen by its trustees in the exercise of their discretion to be appropriate indicators of value, which may include, among other things, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[Release No. 19309; SR-CBOE-82-9]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

December 8, 1982.

In the matter of Chicago Board Options Exchange, Incorporated, La Salle at Jackson, Chicago, Illinois 60604 (SR-CBOE-82-9).

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 Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change modifies CBOE Rule 9.21 so as to conform to Rule 134a under the Securities Act of 1933, which was adopted together with the revised disclosure system for standardized options recently established by the Commission.[1] In general, the revised disclosure system provides for the furnishing to options investors of options disclosure documents, rather than the Options Clearing Corporation prospectus. Under the new disclosure system, the disclosure document rather than the prospectus will be the primary source of information to investors about standarized options. Rule 134a provides that written materials relating to standarized options shall not be deemed a prospectus under Section 2(10) of the Securities Act of 1933 provided that certain prescriptive requirements are met and provided that the materials are limited to explanatory information describing the general nature of the standarized options market or one or more options strategies, as well as the correlative risks involved.

The proposed rule change adds the term "educational material" to Rule 9.21, which sets forth Exchange requirements pertaining to member communications to options investors, and provides that such material must meet the requirements of Rule 134a. It specifies that, along with advertisements and sales literature, all educational material of a member organization must be approved in advance by the Compliance

[1] The revised disclosure system was proposed in Securities Exchange Act Release No. 18836 (June 24, 1982), 47 FR 28688 (July 1, 1982) and adopted in Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41950 (September 23, 1982).

Registered Options Principal or his designee. It also specifies that, along with every advertisement, educational material of a member organization must be submitted to the Department of Compliance of the Exchange ten days prior to use and must be approved by the Exchange prior to circulation. Further, the proposed rule change provides that all written material relating to options other than educational material or sales literature may not be disseminated to any person unless the relevant option disclosure documents have been or are concurrently supplied to that person.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change 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 DC 20549. Reference should be made to File No. SR–CBOE–82–9.

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. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

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 of the Act 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 rule change simply implements the immediate use of the new disclosure system for standarized options which was subject to extensive notice prior to its adoption by the Commission.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change reference above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-34066 Filed 12-14-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19315; File No. SR-CSE-82-1]

Cincinnati Stock Exchange, Inc.; Order Approving Rule Change

December 9, 1982.

In the matter of Cincinnati Stock Exchange, Inc., 205 Dixie Terminal Building, Cincinnati, Ohio 45202 (File No. SR–CSE–82–1).

I. Introduction

On July 19, 1982, the Cincinnati Stock Exchange, Inc. ("CSE") filed with the Commission a proposed rule change, pursuant to Section 19(b) under the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to terminate the status of the National Securities Trading System ("NSTS") as an experimental program by extending its duration for an indefinite period and by eliminating the existing 200 issue limit on the permissible number of issues which may be traded in the NSTS. Notice of the proposed rule change was given by issuance of a Commission release[1] and by publication in the **Federal Register.**[2] After carefully reviewing the submission, as well as taking into account the sole comment letter received thereon[3] and the findings of the Commission's monitoring program regarding the operation of the NSTS,[4] the Commission has determined to approve the proposed rule change.

II. Background of the NSTS

The NSTS is a fully automated electronic trading system which permits CSE members, without the necessity of maintaining a physical presence on the floor of the CSE or any other exchange, to enter agency or principal orders into the System. Once entered, orders are stored, queued and executed by the System's computer according to price and time priorities.[5] The markets reflected in the System are updated and displayed instantaneously upon the entry of new or revised orders, the cancellation of orders or the execution of orders entered into the System.

The NSTS is based on several predecessor systems. In 1976, Weeden & Company developed the Weeden Holding Automated Market ("WHAM"). In 1977, WHAM was renamed the Regional Market System ("RMS") and was employed by several regional exchanges as a supplementary trading mechanism which permitted a regional specialist to expose an order to buying or selling interest on another regional exchange.[6] Subsequently, the RMS was acquired by the CSE and was expanded to include greater participation by "upstairs" market makers.[7] In addition, the System was renamed the Multiple Dealer Trading System ("MDTS"), and the System's software was redesigned so that approved dealers and specialists could hit each other's principal quotations. In 1979, Control Data Corporation ("CDC") purchased the System's hardware and software from Weeden & Company and contracted with the CSE to become the facilities manager for the System which was renamed the "National Securities Trading System."

On April 18, 1978, the Commission, pursuant to Sections 11A and 19(b)(2) of the Act, issued an order approving a proposed rule change of the CSE to establish the System on a nine-month pilot basis.[8] On December 15, 1978, the Commission approved an extension of the pilot program for an additional year.[9] Subsequently, on September 21, 1979, the Commission approved the extension of the NSTS through January 31, 1983.[10] In the latter order extending

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[1] Securities Exchange Act Release No. 18985 (August 19, 1982).

[2] 47 FR 37728 (August 26, 1982).

[3] *See* comments of the U.S. Dep't of Justice in regard to File No. SR–CSE–82–1, dated October 25, 1982.

[4] *See* Securities and Exchange Commission, *A Report on the Operation of the Cincinnati Stock Exchange National Securities Trading System 1978—1982,* September 1982 (*"1982 Monitoring Report"*); and Securities and Exchange Commission, *A Monitoring Report on the Operation of the Cincinnati Stock Exchange National Securities Trading System,* May 1981.

[5] Public agency orders are granted priority over other orders at the same price, regardless of time of entry.

[6] In addition, pursuant to an agreement between the participating exchanges, two CSE members were permitted to maintain terminals in their "upstairs" offices.

[7] "Approved dealers" in the NSTS may participate in the System by entering agency and dealer quotations through terminals located in their respective trading rooms. Approved dealers include CSE members who undertake certain market making responsibilities and meet certain minimum capital requirements and specialists on national securities exchanges who enter bids and offers in NSTS securities for which they are registered as specialists. *See* CSE Rule 11.9 (a)(1).

[8] Securities Exchange Act Release No. 14674 (April 18, 1978), 43 FR 17894.

[9] Securities Exchange Act Release No. 15413 (December 15, 1978), 44 FR 129.

[10] Securities Exchange Act Release No. 16215 (September 21, 1979), 44 FR 56074 ("September 1979 Extension Order").

the NSTS as a pilot program, the Commission indicated that it intended to closely monitor the operation of the NSTS and people using the System to ensure that the NSTS developed in a manner consistent with the objectives of the evolving national market system ("NMS").

Prior to 1981, the CSE was not a participant in the Intermarket Trading System ("ITS") [11] and thus CSE members often experienced difficulty in routing orders to other market centers and members of ITS participants could not route orders to the CSE through ITS. On February 10, 1981, the Commission approved amendments to the plan governing the operation of the ITS and the CSE's rules which provided for a manual interface between ITS and NSTS.[12] Currently, ITS terminals are located on the CSE floor and staffed by exchange employees. A NSTS participant desiring to send a commitment to trade to another ITS market center must notify the CSE floor through the NSTS. Commitments to trade received by the CSE from other ITS market centers are entered manually into the NSTS by CSE employees.

Since the System began operating in June 1978, the Commission has received, compiled and analyzed a substantial volume of data relating to the NSTS as part of the Commission's program to monitor the operations of the System. The monitoring program, to date, has not found any adverse impacts and, while trading has not been substantial, the findings suggest that the NSTS has provided its users, particularly NSTS market makers, an effective mechanism for executing orders and attracting order flow. During 1981, NSTS trading volume averaged 37 thousand trades per quarter, representing 11.4 million shares. This compares to a quarterly average of 26 thousand trades totalling 8.1 million share in the previous year. During the third quarter of 1982, NSTS share volume reached an all-time high, 13.7 million shares. NSTS volume has been small, however, relative to composite volume in NSTS securities.

A comparison of NSTS executions with NYSE quotations indicates that less than one-Half of one percent of the trades involving agency orders have taken place at prices inferior to primary market quotations. Furthermore, it appears that ITS participants have been able to take advantage of the linkage to reach the published quotations in the NSTS in order to obtain a price better than the published quotations in the primary market. For the initial period that the NSTS has been interfaced with ITS, the CSE has been a net importer of ITS share volume. During September 1982, for example, the CSE executed orders for 2.3 million share received from other ITS market centers and sent orders for 1.6 million share to other ITS market centers. In addition, the results of a spread analysis of NSTS securities indicates that, to date, the NSTS has not affected the primary market spread of NSTS securities. Finally, NSTS secruities are characterized by a higher average quote size in the primary market relative to non-NSTS securities.

III. The CSE Proposed Rule Change

In proposing to make the NSTS approval indefinite, the CSE contends that the NSTS's experimental status to date has hurt the Exchange in competing on an equal basis with other market centers.[13] Specifically, the CSE indicated that new users of the NSTS must incur certain start-up costs (including employee training costs and equipment installation charges), and that in view of the NSTS's temporary status, these costs may have discouraged prospective users from participating in the System.

In addition, the CSE has indicated that CDC, the facilities manager and owner of the System's hardware and software, is finding it difficult to plan, implement and justify the cost of further System enhancements absent the assurance that the NSTS will be allowed to operate on an indefinite basis. Moreover, the Exchange itself has stated that it cannot effectively plan for long-term system enhancements such as expansion of System capacity and an automated interface between the NSTS and ITS [14] so long as the NSTS is cast as an experimental system. As a result of these planning uncertainties, the CSE finds itself at a competitive disadvantage with other market centers in attacting new participants, designating new issues, and increasing access to order flow.

As previously noted, the Commission received one comment letter, from the United States Department of Justice ("DOJ") on the CSE's proposed rule change. In DOJ's view, the "continued regulatory characterization of the NSTS as an 'experimental' or 'pilot' program, after four years of operation, can only place NSTS at a competitive disadvantage vis-a-vis other exchanges." In addition, DOJ believed that "[t]he continued usefulness and viability of the NSTS as a securities trading mechanism should be determined by market forces, not regulatory action." Accordingly, DOJ supported the CSE's proposed rule change which, if adopted, would make the NSTS permanent and eliminate any limitation as to the number of securities that the System could trade.

IV. Discussion

In mandating the development of a NMS, Congress expressly stated that "[n]ew data processing and communications techniques create the opportunity for more efficient market operations." [15] Congress then set forth a number of objectives to guide the Commission in facilitating the development of a NMS (*e.g.*, efficient execution, fair competition, dissemination of trade and quotation information, and best execution).[16] In carrying out Congress' mandate, the Commission has taken an evolutionary approach by encouraging the securities industry to take the primary initiative in fashioning trading mechanisms which are consistent with the goals of a NMS. The Commission believes that, as a general matter, the industry has responded well to changing economic and technological demands by attempting to integrate state of the art data processing and communications technology to develop many new trading systems which have advanced the objectives of a NMS. In this respect, the Commission believes that ITS, the NASD's Computer Assisted Execution System ("CAES") [17] and the NSTS

[11] The ITS is an intermarket communications system, authorized by the Commission, on a provisional basis as a NMS facility pursuant to Section 11A(a)(3)(B) of the Act, operated jointly by certain national securities exchanges and one national securities association. The current participants in ITS are the American, Boston, Cincinnati, Midwest, New York, Pacific and Philadelphia Stock Exchanges, and the National Association of Securities Dealers, Inc. ("NASD"). Presently, the ITS also is operating on a provisional basis. The Commission encourages and expects the ITS participants to submit a proposal in the near future seeking Commission approval of the ITS on an indefinite basis.

[12] Securities Exchange Act Release No. 17532 (February 10, 1982), 46 FR 12919.

[13] The CSE also stated that it is: hampered by the arbitrary limit of 200 on the number of Designated Issues which may be traded in the System. The Exchange's technological capacity currently exceeds this artificially imposed limitation. Only by removing this barrier to expansion can the Exchange operate to its fullest potential and compete fairly with other market centers.

[14] The Commission understands that in connection with certain ongoing enhancements to the ITS, the participants are implementing four standard ITS interfaces, any of which may be utilized by any participant.

[15] Section 11A(a)(1)(B) of the Act.

[16] Section 11A(a)(1) of the Act.

[17] CAES is a computerized order routing and execution facility operated by the NASD for NASD members. On May 17, 1982, CAES was interfaced with ITS, and is presently being operated on a pilot

represent constructive approaches to integrating trading in physically dispersed locations. Accordingly, the Commission believes that it is now appropriate to terminate the experimental nature of the NSTS by granting that System indefinite status.

In the Commission's September 1979 Extension Order, the Commission stated that the NSTS possessed many basic features that were consistent with the statutory objective of an NMS including increased speed and efficiency in trading, the ability to generate a complete audit trail for surveillance purposes, and an automated mechanism for linking upstairs market makers with one another as well as with exchange specialists. Nevertheless, the Commission also noted that indefinite approval of the NSTS, would require that the CSE "continue to make improvements, changes and adaptations to meet the needs of various market centers and to accommodate Commission regulatory requirements designed to improve order interaction and price protection between and among markets." [18] In this respect, the Commission indicated that at a minimum, the CSE should become a participant in the Consolidated Quotation Plan ("CQ Plan"), the joint industry plan for collecting and disseminating quotation information from all market centers participating in the CQ Plan. The Commission also stated that the CSE should take immediate steps in implementing a linkage between the NSTS and ITS so that the NSTS could have access to other market centers and other market centers could have access to the NSTS.

As encouraged by the Commission, the CSE became a participant in the CQ Plan on November 15, 1979,[19] and as previously noted, the CSE became an ITS participant in February 1981 via a manual interface between the NSTS and ITS. In addition, the CSE notes that the System's equipment has been upgraded to expand the capacity and improve the efficiency of the NSTS. The Exchange also has improved operating procedures and documentation in connection with the System's trading and order execution functions, and CDC has increased its programmer staffing. Finally, the CSE has implemented an automatic interface between the NSTS and the National Securities Clearing Corporation for the efficient clearing of all System trades.

The Commission believes system enhancements have been positive and constructive developments by CSE and CDC. In this regard, the recent empirical data relating to NSTS trading appears to indicate that the NSTS has provided its users, particularly NSTS market makers, an effective mechanism for executing orders and attracting order flow.[20] For instance, as previously mentioned, the NSTS is a net importer of ITS share volume which tends to indicate that the NSTS' displayed quotations often are competitive in price and/or quote size with other market centers' displayed quotations.

V. Conclusion

In view of the above discussion, the Commission believes that the NSTS has demonstrated its ability to operate in a manner consistent with the purposes of the Act. At this time, however, the Commission realizes that the full potential of the NSTS cannot be attained as long as the System is cast in an experimental mode with limitations as to the number of securities which can be traded through the System. Accordingly, so that market forces can judge the NSTS in an environment free of these particular regulatory constraints, the Commission has determined to approve the CSE proposed rule change and thus terminate the NSTS as an experimental program by extending its duration for an indefinite period and by eliminating the 200 issue limit on the permissible number of securities which may traded in the NSTS. In so doing, the Commission has determined that approval of the CSE's rule change is consistent with the requirements of the Act, particularly the requirements of Sections 6(b) and 11A thereunder.[21]

* * * * *

It is hereby ordered, pursuant to the Commission's authority under the Act, and particularly Sections 11A and 19(b) thereof and Rule 19b–4 thereunder, that the CSE's proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–34069 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

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basis to facilitate concurrent over-the-counter ("OTC") and exchange trading in 30 securities which are not subject to exchange off-board trading restrictions. *See* Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856; and Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413.

[18] September 1979 Extension Order, *esupra* note 10, at 11, 44 FR at 56077.

[19] *See* Letter, and accompanying attachments, to George A. Fitzsimmons, Secretary, SEC, from K. Richard B. Niehoff, President, CSE, dated November 16, 1979.

[20] In this regard, the Commission would note that, in the past, some commentators had raised concerns with respect to the ability of NSTS market makers to trade with their customers as principal. *See* September 1979 Extension Order, *supra* note 10, 44 FR at 56075 n.12.

Since that time, however, the Commission's monitoring program indicates that the NSTS has not had an adverse effect on the primary market and the degree to which NSTS firms execute orders on an intra-firm basis has declined. *See 1982 Monitoring Report, supra* note 4, at 18–20. In addition, despite the initial expression of concern by some commentators, no commentator in the current proceeding raised this issue. Moreover, to the extent this issue continues to be a source of concern, the Commission believes that these questions should be addressed in a broad and generic context rather than in connection with a proposed rule change by a single self-regulatory organization. *See generally* Securities Exchange Act Release No. 18738 (May 13, 1982), 47 FR 22376.

[21] It should be noted, however, that the Commission will, of course, continue to collect data on the NSTS as part of its ongoing program to monitor the evolving NMS.

[Release No. 19310; SR–Phlx–82–8 and SR–Phlx–82–14]

Philadelphia Stock Exchange, Inc.; Filing and Order Approving Proposed Rule Changes

December 8, 1982.

In the matter of Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103 (SR–Phlx–82–8 and SR–Phlx–82–14).

The Philadelphia Stock Exchange, Inc. ("Phlx") submitted on September 10, 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 provide the specifications for the Foreign Currency Options Qualification Examination to be required of registered principals and registered representatives who will be engaged in accepting orders for, supervising or engaging in transactions in foreign currency options (SR–Phlx–82–8). On November 22, 1982, Phlx submitted a like proposed rule change providing the specifications for the Foreign Currency Qualification Examination for specialists, registered options traders and floor brokers (SR–Phlx–82–14). Confidential treatment for those specifications has been requested pursuant to Rule 24b–2(b) under the Act.

Notice of the proposed rule change in SR–Phlx–82–8 was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19116, October 8, 1982) and by publication in the Federal Register (47 FR 46950 (October 21, 1982)). Comments were solicited on the proposed rule change in SR–Phlx–82–8 but none were received. The proposed rule change in SR–Phlx–82–14 has not been separately published for notice. Since the subject matter covered in SR–Phlx–82–14, however, is

substantially similar to SR–Phlx–82–8, for which comment was solicited, the Commission believes there is good cause for taking action on SR–Phlx–82–14 prior to the thirtieth day after publication of notice thereof.

The Commission finds that the proposed rule changes are 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 regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–34067 Filed 12–14–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–5351]

Exim Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the SBA regulations governing small business investment companies for the transfer of control of Exim Capital Corporation (ECC) (13 CFR 107.701 (1982)), 290 Madison Avenue, New York, New York 10017, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

ECC was licensed on January 5, 1979. Its present combined paid-in capital and surplus is in excess of $500,000. The proposed transfer of control is subject to, and contingent upon, the approval of SBA.

The applicant, Mr. Victor K. Chun currently owns ⅛ of the issued and outstanding shares of the licensee. The balance of the outstanding stock is owned by Mr. Austin C. Oh who has agreed to sell all of his shares to Mr. Chun.

The officers and directors will remain the same.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of a successful operations under his control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, (not later than (15) days after the date of publication submit to SBA, in writing, comments on the transfer of control. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice shall be published in a newspaper of general circulation in the New York City area.

(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. 82–34073 Filed 12–14–82; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/09–5285]

Lailai Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On June 18, 1981, a notice was published in the **Federal Register** (FR 38739), stating that Lailai Capital Corporation, 400 South Atlantic Boulevard, Suite 308, Monterey Park, California 91754 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 3, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09–5285 to Lailai Capital Corporation on November 24, 1982, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 7, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82–34074 Filed 12–14–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/580]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Panel on Containers under the SOLAS Subcommittee Working Group on Containers and Cargoes will conduct an open meeting on January 12, 1983, at 10:00 a.m., in room 3201 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The purpose of this meeting is to discuss the following items relating to containers:

1. The results of the 23rd Session of the IMO Subcommittee on Containers and Cargoes which was held in London from February 8–12, 1982.

2. The U.S. position for the upcoming 24th Session of IMO Subcommittee on Containers and Cargoes to be held in London from February 21–25, 1983.

3. Matters relating to the ECE Group of Experts on custom questions affecting transport.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Joseph J. Angelo, U.S. Coast Guard (G–MVI–5), Washington, D.C. 20593. Telephone: (202) 426–4431.

Dated: November 29, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–33956 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/581]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The SOLAS Working Group on the Carriage of Dangerous Goods will conduct an open meeting on January 11, 1983, at 10:00 a.m., in room 3201 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593.

The purpose of this meeting will be to discuss the following:

1. United States positions on matters to be considered at the 35th Session of the IMO Subcommittee on the Carriage of Dangerous Goods to be held June 27 to July 1, 1983.

2. The report of the 34th Session of the IMO Subcommittee on the Carriage of Dangerous Goods held September 6–10, 1982.

3. IMO activities of a continuing nature. Members of the public may attend up to the seating capacity of the room.

For further information contact Lieutenant John P. Aherne, U.S. Coast Guard (G–MTH–3), 2100 Second Street. SW, Washington, D.C. 20593. Telephone: (202) 426–1577.

Dated: November 29, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–33957 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/582]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR), Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 6, 1983 from 1:30 p.m. to 5:00 p.m. in Room OT8 in the Engineering Building, University of Colorado, Boulder Campus, Boulder, Colorado.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a review of the work program in preparation for the international meeting of Study Group 5 in November, 1983.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephine (202) 632–2592.

Dated: December 6, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82–33958 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/579]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet January 10 and 11, 1983, at Boulder, Colorado. The meeting will open on January 10 at 1:00 p.m. in Room 3012 of the Department of Commerce, Boulder Laboratories Building, 325 Broadway.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to consider documents for submission to the international meeting of Study Group 6 scheduled for August 1983.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: December 1, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82–33955 Filed 12–14–82; 8:45 am]

BILLING CODE 4710–07–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 241
Wednesday, December 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Addition to the December 9, 1982 Meeting

December 7, 1982.

TIME AND DATE: 10 a.m., December 9, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

25a. Bilateral Aviation Negotiations—Representation of Civic Parties. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1815-82 Filed 12-10-82; 4:05 pm]

BILING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

December 9, 1982.

TIME AND DATE: 9 a.m. (closed), 10 a.m. (open), December 16, 1982.

PLACE: Room 1012 (closed), Room 1027 (open), 1825 Connecticut Avenue, N.W., Washington, d.c. 20428.

SUBJECT:

1. Discussion on Lebanon. (BIA)
2. Discussion on Peru. (BIA)
3. Discussion on ECAC. (BIA)
4. Ratification of Items Adopted by Notation.
5. Conforming amendments to rules related to domestic baggage liability. (OGC)
6. Conforming changes to Part 250 to prepare for the end of the board's domestic tariff authority. (OGC, BDA, OCCCA)
7. Discussion paper on the board's voluntary submission of rulemakings to OMB.
8. Docket 37531, Insurance requirements for U.S. on-demand and Canadian Charter air taxi operators. (OGC, BDA, BIA, OEA, OCCCA)
9. Docket 30586, 30816, Revision of filing fee schedule. (Memo 1016-B, OGC, OC)
10. Proposal to eliminate cargo and other reporting requirements. (Memo 1609, OCG, OC)
11. Exemptions from section 401(o) for all-cargo carriers and DOD. (Memo 1603, OGC)
12. Docket 40916, Bumping of subsidized carriers under section 419 of the Act. (Memo 1408-B, OGC, BDA, OCCCA)
13. Dockets 39974 and 40033, Petition by IAM and Teamsters for arbitration in *Pan American-Acquisition of Control of and Merger with National.* (OGC)
14. Docket 40470, Essential air service for Greenwood and University/Oxford, Mississippi. (BDA, OCCCA)
15. Docket EAS-791, Appeal of Moab, Utah concerning eligibility for inclusion in the small communities program. (BDA, OCCCA, OGC)
16. Dockets 41031 and 41029, Kodiak Western Alaska's 90-day notice to suspend service at 39 bush communities in Alaska and Wein Air Alaska's 90-day notice to suspend service at 13 mainline communities in Alaska. (BDA)
17. Dockets 41020, 41036 and EAS-491, Notice of Pioneer Airways to suspend service at Columbus, Nebraska, effective December 31, 1982, and application for an exemption to suspend service on November 6, 1982. (Memo 1600, BDA, OCCCA)
18. Fitness Determination for Pioneer Airways, Inc. (Memo 1555-A, BDA)
19. Docket 41030, Notice of Air Midwest to suspend service at Lamar, Colorado, and seven Kansas points including Garden City, Dodge City, Hutchinson, Parsons/Independence/Coffeyville, Goodland, Great Bend, and Hays. (Memo 1582-A, BDA, OCCCA)
20. Commuter carrier fitness determination of North American Helicopter Services, Inc. d.b.a. Grand Canyon Helicopters. (1608, BDA)
21. Docket 40993, Application of Ellis Air Taxi, Inc. for interstate and overseas certificate authority filed under Subpart Q. (Memo 1606, BDA)
22. Establishment of Special Subsidy Program for Fiscal Year 1983 Required by Congresss in the Continuing Resolution adopted October 1, 1982. (Memo 1594, BDA, OCCCA, OC, OGC)
23. Docket EAS-480, Establishment of rate of compensation for Green Hills Aviation, Ltd., for providing essential air service to Kirksville, Missouri. (Memo 1607, BDA, OCCCA, OC)
24. Docket 40957, *Agreement of the Air Traffic Conference of America relating to Automated Ticketing Services.* (BDA)
25. Dockets 41105 and 41108, Petitions of Northern Air Cargo, Inc. and Artic Circle Air Service, Inc. for temporary service mail rates. (BIA)
26. Dockets 37982 and 40584, Domestic Passenger Fare Flexibility. (Memo 1601, BIA)
27. Docket 38703, Carrier Practices on Ticket Transferability. (Memo 1602, BIA)
28. Docket 40767, Application of German carrier Hapag-Lloyd Fluggesellschaft mbH for an initial foreign air carrier permit to conduct Third, Fourth and Fifth Freedom passenger and cargo charter operations. (BIA, OGC, BALJ)
29. Docket 41109, Japan Airlines' cabotage exemption request to carrry holiday-season military mail on a standy basis between Guam and certain U.S. points. (BIA, OGC)
30. Docket 41010, Application of Ozark Air Lines, Inc., for amendment of its certificate of public convience and necessity authorizing foreign air transportation (Orlando-Nassau). (BIA, OGC)
31. Docket 40306, Application of two Americas Trading Company, Inc. d.b.a. ICB International Airlines for the issuance of a certificate of Public convenience and necessitry under section 401 of the federal Aviation Act of 1958, as amended. (BIA, OGC)
32. Bilateral Aviation Negotiations—Representation of Civic Parties. (BIA)
33. Docket 36595, *Investigation into the Competitive Marketing of Air Transportation—Agreements Phases.* Request for Board Instructions. (Memo 1599, OGC)

STATUS:

1-3 (closed)
4-34 (open)

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary. (202) 673-5068.

[S-1816-82 Filed 12-10-82; 4:06 pm]

BILLING CODE 6320-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, December 16, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

New York Futures Exchange—New York Stock Exchange, Equity Index Options
Chicago Mercantile Exchange—Standard and Poor's, 500 Stock Price Index Options

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1821-82 Filed 12-13-82; 12:43 pm]

BILLING CODE 6351-01-M

4

FEDERAL ELECTION COMMISSION

[Federal Register No. 1789]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, December 16, 1982 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to the open meeting scheduled for this date:

Classification Action—Position Description for Newly Established Position (Editorial Clerk—Information Division)

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1820–82 Filed 12–13–82; 11:53 am]

BILLING CODE 6715–01–M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., December 14, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 82–1: California Cartage Company, Inc. v. Pacific Maritime Association; and Docket No. 82–10: Containerfreight Terminals Company, et al v. Pacific Maritime Association—Consideration of the record.

2. Docket No. 81–28: Transportation Maritima Mexicana, S.A. v. Board of Commissioners of the Port of New Orleans—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1822–82 Filed 12–13–82; 3:49 pm]

BILLING CODE 6730–10–M

6

LEGAL SERVICES CORPORATION

Meeting of the Board of Directors

PREVIOUS DATE ISSUED: November 24, 1982.

TIME AND DATE:

2 p.m.–5 p.m., Thursday, December 16, 1982

9 a.m.–5 p.m., Friday, December 17, 1982

PLACE: Hyatt Regency Washington, Columbia "B" Room, 400 New Jersey Avenue, NW., Washington, D.C.

PREVIOUSLY ANNOUNCED STATUS OF MEETING: Open.

AMENDMENTS TO NOTICE:

(1) Status of Meeting: Open (Portion of meeting may be closed to discuss a personnel matter under 45 CFR 1622.5 (a) and 1622.5(e).

(2) Additions to Agenda: *Committee on Audit and Appropriations*—

(i) Acceptance of FY 1982 Audit Report of the Legal Services Corporation;

(ii) Recommendations on Consolidated Operating Budget for FY 1983;

(iii) Recommendations on FY 1984 Budget Request;

(iv) Management Report on Legal Services Corporation.

DATE ISSUED: December 9, 1982.

Clinton Lyons,

Acting President.

[S–1814–82 Filed 12–10–82; 4:05 pm]

BILLING CODE 6820–35–M

7

POSTAL SERVICE

Board of Governors

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at noon on December 20, 1982, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

There are two items on the agenda for this meeting. The first item is a continuation of the discussion of the July 9, 1982, decision of the U.S. Court of Appeals for the Second Circuit in *Time, Inc. et al.* v. *United States Postal Service* concerning the most recent general ratemaking proceeding (Docket No. R80–1). This item will be discussed in closed session, the Board having duly determined to close its discussion of this agenda item to public observation, in accordance with the provisions of the Sunshine Act.

The only other item on the agenda is the possible adjustment of rates for preferred rate mailers in view of anticipated Congressional appropriations action in regard to "revenue forgone" appropriations following the expiration of the current Continuing Resolution, Pub. L. 97–276. Discussion of this agenda item is open to the public.

Louis A. Cox,

Secretary.

[S–1819–82 Filed 12–13–82; 11:45 am]

BILLING CODE 7710–12–M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, December 3, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items were considered at a closed meeting held on Thursday, December 9, 1982, following the 10:00 a.m. open meeting.

Settlement of injunctive action.

Institution of injunctive action and Formal order of investigation.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined by vote that Commission Business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

December 10, 1982.

[S–1818–82 Filed 12–13–82; 11:45 am]

BILLING CODE 8010–01–M

9

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held on the date and at the time and place specified below by telephone conference call. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors may consider a resolution to close the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and sections 4 and 5 of the said policy.

MEETING AGENDA:

Consideration of a solicitation for synthetic fuel project proposals.

Consideration of other matters that may properly come before the Meeting.

DATE AND TIME: December 20, 1982 at 3 p.m.

PLACE: Room 403, 2121 K Street, N.W., Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel, (202) 822-6336.

U.S. Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

December 10, 1982.

S-1817-82 Filed 12-13-82; 10:11 am]

BILLING CODE 0000-00-M

federal register

Wednesday
December 15, 1982

Part II

Department of Energy

Proposed Amendments to Procurement Regulations

DEPARTMENT OF ENERGY

41 CFR Ch. 9

Proposed Amendments to Procurement Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: This proposed rule is to amend the DOE Procurement Regulations. A listing of revisions is given below under the section entitled "Supplementary Information." The revisions are intended to update the Regulations as a result of changes in the Federal Procurement Regulations and to simplify operations by providing standard clauses and eliminating a duplicative recordkeeping requirement.

DATE: Written comments should be submitted not later than January 14, 1983 to be considered.

ADDRESS: Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

FOR INFORMATION CONTACT:
Richard Langston, Procurement Policy Branch, MA931.1, Procurement and Assistance Management Directorate, Department of Energy, (202) 252–8188
Mary Ann Masterson, Office of General Counsel, AGC for Procurement and Financial Incentives, GC44, Department of Energy, (202) 252–6902

SUPPLEMENTARY INFORMATION:

I. Background
II. Statutory and Regulatory Requirements
III. Public Comments

I. Background

Under Section 644 of the Department of Energy Organization Act Pub. L. 95–91, 91 Stat. 565 (41 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the Department of Energy Procurement Regulations (DOE–PR) were promulgated with an effective date of June 30, 1979 (44 FR 34434, June 14, 1979), 41 CFR Chapter 9.

The specific revisions being proposed are too numerous to discuss in detail in this preamble. The topics are as follows: Change 9.1 is a listing of changes to the Table of Contents. Change 9.2 involves corrections and deletions to Subpart 1–1.7, "Small Business Concerns." The changes are not significant and, in part, are the result of Amendment 222 of the Federal Procurement Regulations which negates the need for part of the DOE–PR coverage. Change 9.3 revises Subpart 9–1.8, "Labor Surplus Area Concerns," to delete a requirement to manually maintain information which is readily available on DOE's automated information system. Change 9.4 revises Subpart 9–1.10, "Publicizing Procurement Actions," to indicate types of awards for which Congressional notification should be made. Change 9.5 adds a new Subpart 9–1.52, "Women-Owned Business Concerns," and gives guidance regarding circumstances under which use of a subcontracting program clause is required. Change 9.6 revises Subpart 9–1.54, "Organizational Conflicts of Interest." Change 9.7 deletes § 9–2.406–4, "Disclosure of mistakes after award," as Amendment 204 of the Federal Procurement Regulations negates the need for this guidance. Change 9.8 revises § 9–5.5203–1, "Regulations," to provide further guidance on printing. Change 9.9 corrects an erroneous mailing address at Section 9–5.5205–3. Changes 9.10 and 9.11 revise Sections 9–7.302–57, and 9–15.205–61 to furnish further guidance on printing. Change 9.12 revises existing policy regarding negotiation of profit or fee for cost type Architect-Engineer, construction, or construction management contracts. Change 9.13 revises existing policy regarding profits and fee for management and operating, and on-site contracts. Change 9.14 revises the printing guidance at 9–50.704–49.

II. Statutory and Regulatory Requirements

A. *Review Under Executive Order 12291.* Inasmuch as this proposed rule relates to agency management of the procurement function, the OMB clearance procedures set forth in Executive Order 12291 (February 17, 1981) are not applicable.

B. *Review Under the Regulatory Flexibility Act.* This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. *Review Under the National Environmental Policy Act.* DOE has concluded that promulgation of this rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.* 1970)), the Council on Environmental Quality Regulations (40 CFR Parts 150 through 1508), and the DOE guidelines at 10 CFR Part 1021 and therefore does not require an environmental impact statement pursuant to NEPA.

notice. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

List of Subjects in 41 CFR Ch. 9

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 41 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., December 6, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

The regulations in 41 CFR Chapter 9 are proposed to be amended as set forth below.

Authority: Section 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Note.—As an aid in identifying specific proposed changes to the DOE Procurement Regulations, a two-digit identification number is assigned to each specific change. The first digit represents the numerical sequence of proposed changes; thus, this is Change 9 to indicate that this is the ninth time that DOE has issued a notice of proposed rulemaking for the purpose of amending 41 CFR Chapter 9. The second digit is the numerical sequence of specific changes proposed within a particular notice; thus, the first change within the ninth notice is identified as Change 9.1.

Change 9.1

Subpart 9–1.7, "Small Business Concerns," is amended at § 9–1.703–1 to clarify the text and to correct a statutory citation by substituting "15 U.S.C. 632" for the erroneous references "15 U.S.C. 832" at paragraph (a) and "15 U.S.C. 637," at paragraph (c)(2); at § 9–1.706–1 by removing and reserving paragraph (e) which has been superseded by Amendment 222 of the Federal Procurement Regulations, and at § 9–1.710–3 by abbreviating the title of the clause to read "Small and Disadvantaged Business Subcontracting Plan", and by placing a "(b)" before the second paragraph, by removing the word "quarterly" from paragraph (c), by capitalizing the first word of paragraph (a) of the clause, by substituting "$100,000" for "$10,000" in paragraph (a)(6) of the clause, and by removing the word "quarterly" from paragraph (a)(9) of the clause, and by adding a new paragraph (d) following the text of the

clause to emphasize that a prime contractor may be relieved of the duty of monitoring subcontracting plans under certain circumstances. The revised text will read:

Subpart 9-1.7—Small Business Concerns

* * * * *

§ 9-1.703-1 Certification.

The following certifications are to be used in procurements exceeding $10,000:

(a) The offeror certifies that its organization is ( ) is not ( ) a small business concern as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632 and SBA's rules and regulations set forth at 13 CFR 121.3-8). If an affirmative certification is made, the offeror shall complete the certifications at paragraphs (b) and (c) of this section.

(b) The offeror certifies that its organization is a small business as set forth in paragraph (a) of this section and that it is (/) or is not (/) owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one:

(1) Which is at least 51 per centum owned by one or more such individuals or, in the case of a publicly owned business, at least 51 per centum of the stock is owned by such individuals.

(2) Whose management and daily business operations are controlled by one or more such individuals; and

(3) Which certifies said ownership and control is by the following: (i) United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or other specified minorities; or (ii) Any other individual found to be disadvantaged pursuant to section 8(a) of the Small Business Act (15 U.S.C. 632).

Failure to execute all parts of the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

* * * * *

§ 9-1.710-3 Required clauses

* * * * *

(c) The following contract clause is to be included in formally advertised and negotiated procurements when there is a requirement for a small and small disadvantaged business subcontracting plan. Contracting Officers may modify this clause to specify the forms on which reports are to be submitted.

"Small and Disadvantaged Business Subcontracting Plan."

(a) The contractor agrees to comply in good faith with the Small and Disadvantaged Business Subcontracting Plan which is hereby incorporated in and made a part of this contract. In this connection, the contractor shall:

* * * * *

(6) Notify the Contracting Officer before soliciting bids, quotations, or proposals on any subcontract (including purchase orders) in excess of $100,000 if:

* * * * *

(9) Submit reports of subcontracting to small and disadvantaged business concerns on such forms as may be specified elsewhere in this contract.

* * * * *

(d) In accordance with Supplement Number 1 of OFPP Policy Letter 80-2, Contracting Officers are authorized to relieve a prime contractor from his obligation to monitor subcontracting plans when deemed appropriate.

* * * * *

Change 9.2

Subpart 9-1.8 "Labor Surplus Area Concerns," is amended by removing and reserving § 9-1.802-1, "General Policy," as it is duplicative of FPR 1-1.802-1, and by removing and reserving § 9-1.805, "Subcontracting with labor surplus concerns," which requires manual maintenance of information at the local level which is now available from the Department's automated Procurement and Assistance Data System. The revised text will read:

Subpart 9-1.8—Labor Surplus Area Concerns

* * * * *

§ 9-1.802-1 [Removed and reserved]

* * * * *

§ 9-1.805 [Removed and reserved]

* * * * *

Change 9.3

Subpart 9-1.10, "Publicizing Procurement Actions" is amended by removing and reserving § 9-1.1004, "Synopses of Contract Awards." The material previously at § 9-1.1004 concerned classified procurements and Congressional notification. Adequate guidance regarding synopsis of classified procurements is provided at FPR 1-1.1003-2(a)(1). Guidance regarding Congressional notification will be the topic of a new § 9-1.1050, "Congressional Notification," added by this change. The revised text will read:

Subpart 9-1.10—Publicizing Procurement Actions

* * * * *

§ 9-1.1004 [Removed and reserved]

§ 9-1.1050 Congressional notification.

(a) *Individual requests.* In addition to having access to the information available to the general public, Members of Congress shall, upon their request, be given full and detailed information regarding any particular Departmental procurement. The information provided shall be fully responsive to the member's request unless such a response would disclose classified matter, information not to be released pursuant to law, business confidential information or information which would be prejudicial to the competitive process. The Contracting Officer shall promptly consult with appropriate specialists such as security analysts or legal counsel and the Office of Congressional Affairs to determine whether circumstances exist which will allow the release of additional information. In such instances, the Congressional requestor shall be furnished an interim reply furnishing the information which is readily releasable. The interim reply shall describe the problem which precludes release of any requested material and describe generally what steps, if any, are being taken to make such information available.

(b) *Required Notices of Award.* The Office of Congressional Affairs, Headquarters, is responsible for advising Members of Congress regarding Departmental activities likely to have an impact on their constituents. To facilitate this advise, Contracting Officers shall notify the Office of Congressional Affairs regarding pending awards for significant new starts or modifications significantly expanding the previous scope of a contract. The transmittal of such notices to the Office of Congressional Affairs shall be as follows:

(i) Notice of awards of $500,000 or greater, but less than $1,000,000 shall be forwarded 48 hours prior to the time of contract execution.

(ii) Notice of awards of $1,000,000 or greater shall be forwarded 48 hours prior to the public announcement of source selection.

* * * * *

Change 9.4

A new Subpart 9-1.52, "Women-Owned Business Concerns," is added to provide that the related subcontracting program clause need not be used in contracts not having subcontracting opportunities. Currently, all contracts exceeding $500,000 (a higher threshold of $1,000,000 exists for public facility construction contracts) must contain the Women-Owned Business Concerns Subcontracting Program clause. This action will eliminate the burden and expense of operating such a program when subcontracting opportunities do not exist since there are no benefits to be realized. The contracts will still contain the "Utilization of Women-Owned Business Concerns" clause to

assure that all contractors are aware of the Federal policy in this regard and that women-owned business concerns are considered in any subcontracting done thereunder. The revised text will read:

Subpart 9-1.52—Women-Owned Business Concerns

§ 9-1.5200 Scope of subpart.

This subpart implements and supplements the policies set forth in FPR Temporary Regulation 54.

§ 9-1.5201 Subcontracting program clause.

The Women-Owned Business Concerns Subcontracting Program clause is to be included in DOE procurements meeting the dollar thresholds established by FPR Temporary Regulation 54 only when subcontracting opportunities exist.

Change 9.5

Subpart 9-1.54, "Organizational Conflicts of Interest," is amended at § 9-1.5408-1 to add a new paragraph (e) to the "Organizational Conflicts of Interest-General" clause, at § 9-1.5408-2 to add a new paragraph (g) to the "Organizational Conflicts of Interest-Special" clause, at § 9-1.5411 to substitute a new second sentence, and at Appendix A to add a new section titled "Example 12." The changes at § 9-1.5408-1 and § 9-1.5408-2 are to alert contractors to the requirement to update disclosure statements if additional work is added to an existing contract. The change at § 9-1.5411 emphasizes the importance of including appropriate coverage in existing contracts during renewal negotiations. The new Example is added to describe a means of avoiding organizational conflicts of interest during competitive evaluations. The revised text will read:

Subpart 9-1.54—Organizational Conflicts of Interest

* * * * *

§ 9-1.5408-1 General contract clause.

* * * * *

(e) Prior to a contract modification when the statement of work is modified to add new work; the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation (see 41 CFR 9-1.5407), or an update of the previously submitted disclosure or representation.

§ 9-1.5408-2 Special contract clause.

* * * * *

(g) *Modifications.* Prior to a contract modification when the statement of work is modified to add new work; the period of performance is significantly increased, or the parties to the contract are changed, the Department will request and the contractor is required to submit either an organizational conflict of interest disclosure or representation (see 41 CFR 9-1.5407), or an update of the previously submitted disclosure or representation.

§ 9-1.5411 DOE management contractors, subcontractors and consultants.

The missions and functions of the Department require the use of contractors to operate and manage the Department's facilities on a long-term basis pursuant to Part 9-50. When the annual fee or work of such an operating contract is negotiated, the Contracting Officer shall exercise special care in incorporating an appropriate organizational conflict of interest provision therein. Whenever an operating contract is not to be renewed, but a new selection is to be made, the disclosure or representation requirement of § 9-1.5407 and an appropriate clause should be included in the solicitation and resulting contract. In preparing such clause, the Contracting Officer shall consider provisions which assure appropriate restraints on intercorporate relations between the contractor's organization and personnel operating the Department's facility and its parent corporate body and affiliates, including personnel access to the facility, technical transfer of information from the facility, and the availability from the facility of other advantages flowing from performance of the contract. The subcontractors and consultants of Department Operating Contractors should be, to the extent feasible, made subject to the requirements of this subpart as if they were performing the work as prime contractors to the Department.

Appendix A—Examples of Contractual Situations or Relationships—Organizational Conflicts of Interest

* * * * *

Example 12

Firm A, because of its unique technical expertise, has been requested to assist the Department in the evaluation of proposals which will result from a competitive solicitation. Firm A also plans to submit a proposal in response to this same solicitation.

Guidance. Normally this would constitute a conflict and Firm A should be precluded from participating in the solicitation. In a particular case, it may be desirable (e.g., when the competitive field is narrow) to allow a separate division or affiliate of Firm A to submit a proposal; but in such a case, of course, Firm A would not itself participate in the evaluation of this proposal, which would be undertaken by DOE personnel or another firm.

Change 9.6

Section 9-2.406-4, "Disclosure of mistakes after award," is removed as the need for this guidance was eliminated by FPR Amendment 204. The text will read:

§ 9-2.406-4 [Reserved]

* * * * *

Change 9.7

Section 9-5.5203-1, "Regulations," is amended to provide that printing may be included in contracts for other services provided it is not practical to separate this activity from the other work and provided that the contractor acquires such printing from the Government Printing Office (GPO) or a GPO designated source. The following additional text is added to the existing text of § 9-5.5203-1:

§ 9.5.5203-1 Regulations.

* * * This general prohibition is not applicable to situations in which practicality requires that the contractor obtain the printing on DOE's behalf provided the contractor obtains the printing from the Government Printing Office (GPO), a contract source designated for that purpose by the GPO or a Joint Committee on Printing authorized federal printing plant. Contracting Officers should obtain the concurrence of their facility printing office prior to including such work in any contract and shall provide the Contractor with specific ordering instructions.

Change 9.8

Section 9-5.5205, "Helium," is amended at § 9-5.5205-3(a) to indicate a change of mailing address and at 9-5.5205-3(c) to delete the phrase "as defined by Parts 601 and 602, Subchapter A, Chapter VI, Title 30, Code of Federal Regulations," and to place a period after the word "helium" to indicate the new end of the sentence resulting from the text deletion. The revised text will read:

§ 9-5.5205 Helium.

* * * * *

§ 9-5.5205-3 Methods of purchase.

(a) Purchase may be made from the Secretary of the Interior for either DOE or cost-type contractors' requirements for helium by forwarding a purchase order in duplicate (Form DOE-103 or the cost-type contractor's purchase order

properly identified in accordance with the Use of Government Sources of Supply) to: Bureau of Mines, Division of Helium Operations, 1100 S. Fillmore, Amarillo, Texas 79101.

* * * * *

(c) In all cases, except where purchase is made from the Bureau of Mines directly, the purchase orders shall contain the following statement: Helium furnished under this contract shall be Bureau of Mines helium.

* * * * *

Change 9.9

The present § 9–7.302–57, "Printing," is partially removed and partially replaced with new coverage of the same topic. The change is to provide that contractors may be authorized to obtain printing on DOE's behalf directly from the Government Printing Office. The revised text will read:

§ 9–7.302–57 Printing

Insert the following clause:

Printing

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single page, or no more than 25,000 units in the aggregate of multiple pages, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color.

(1) The term "printing" includes the following processes: composition, platemaking, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the Contracting Officer in writing and obtain the Contracting Officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

Change 9.10

Section 9–15.205–61, "Printing costs," is amended by adding the following new second sentence to allow the costs of printing in certain circumstances.

§ 9–15.205–61 Printing costs.

* * * But, such costs may be allowed if the Contracting Officer has authorizecd the contractor to obtain printing on DOE's behalf from the Government Printing Office (GPO), a contract source designated by GPO, or a Joint Committee on Printing authorized federal printing plant.

Change 9.11

The existing text of § 9–18.307–2, "Negotiations," is being replaced by new text to further implement § 1–18.307–2 of the Federal Procurement Regulations by adding profit and fee to the Department's negotiation procedures. Sections 9–18.307–50 through 9–18.307–56 are added to state the Department's profit and fee policy. The test will read:

§ 9–18.307–2 Cost reimbursement type contracts.

The fee for a cost reimbursement type contract shall be negotiated in accordance with § 9–18.307–50. See § 9–3.805 for other negotiation aspects.

§ 9–18.307–50 Profit and fees.

(a) Policy. (1) Business concerns awarded a DOE architect-engineer, construction, or construction management contract shall be paid a profit or fee if requested or solicited. The profit or fee objective for an architect-engineer, construction, or construction management contract shall be an amount appropriate for the type of effort contained therein. It is the intent of DOE to (i) reward contractors based on the complexity of work, (ii) reward contractors who demonstrate and establish excellent records of performance and (iii) reward contractors who contribute their own facilities and investment of capital.

(2) Standard fees or across the board agreements will not be made. Profit or fee objectives are to be determined for each contract according to the standard effort or task contracted for thereunder.

(3) Profit or fees payable on construction or construction management contracts shall be established in accordance with the appropriate procedures and schedules set forth in this subpart.

(4) Profit or fees for architect-engineer contracts shall be established in accordance with the weighted guidelines techniques discussed in Subpart 9–3.808.

(b) *Limitations.* Amounts payable under construction and construction management contracts shall not exceed the amounts derived from the schedules established for this purpose. Request to pay fees in excess of these levels will be sent to the Senior Procurement Official, Headquarters, for review and approval.

(c) *Considerations for Determining Fees.* (1) The profit policy stated in § 9–50.306–1(a) reflects, in a broad sense, recognition that profit is compensation to contractors for the entrepreneurial function of organizing and managing resources, the use of contractor resources, (including capital resources), and the assumption of risk that all costs of performance (operating and capital) may not be reimbursable.

(2) Instead of being only cost-based, the best approach calls for a structure that allows judgmental evaluation and determination of fee dollars for significant factors, such as the following (listing in no particular order of importance) which impacts the need for and the rewards associated with fee.

(i) Management risk relating to performance, including the (*a*) quantity and diversity of principal work task required to do the job, (*b*) labor intensity of the job, (*c*) special control problems, and (*d*) advance planning, forecasting and other such requirements;

(ii) The presence or absence of financial risk, including the type and terms of the contract;

(iii) The relative difficulty of work, including consideration of technical and administrative knowledge, skill, experience and clarity of technical specifications;

(iv) Degree and amount of contract work required to be performed by and with the contractor's own resources;

(v) Duration of project;

(vi) Size of operation;

(vii) The extent to which the contractor contributes plant, equipment, computers, or working capital;

(viii) Benefits which may accure to the contractor from gaining experience and know-how, from establishing or enhancing a reputation, or from being enabled to hold or expand a staff whose loyalties are primarily to the contractor; and

(ix) Other special considerations, including support of Government programs such as those relating to small and minority business in subcontracting, conservation, etc.

(3) The total fee objective and amount for a particular procurement is established by judgmental considerations of the above factors, assigning profit values as deemed appropriate for each factor, and totaling the resulting profit amounts.

(4) In recognition of the complexity of this process and to assist in promoting a reasonable degree of consistency and uniformity in its application, the fee schedules set forth in this subpart set

forth fee amounts based on this approach (related for use of application, to a total fee base, (cost) as defined) that contracting activities are allowed to negotiate for a particular transaction without obtaining prior approval of the Senior Procurement Official, Headquarters. These schedules provide maximum fee levels for what is otherwise defined as normal requirements of a construction contract.

(5) Other than normal efforts should be adjusted as defined in § 9-18.307-56.

(d) *Construction/Construction Management.* (1) The schedules included in this paragraph provide fee levels for CPFF construction/construction management contracts. The fees are based on the estimated cost (fee base) for the construction work and services to be performed. In addition to a basic fee, a separate schedule has been developed for determining additional fee applicable to special equipment purchases and the additional fees applicable to construction managers for oversight and control of the actual construction work performed by subcontractors. Such costs are excluded from the basic fee determination, but represent effort that warrants fee considerations.

(2) The schedule of base fees for construction/construction management:

CONSTRUCTION CONTRACTS

Fee base	Fee	Fee percent	Increment percent
$100,000	5,400	5.40	5.25
300,000	15,900	5.30	5.00
500,000	25,900	5.18	4.72
1,000,000	49,500	4.95	3.33
3,000,000	116,100	3.87	2.82
5,000,000	172,500	3.45	2.53
10,000,000	299,000	2.99	2.18
15,000,000	408,000	2.72	1.90
25,000,000	598,000	2.39	1.68
40,000,000	850,000	2.13	1.46
60,000,000	1,142,000	1.90	1.28
80,000,000	1,398,000	1.75	1.24
100,000,000	1,646,000	1.65	1.03
150,000,000	2,161,000	1.44	.80
200,000,000	2,561,000	1.28	.65
300,000,000	3,211,000	1.07	.50
400,000,000	3,711,000	.93	.35
500,000,000	4,061,000	.81	

(3) The schedule of additional fees for equipment purchases and/or the management effort of the subcontract program under a construction management contract.

PROCUREMENT OF SPECIAL EQUIPMENT

Fee base	Fee	Fee percent	Increment percent
$100,000	$1,500	1.50	1.50
200,000	3,000	1.50	1.47
400,000	5,940	1.48	1.39
600,000	8,720	1.45	1.29
800,000	11,300	1.41	1.15
1,000,000	13,600	1.36	1.00
2,000,000	23,600	1.18	.80

PROCUREMENT OF SPECIAL EQUIPMENT—Continued

Fee base	Fee	Fee percent	Increment percent
4,000,000	39,600	.99	.62
6,000,000	52,000	.87	.62
8,000,000	64,400	.81	.57
10,000,000	75,800	.76	.53
15,000,000	102,300	.68	.45
25,000,000	147,300	.59	.42
40,000,000	210,300	.53	.36
60,000,000	282,300	.47	.33
80,000,000	348,300	.44	.28
100,000,000	404,800	.41	.22
150,000,000	514,300	.34	.15
200,000,000	589,300	.29	.09
300,000,000	679,300	.23	

(e) *Fee Base.* (1) The fee base represents that estimate of cost to which a percentage factor is applied to calculate fee allowances. The fee base is the estimated necessary allowable cost of the construction or other services which are to be performed. It shall include the estimated cost for, but is not limited to the following:

(i) Site preparation and utilities.

(ii) Construction (labor-materials-supplies) of buildings and auxilary facilities.

(iii) Construction (labor-materials-supplies) to complete/construct temporary buildings.

(iv) Design services to support the foregoing.

(v) General management and job planning cost.

(vi) Labor supervision.

(vii) Procurement and acquisition administration.

(viii) Construction performed by subcontractors.

(ix) Installation of government furnished or contractor acquired special equipment.

(x) Special equipment.

(2) The basic fee base for a construction contract shall include all necessary and allowable cost cited in paragraph (a). The fee base shall exclude:

(i) Cost of land.

(ii) Cost of engineering (A&E work).

(iii) Contingency estimate.

(iv) Equipment rentals or use charges.

(v) Cost of government furnished equipment or materials.

(3) In addition to the above, the basic fee base for a construction contract shall exclude the estimated purchase cost of special equipment which is deemed to be of such magnitude, when compared to its installation cost, as to distort the amount of technical direction and management efforts required by the contractor. A separate fee base shall be established for such special equipment. The fee base for determination of applicable fees on special equipment shall be based on the estimated purchase price of the equipment.

(4) In the case of construction management contracts, the actual construction work will be performed by subcontractors. In most cases the subcontract awards for the construction work will be made by the management contractor. Occasionally the contract may involve management of construction performed under a contract awarded by the Department or by one of the Department's operating contractors. In either case, the actual cost of the construction work shall be excluded from the fee base used to determine the basic fee applicable to a construction management contract. The fee base for a basic fee determination shall be comprised of only the construction managers own efforts. A separate fee base for additional allowances shall be established comprised of the subcontract construction cost, equipment purchases, and other items cost that are contracted for or purchased by construction manager. The fee base shall exclude all subcontract construction separately awarded by the DOE or an operating contractor.

(f) *Factors Affecting Fee Amounts.* (1) In selecting final fee amounts for the various considerations in paragraph (c) of this section, several factors shall be analyzed/and judgments applied.

(2) Complexity of a construction project shall be considered by analysis of its major parts. For a project which includes items of work of different degrees of complexity, a single average classification should be considered, or the work should be divided into separate classifications. The following class identifications are appropriate for proper fee determinations. The target fee amounts, set forth in the fee schedule, shall not be adjusted for a class A, which is maximum complexity. A class B project requires a 5% reduction in target amounts. Class C and D complexities required a 10% and 15% reduction respectively. The various classes are defined as follows.

Class A—Manufacturing plants involving continuous closed processes or other complicated operations requiring a high degree of design layout or process control; nuclear reactors; atomic particle accelerators; complex laboratories or industrial units especially designed for handling radioactive materials.

Class B—Normal manufacturing processes and assembly operations such as ore dressing, metal working plants and simple processing plants; power plants and accessory switching and transformer stations, water treatment plants, sewage disposal plants, hospitals and ordinary laboratories.

Class C—Permanent administrative and general service buildings, permanent housing, roads, railroads, grading, sewers, storm drains and water and power distribution systems.

Class D—Construction camps and facilities and other construction of a temporary nature.

(3) Normal management elements of principal task relating to a construction contract covers several categories of task with differing rates of application throughout the construction period. The principal elements of management effort are as outlined herein. Although each project has a total management value equal to 100% for all elements, the distribution of effort among the differing elements is different for each project due to differences in project character or size. The basic management elements and the normal range of effort expected to apply for a normal sized project are as follows. The basic elements are those considered as normal requirements and are reflected in fee levels shown in the target fee schedule. When normal efforts, which would be otherwise expected for a project, will not be performed by a contractor, the target fee amounts should be adjusted by some pertinent percentage factor. The normal effort ranges and management tasks are:

Management elements	Effort minimum	Range Maximum
I. *Broad project planning.* Overall project planning and scheduling, establishment of key project organization and consultation with the A–E and DOE. Performed by highest level of contractor's officers, technical personnel and project manager	15	25
II. *Field planning.* Mobilization and demobilization of top field organization from the contractor's existing organization and from other sources as necessary. Detailed project planning and scheduling for constuction of facilities. Performed by the project manager and top field professional staff	18	28
III. *Labor supervision.* Direct supervision of manual employees. Performed by contractor's subprofessional staff, such as superintendents and foremen (some salaried and some hourly rate). This includes the contractor's personnel to coordinate and expedite the work of subcontractors	12	16
IV. *Procurement and subcontracting.* Procurement of other than special equipment. Selection of subcontractors and execution and administration of subcontracts. Performed by contractor's staff under supervision and direction of elements 1 and 2	12	16
V. *Labor relations and recruitment (manual).* Performed by the contractor's staff under supervision and direction of elements I, II and III. This includes demobilization of work forces	7	11
VI. *Recruitment of supervisory staff.* Staffing required to supplement the organization under elements I and II, and demobilization during completion of the project. Performed by contractor's permanent staff and recruited personnel under supervision and direction of management elements 1 and 2	4	6
VII. *Expediting.* Expediting procurement performed by contractor's staff and by subcontractors. Performed by contractor's staff under supervision and direction of elements I and II	4	6
VIII. *Construction equipment operations.* This includes mobilization and demobilization. Performed by contractor's staff under supervision, direction and coordination of elements I, II, III, IV	4	6
IX. *Other services.* Timekeeping, cost accounting, estimating, reporting, security, etc., by the contractor's staff under supervision and direction of elements 1 and 2	4	6

(4) Fee considerations dealing with the duration of a project are usually provided by the consideration given to the degree of complexity and magnitude of the work. In only very unusual circumstances should it be necessary to award more fees or adjust downward the target fee levels because of the period of services or length of time involved in the project.

(5) The size of the operation is to a considerable degree a continuation of the complexity factor, and the degree and amount of work required to be performed by and with the contractor's own resources. No separate adjustments are required for consideration of those factors.

(6) The degree and amount of work required to be performed by and with the contractor's own resources affect the level of fees. The target amounts are based on expectations of complete construction services normally associated with a construction or construction management contract. In the case of a construction contract reduced services can be in the form of excessive subcontracting or supporting procurement actions and labor relation interfaces being made by the government. If an unusual amount of such work is performed by other than the contractor, it will be necessary to reflect downward adjustments in the target fee levels to provide for the reduction in services required. The following shall be considered.

(i) The target fee schedule provides for 45% of the contract work to be subcontracted for such things as electrical and other specialties. Excessive contracting results when such efforts exceed 45% of the total contract work. To establish appropriate fee reductions for excessive subcontracting first determine the amount of subcontracting as a percentage of the total contract work. Next, determine a percentage by which the prime contractor's normal requirement (based on requirement for doing work with its own forces) is reduced due to the excessive subcontracting. Multiply the two percentages to determine a fee reduction factor.

(ii) If procurement or other services normally expected of the contractor are performed by the government, or another DOE prime or operating contractor a target fee reduction may also be required. First determine what percentage of the total procurement or other required services is performed by others. (Ref subparagraph (f)(3) above). Next apply this percentage reduction to the normally assigned weightings for the management services or effort as discussed in subparagraph (f)(3) to arrive at the appropriate reduction factor.

Change 9.12

A new § 9–50.305 is added and designated "Reserved". A new § 9–50.306, "Profit and Fees," is added to establish policy and procedures regarding profit and fees under management and operating, and on-site services contracts. The text will read:

§ 9–50.305 [Reserved]

§ 9–50.306 Profit and fees.

§ 9–50.306–1 Policy.

(a) Organizations awarded a DOE management and operating contract, and/or an on-site service contract as defined in this subpart, except those contractors who are educational institutions, may be paid a fee, if requested or solicited. The profit objective for a management and operating contract and/or on-site service contract subject to this subpart, shall be an amount which is appropriate for the type of effort contracted for. It is the intent of the DOE to (1) reward operating and management contractors based on the difficulty of work and the level of required skills, (2) reward those contractors who demonstrate and have excellent records of performance, and (3) where applicable, recognize contractors who contribute or utilize their own facilities or other investment capital.

(b) Profit objectives and amounts are to be determined for each contract according to the standard effort or task contracted for thereunder. Standard fees or across the board agreements will not be made. Due to the nature of funding operating contracts, it is anticipated that fees shall be established in accordance with the annual (or as otherwise established) funding cycle, however, a longer period may be used, particularly for production efforts.

(c) Fee amounts payable on contracts for administration, management,

operation, and on-site support of Government-owned facilities shall be established in accordance with appropriate procedures and fee schedules. Amounts payable shall not exceed maximum amounts derived from the appropriate fee schedule established for this purpose. Requests to pay fees in excess of the maximum will be sent to the Senior Procurement Official, Headquarters, for review and approval.

(d) Maximum fees for on-site service contracts shall be determined using the schedule(s) most closely related to the service(s) to be performed. This may be either the production or R&D schedules or the target fee schedule for construction or construction management cited in Subpart 9–16. If architect-engineer services are involved the weighted guideline profit-fee technique cited in Subpart 9–3.808 shall be applied.

§ 9–50.306–2 Special considerations—Educational organizations.

(a) DOE policy is generally to not pay fees under contracts with educational institutions.

(b) Notwithstanding paragraph (a) of this section it may be, under special circumstances, permissible to reimburse or pay a management allowance to an educational institution provided such allowances can be justified and have the approval of the Head of the Procuring Activity.

(c) It is the basic DOE objective to negotiate settlements of amounts for payment under an operating contract that represent educational institution indirect expenses allocable to, or reimbursable under, the contract. These amounts are normally considered a contract cost item. In the event the parties cannot agree as to a proper amount, a management allowance may be paid. Such payments shall not exceed the DOE estimate of the anticipated central indirect expenses or the institution's estimate of properly allocable indirect expenses.

§ 9–50.306–3 Considerations and techniques for determining fees.

(a) The intent of the profit policy stated in 9–50.306–1 reflects, in a broad sense, recongnition that profit is remuneration to contractors for the entreprenurial function of organizing and managing resources, the use of contractor resources (including capital resources), and the assumption of risk that all incurred costs (operating and capital) may not be reimbursable.

(b) Use of a purely cost-based structured approach for determining profit objectives and amounts for typical DOE management and operating contracts is inappropriate considering the level of contractor cost, capital goods, and operating capital outlays for performance of such contracts. Instead of being solely cost-based, the desirable approach calls for a structure that allows judgmental evaluation of significant factors and selection of fee values therefor for considerations, such as the following (listed in no particular order of importance):

(1) Management risk relating to performance, including the (i) quantity and diversity of principal work tasks required to do the job, (ii) labor intensity of the job, (iii) special control problems, and (iv) advance planning, forecasting and other such requirements;

(2) The presence or absence of financial risk, including the type and terms of the contract;

(3) The relative difficulty of work, including consideration of technical and administrative knowledge, skill, experience and calrity of technical specifications;

(4) Degree and amount of contract work required to be performed by and with the contractor's own resources;

(5) Duration of project;

(6) Size of operation;

(7) The extent to which the contractor contributes plant, equipment, computers, or working capital;

(8) Influence of alternate investment opportunities available to the controactor (i.e., the extent to which undertaking a task for the Government displaces a contractor's opportunity to make a profit with the same staff and equipment in some other field of activity);

(9) The relationship of a proposed fee to fees being paid for similar work;

(10) The extent to which the activity contemplated is fundamentally a service being furnished to the Government or is an activity in which the contractor has substantial independent interest, a factor especially pertinent to research work which is closely allied to a contractor's own program and to operations which involve furnishing research facilities which would otherwise not be available because of their large cost;

(11) Benefits which may accrue to the contractor from gaining experience and know-how, from establishing or enhancing a reputation, or from being enabled to hold or expand a staff whose loyalties are primarily to the contractor; and

(12) Other special considerations, including support of Government programs such as those relating to small and minority business in subcontracting, conservation, etc.

(c) The fee objective and amount for a particular negotiation is established by judgmental consideations of the above factors, assigning profit values as deemed appropriate for each factor, and totaling the resulting profit amounts.

(d) In recognition of the complexities of this profit determination process and to assist in promoting a reasonable degree of consistency and uniformity in its application, the fee schedules in section 9–50.306–4 set forth the maximum amounts of fees (related for use of application, to a total cost base, defined as the fee base) contracting activities are allowed to award for a particular transaction without obtaining prior approval of the Senior Procurement Official, Headquarters.

§ 9–50.306–4 Limitations.

(a) Fee schedules representing the maximum allowable fee to be paid under operating and management contracts have been established for the following management and operating contracts task or efforts.

(1) *Production/Manufacturing.—*

(2) *Research and Development.*

(b) The applicable schedules and maximum fees are:

PRODUCTION EFFORTS

Fee base	Fee	Fee percent	Increment precent
Up to $1 million		7.00	7.00
$1,000,000	$70,000	7.00	6.05
3,000,000	191,000	6.37	5.25
5,000,000	296,000	5.92	4.18
10,000,000	505,000	5.05	3.50
15,000,000	680,000	4.53	3.30
25,000,000	1,010,000	4.04	2.86
40,000,000	1,439,000	3.60	2.41
60,000,000	1,921,000	3.20	2.07
80,000,000	2,335,000	2.92	1.50
100,000,000	2,635,000	2.64	1.10
150,000,000	3,185,000	2.12	.60
200,000,000	3,485,000	1.74	.50
300,000,000	3,985,000	1.33	.40
400,000,000	4,385,000	1.10	.30
500,000,000	4,685,000	.94	

RESEARCH AND DEVELOPMENT EFFORTS

Fee base	Fee	Fee percent	Increment percent
$25,000	$2,500	10.00	9.74
50,000	4,935	9.87	8.97
100,000	9,420	9.42	8.22
200,000	17,640	8.82	7.64
400,000	32,920	8.23	7.28
600,000	47,480	7.91	6.92
800,000	61,320	7.67	6.69
1,000,000	74,700	7.47	6.38
3,000,000	202,300	6.74	6.11
5,000,000	324,500	6.49	5.53
10,000,000	601,000	6.01	4.82
15,000,000	842,000	5.61	4.15
25,000,000	1,257,000	5.03	3.60
40,000,000	1,797,000	4.49	3.10
60,000,000	2,417,000	4.03	2.40
80,000,000	2,897,000	3.62	1.88
100,000,000	3,273,000	3.27	1.12
150,000,000	3,833,000	2.56	.65
200,000,000	4,158,000	2.08	.55
300,000,000	4,708,000	1.57	.45
400,000,000	5,158,000	1.29	.35
500,000,000	5,508,000	1.10	

§ 9-50.306-5 Fee base.

(a) The fee base is that estimate of necessary allowable cost to which a fee percentage is applicable to calculate fee/profit allowances. It is the cost of the production or R&D work to be performed, as adjusted to exclude the cost of source and special nuclear materials; estimated costs of land, buildings and facilities whether to be leased, purchased or constructed; depreciation of Government facilities; the fixed fee; and any estimate of effort for which a separate fee is to be negotiated.

(b) The fee base, in addition to the above adjustments, shall exclude:

(1) Estimated cost of capital equipment procured by subcontract;

(2) Estimated cost of Government-furnished materials, services and equipment;

(3) Estimated cost or price of subcontract(s) and other major procurements that distort the management efforts of the contractor.

(4) Other similar costs which are of such a magnitude or nature as to distort the technical directions and management effort actually required of the contractor;

(5) All estimates of costs not directly incurred by or reimbursed to the operating contractor;

(6) Estimates of company general and administrative expenses that shall be reimbursed through the operating contract;

(7) Estimates of any independent research and development cost or bid and proposal expenses that may be approved under the operating contrract.

(c) In claculating the fee base for application of the production schedule, the estimated cost of R&D work and of process development work which goes beyond normal technical support required to insure continuity of operation shall be excluded. Fee for such R&D and process development work is calculated separately, starting at the beginning of the R&D schedule.

(d) The schedules are not intended to compensate for unusual architect-engineer or construction management assignments given operating contractors. Such services generally are covered by special agreements based on the policies applying to architect-engineer or construction contracts. Fees paid for such services are in addition to the operating fees and are calculated using the provisions ot that subpart relating to architect-engineer or construction fees.

(e) The fee schedules provide maximum fees payable assuring satisfactory contract performance. There may be times, for differing reasons, when it is deemed the applicable fee schedule does not adequately compensate the contractor. In such situations, if the circumstances should arise, consideration should be given to fees in excess of the fee schedules.

(f) Proposals to compensate a contractor in excess of the maximum fee schedules should be submitted to the Senior Procurement Official, Headquarters, Washington, D.C. Proposals should contain documentation and state specifically why the contractor is entitled to additional fees.

§ 9-50.306-6 Special equipment purchases.

(a) Special equipment is sometimes procured in conjunction with operating or on-site service contracts. When an operating contractor is required to procure special equipment, additional fees shall be provided. The maximum allowable fee for such services shall not exceed the fee schedule set forth in Subpart 9-18.307-53 for such services as performed by construction contractors. The fee is based on the estimated price of the equipment being purchased.

(b) In determining appropriate fees to be paid, judgment should be used, with consideration to such factors as complexity of equipment, ratio of procurement transactions to volume of equipment to be purchased and completeness of services. Where possible, the reasonableness of the fees should be checked by their relationship to actual costs of comparable procurement services.

§ 9-50.306-7 Special considerations—award fee.

(a) If a management and operating contract is to be awarded on a cost-plus-award-fee basis, several special considerations are appropriate.

(b) In management and operating contracts, the base fee portion of the fee objective should not normally exceed 50% of the otherwise applicable fixed fee. However, the base amount may range from 0 up to the 50% level of the fixed fee amount. In the event 50% is exceeded, appropriate documentation shall be entered into the contract file. In no event shall the base fee exceed 70% of the fixed fee amount.

(c) The base fee plus the amount included in award fee pool should normally not exceed the fixed fee (as subjectively determined or as developed from the fee schedule) by more than 50%. However, in the event the base fee is to be less than 50% of the fixed fee, the maximum potential award fee may be increased commensurate with the decreases in base fee amounts.

(d) The following maximum potential award fees shall apply in award fee contracts: (percent is stated as percent of fee schedule amounts)

Base fee percent	Award fee percent	Maximum total percentage
50	100	150
40	120	160
30	140	170
20	160	180
10	180	290
0	200	200

(e) Prior approval of the Senior Procurement Official, Headquarters, is required for total fees (base plus award fee pool) exceeding the guidelines in § 9-50.306-7(d).

§ 9-50.306-8 Special considerations—Nonprofit organizations (other than educational institutions).

(a) Unless there is reason to do otherwise, it is general policy to pay fees for a management and operating contract with a nonprofit organization; however, it is a matter of negotiation whether a fee will be paid in a given case.

(b) Where fees are to be paid nonprofit organizations, the appropriate fee schedule shall apply. However, in computing the amounts to be paid, the tax status of the nonprofit organization should be considered. While it is difficult to establish the degree to which a fee under any given contract contributes to an organization's overall net profit, since the DOE compensates through its fee allowances certain general and administrative expenses and other unallowable costs, it should be assumed there is an element of profit in the fees paid under management and operating contracts.

(c) In order to assure consideration of the tax posture of nonprofit organizations, any fixed fee arrived at using the appropriate fee schedules should be reduced by at least 25%. However, depending upon the circumstances, and with appropriate justification, fees may be paid between this reduced amount and the fee amount established by the fee schedule.

§ 9-50.306-9 [Reserved]

Change 9.13

Section 9-50.704-49, "Printing," is amended to define printing and give further guidance. The present text is retained as an introductory paragraph and the following is added:

§ 9-50.704-49 Printing.

* * * * *

(a) The term "printing" includes the following processes: composition,

platemaking, presswork, binding, microform publishing, or the end items produced by such processes.

(b) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(c) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (c).

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Part III

Department of Housing and Urban Development

Office of the Secretary

Protection and Enhancement of Environmental Quality

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 50

[Docket No. R-82-744]

Protection and Enhancement of Environmental Quality

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule identifies the environmental review procedures that apply to all HUD programs (except those authorized by Title I of the Housing and Community Development Act of 1974, as amended) and complies with the NEPA Regulations issued by the Council on Environmental Quality. This interim rule will enable the Department to meet its responsibilities for implementing the National Environmental Policy Act of 1969, as amended (NEPA), and the other provisions of law which further the purposes of NEPA. These changes also represent corrections and revisions to the existing regulations in 24 CFR Part 50. In addition, this interim rule meets the deregulatory objectives of the Department under Executive Order 12291.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, but not before further notice of the effective date is published in the **Federal Register.**

Comments due: February 14, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washinghton, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Environment and Energy, Room 5136, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, D.C. 20410. Telephone: 202/755-7894. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This interim rule will enable the Department to meet its responsibilities for implementing the National Environmental Policy Act of 1969, as amended (NEPA), and the other provisions of law which further the purposes of NEPA. The changes represent corrections and revisions to the existing regulations in 24 CFR Part 50. This interim rule makes the NEPA Regulations of the Council on Enviromental Quality (CEQ), published on November 29, 1978 (43 FR 55978), applicable to all HUD actions, activities and programs, except those authorized by Title I of the Housing and Community Development Act of 1974, as amended (which are covered by the environmental regulations in 24 CFR Part 58).

The following summarizes the significant changes that have been made.

Changes To Reduce the Regulatory Burden

The changes take into account the deregulation objectives of the Department and will reduce many of the procedural details specified in the existing regulations. The significant changes achieve the following:

1. Substantially reducing the text of the existing regulations through: (a) The deletion of advisory provisions and operational guidance information; (b) elimination of regulatory material previously quoted from the CEQ Regulations and guidance information contained in HUD program handbooks; and (c) elimination of several of the appendices to the existing regulations and other repetitious program material.

2. Limiting the regulations to those requirements necessary for implementing HUD program objectives and to ensure that the environmental responsibilities of the Secretary under NEPA and related laws are fully met.

3. Emphasizing the mechanisms and procedures designed in the NEPA regulations to reduce paper work, eliminate duplication and otherwise simplify the environmental review process (e.g. adoption and re-use of prior environmental impact statements, and aggregation of functionally and geographically related activities into one environmental review document).

4. Describing conditions for HUD acceptance of environmental reviews prepared by the Veterans Administration.

5. Revising the thresholds for an Environmental Impact Statement (EIS) to provide a single EIS threshold of 2,500 dwelling units or lots, and increasing reliance on Environmental Assessments for determining when an EIS is required.

6. Eliminating the automatic EIS requirement for proposals that exceed 2,500 units when an Environmental Assessment or the Draft EIS indicates that the proposed action will not have a significant impact on the human environment.

7. Reclassifying activities HUD categorically excludes from NEPA.

8. Expanding the maximum size project allowed under the "early start" principle (new § 50.43) from 200 units or lots to 10% of the units or lots in the total development, up to a maximum of 500 units or lots.

9. Increasing the cost threshold for Demonstration Projects from $500,000 to $1,000,000, to reflect inflation and program changes since 1973.

Changes in Response to Comments Received on the 1972 Interim Rule

The interim rule adopting the existing regulations in Part 50, which was published on November 27, 1979 (44 FR 67906), solicited comments from the public for a period of 60 days. The rule consolidated all previous HUD environmental review procedures, including the NEPA regulations which were published by CEQ on November 29, 1978.

The Department received formal comments from seven public agency or public interest groups and five from private groups and individuals. In addition, a number of informal comments were made and suggestions discussed in individual phone conversations over the past two years. In addition to the deregulation changes identified above, all of these comments and suggestions have been taken into account in developing this interim rule. The following summarizes these comments and identifies the changes that have been made.

1. *Subpart A—General.* This Subpart identifies the authority for these regulations and incorporates, by reference, the CEQ regulations which are used to implement the intent of NEPA. We have also adopted the suggestions of many commenters that we clearly identify, in this Subpart, the specific areas of responsibility for different policy actions and not spread statements on purpose and authority into other parts of this rule. This Subpart also identifies, in a condensed form, an updated list of NEPA related statutes and Executive Orders with which HUD must establish compliance, including the WRC Guidelines as the procedures for meeting the intent and objectives of Executive Order 11988 and Executive Order 11990.

2. *Subpart B—Responsibilities.* We received many comments and suggestions from the Regional and Area Office Environmental Officers to identify and clarify the responsibility for the Department's environmental

function. In response to these comments, and in an attempt to be more declarative, we have identified specific responsibilities at each office level consistent with the duties and responsibilities identified in the Department's organizational handbooks. A suggestion was made from a private developer that responsibility for policy development should rest with each of the Assistant Secretaries whose programs are directly impacted. Section 1507.3 of the CEQ Regulations says that major subunits in an agency may adopt their own procedures if the Federal agency consents to this approach for overall agency compliance. We feel that the Department's responsibility for rulemaking for compliance should rest with the Secretary (which is subsequently assigned to the Assistant Secretary for CPD), and that specific administrative responsibilities should be designated at each program and/or field office level.

3. *Subpart D—Environmental Review.* This Subpart identifies the environmental review procedures that apply to both the Environmental Assessment and the Environmental Impact Statement levels. Many commenters requested that the first paragraph of § 50.21(a) be rewritten to clarify the conditions under which HUD actions listed as "categorical exclusions" would not be excluded from NEPA. The term "extraordinary circumstances" has been used as defined in accordance with § 1508.4 of the CEQ Regulations. In addition, we are aware of the potential cumulative impacts that may occur as a result of the combined or additive effect of these activities. We intend to take appropriate action if the effect of these actions has the potential for, individually or cumulatively, having a significant effect on the human environment.

The November 27, 1979 interim rule received many comments and criticisms on § 50.23, which involves the use of contractors. Although most commenters discussed a number of issues, two letters were received that only discussed this subject. Many developers felt that their use of contractors in the preparation of EIS's should be unrestricted, that applicant contractors would be less wordy and less likely to have 'boiler plate' language. There was considerable opposition to the requirement that a developer's contractor must be selected from an approved HUD list. The comment was made that HUD had the option of reviewing and not accepting the contractor's product, and therefore was responsible in accordance with § 1506.5(c) of the CEQ Regulation. Section 50.23 has been rewritten giving the developer considerable latitude in contractor nominations and expanding the coverage to include using contractors for Environmental Assessments as well as EIS's. HUD must in all cases make its own evaluation of the product and take responsibility for its scope and content.

4. *Subpart E—Environmental Assessment.* A number of comments and criticisms were received questioning the Department's ability to fully comply with the CEQ regulations and the intent of NEPA with the regulations adopted by the interim rule published on November 27, 1979. The Department's first procedures for implementing NEPA were printed in the **Federal Register** on July 18, 1973 (38 FR 19182) and subsequently amended on November 4, 1974 (39 FR 38922), June 11, 1976 (41 FR 23978), March 9, 1977 (42 FR 13208), July 22, 1977 (42 FR 37605), January 4, 1978 (43 FR 797), and March 8, 1979 (44 FR 12856). The Council on Environmental Quality has been consulted on each of these changes and we believe that this rule represents a conscientious effort to be responsive to the technical changes and refinements in the art of achieving a healthier human environment. A large part of the comments and criticism centered around the ability of the Department to meet its historic preservation responsibilities and to adequately consider cultural resources. We believe that the cultural and historic preservation concerns will be adequately addressed in HUD's counterpart regulations (24 CFR Part 59), and that there will be ample opportunity for public review and comment before they become final.

5. *Subpart F—Environmental Impact Statement.* This Subpart identifies the circumstances in which a proposal is determined to have, either individually or cumulatively, a significant impact on the human environment, requiring an Environmental Impact Statement to be prepared.

The 1979 interim rule solicited comments on the desirability of applying the flexible threshold principle to the "early start" procedures. Eight of the twelve commenters felt that since the new flexible EIS thresholds were designed to vary with population size and density, it would be logical to also extend that principle to "early starts". All commenters felt that HUD still had adequate discretionary authority to protect environmental concerns in the process of approving "early starts" and the EIS preparation procedures. We have made several additions and clarifications to this principle and some of the views of the commenters have been incorporated into these regulations without changing the basic intent of the "early start" principle. An additional safeguard has been incorporated into this rule which will not allow the "early start" segment or segments to exceed ten percent of the total project for which the EIS is being prepared.

The 1979 interim rule required 8 factors that should be considered when assessing the effect that a project would have on the community where it is located and the possible affects it may have on adjacent urban centers. Considerable comment was received questioning the concept of applying Executive Order 12074 and OMB Circular A-116 to individual projects. The comment was made that the Executive Order only applied to policy proposals and that likely indirect impacts are a normal part of all EIS's. Since Executive Order 12074 was rescinded by Executive Order 12350 on March 9, 1982, the general subject will now be addressed, when applicable, as part of the EIS in accordance with the intent of Section 101(a) of the National Environmental Policy Act.

Other Changes

1. The requirements to comply with other environmental statutes, Executive Orders and HUD standards for categorically excluded activities remain the same as in the interim rule now in effect. It is expected, however, that in actual practice most of these related authorities will not apply to activities categorically excluded from NEPA in view of the nature of those activities and the compliance requirements of the NEPA-related authorities. Appendix B to this rule is to be used by HUD to identify those related authorities which are most likely to be affected by the activities identified in § 50.20 and provides additional space to note any other authorities which might apply in extraordinary circumstances.

2. For cases under the Title I Community Development Block Grant program in which HUD (and not a State) exercises environmental review responsibility under this Part for the grant recipient which lacks legal capacity to do so under 24 CFR Part 58, the decision point by which the HUD review is to be completed has been changed. The new decision point is "HUD's execution of a grant agreement" instead of the present "approval of an

application or amendment". The change reflects legal changes in Title I, including the introduction of the term "grant recipients" and the elimination of applications for some "grant recipients".

Determinations

This interim rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 of Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This Rule was listed as item B) 14.CPD–29–78 and D) 28.CPD–29–78 under the Office of Community Planning and Development in the Department's Semi-annual Agenda of Regulations published August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The regulations contained in 24 CFR Part 50, together with those in Part 58 (Environmental Procedures under the Community Development Block Grant Program), comprise a cohesive regulatory system for implementing the National Environmental Policy Act of 1969 and related authorities. Both have been named by the Presidential Task Force on Regulatory Relief as candidates for deregulation review. Recently, the Department adopted, and is now reviewing comments on, an interim rule that simplifies and improves Part 58 (published on April 12, 1982 at 47 FR 15750). The Secretary has determined that it is in the public interest to coordinate the rulemaking for Part 50 with that underway in Part 58, and to give the earliest possible effect to the President's mandate to deregulate. Accordingly, the Secretary has found that affording an opportunity for public comment on this amendment of Part 50 prior to its effective date would be contrary to the public interest, and that there is good cause for publishing this amendment as an interim rule, without a prior public comment period. However, the Department is providing a 60-day period for public comment following this publication. All relevant comments and suggestions will be considered by this Department in the development of a final rule for Part 50.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness of this rule for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs.

The Secretary has requested the appropriate waivers by the Chairmen and Ranking Minority Members, but, at the time of publication of this interim rule, it is not known whether or when such waivers will be granted. Therefore, notice of the effective date of this interim rule will have to be published in a future issue of the **Federal Register.**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with 24 CFR Part 50 which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The FONSI is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street SW, Washington, D.C. 10410.

Pursuant to the provisions of 5 U.S.C. 605(b) (The Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule, in fully meeting requirements of environmental law, incorporates the several changes described above which reduce the regulatory burden. The changes are expected to improve the quality of HUD environmental assessments while improving HUD's ability to identify proposals that lack significant impact to justify the preparation of environmental impact statements. The several changes will result in the avoidance of unnecessary delays and reduction of HUD's overall processing time. The rule therefore will permit reduction in the cost of delay to developers, builders, home purchasers, housing occupants, and other parties involved in HUD programs subject to this rule.

The programs affected by this rule are listed in the Catalog of Federal Domestic Assistance under program numbers 14.103 through 14.803.

List of Subjects in 24 CFR Part 50

Environmental impact statements.

Accordingly, this rule revises 24 CFR Part 50 to read as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Subpart A—General

Sec.

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50.2 Terms and abbreviations.
50.3 Environmental policy.
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50.31 Environmental assessments.
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50.33 Action resulting from the assessment.
50.34 Time delays for exceptional circumstances.
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50.41 Policy.
50.42 Cases when Environmental Impact Statements are required.
50.43 "Early Start" procedures.
50.44 Notice of intent to prepare an EIS.
50.45 Scoping, Lead Agencies and Cooperating Agencies.
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50.47 Procedural requirements.
50.48 Adoption of other Agencies' Environmental Impact Statements.
50.49 Use of prior environmental impact statements.
50.50 Emergencies.
50.51–50.60 [Reserved]

Appendix A.—Format for Environmental Assessments
Appendix B—Format for Compliance with Environmental Laws and Reguirements for Categorically Excluded Projects and for Certified and Conditionally Certified Jurisdictions

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Subpart A—General

§50.1 Purpose and authority.

(a) The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., establishes national policy, goals and procedures for protecting, restoring and enhancing environmental quality. NEPA is implemented by Executive Order 11514 of March 5, 1970, as amended by Executive Order 11991 of May 24, 1977, and by the CEQ Regulations, 40 CFR Parts 1500–1508 (43 FR 55978–56007, November 29, 1978).

(b) The regulations issued by CEQ at 40 CFR Parts 1500–1508 establish the basic procedural requirements for compliance with NEPA. These procedures are to be followed by all Federal agencies and are incorporated by reference into this Part. This Part, therefore, provides supplemental instructions to reflect the particular nature of HUD programs, and is to be used in tandem with 40 CFR Parts 1500–1508. These procedures provide for compliance with NEPA and the other authorities cited in §50.4.

(c) These regulations apply to all HUD policy level actions (as defined in §50.16), and to all HUD project level actions, unless categorically excluded under § 50.20. For programs, activities or actions not specifically identified or when there are questions regarding the applicability of this Part, the Assistant Secretary for Community Planning and Development shall be consulted.

(d) Although HUD may use or reference environmental reviews completed by localities under Title I of the Housing and Community Development Act of 1974, these regulations do not apply to projects carried out by grant recipients under Title I unless lack of legal capacity was claimed and approved by HUD pursuant to 24 CFR Part 58.

§50.2 Terms and abbreviations.

The definitions for most of the key terms or phrases contained in this Part appear in 40 CFR Part 1508. The following abbreviations are used throughout this Part:

NEPA—National Environmental Policy Act
CEQ—Council on Environmental Quality
EA—Environmental Assessment
EIS—Environmental Impact Statement
FONSI—Finding of No Significant Impact
NOI/EIS—Notice of Intent to Prepare an Environmental Impact Statement
HUD—Department of Housing and Urban Development
CO—HUD Headquarters (Central Office)
AO—HUD Area Office
SO—HUD Service Office
EO—Environmental Officer
ECO—Environmental Clearance Officer
AS/CPD—Assistant Secretary for Community Planning and Development
CDBG—Community Development Block Grant

§50.3 Environmental policy.

(a) It is the policy of the Department to reject proposals which have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality and minimize environmental harm.

(b) The approving official is responsible for the final decision on any program or policy proposal. It is the duty of the responsible approving official to consider environmental and other Departmental objectives in the decisionmaking process.

(c) When EA's or EIS's reveal conditions or safeguards which should be implemented once a proposal is approved in order to protect and enhance environmental quality or minimize adverse environmental impacts, such conditions or safeguards must be included in agreements or other relevant documents.

(d) A systematic, interdisciplinary approach shall be used to assure the integrated use of the natural and social sciences and the environmental design arts in making decisions.

(e) Environmental impacts shall be evaluated on as comprehensive a scale as is practicable.

(f) HUD offices shall begin the environmental review process at the earliest possible time so that conflicts between program missions and environmental standards are identified at an early stage.

(g) Environmental documents for a given policy or project level action shall be considered by the responsible HUD official prior to the decision.

(h) Applicants for HUD assistance shall be advised of environmental requirements and consultation with governmental agencies and individuals shall take place at the earliest time feasible.

§ 50.4 Other environmental statutes, Executive orders and HUD standards.

HUD and/or applicants must comply, where applicable, with all environmental requirements, guidelines and statutory obligations under the following authorities and HUD standards:

(a) *Historic Properties* (1) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*).

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 *et seq.*).

(3) The Archeological and Historic Preservation Act of 1974, which amends the Reservoir Salvage Act of 1960 (16 U.S.C. 469 *et seq.*).

(4) Procedures for the Protection of Historic and Cultural Properties (Advisory Council on Historic Preservation—36 CFR Part 800).

(b) *Floodplain Management and Wetlant Protection.* (1) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, *et seq.*), as amended.

(2) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 *et seq.*) and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 *et seq.*) in accordance with the procedures set forth in Part II—Decision-Making Process, Floodplain Management Guidelines, U.S. Water Resources Council (43 FR 6030, February 10, 1978).

(3) HUD General Statement of Policy: Implementation of Executive Orders 11988 and 11990 (44 FR 47623, August 14, 1979).

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended.

(d) *Sole Source Aquifers.* The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 *et seq.*, and 21 U.S.C. 349), as amended.

(e) *Wildlife.* The Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661 *et seq.*), as amended.

(f) *Endangered Species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended.

(g) *Wild and Scenic Rivers.* The Wild and Scenic Rivers Act (16 U.S.C 1271 *et seq.*), as amended.

(h) *Water Quality.* The Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), and later enactments.

(i) *Air Quality.* The Clean Air Act (42 U.S.C. 7401, *et seq.*), as amended.

(j) *Solid Waste Management.* The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), and later enactments.

(k) *Farmlands Protection.* Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*).

(l) *HUD Environmental Standards.* Applicable criteria and standards

specified in HUD environmental regulations (24 CFR Part 51), and HUD Notice 79–33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Material, September 10, 1979.

§ 50.5–50.9 [Reserved]

Subpart B—General Policy: Responsibilities and Program Coverage

§ 50.10 Basic environmental responsibility.

It is the responsibility of all Assistant Secretaries, administrators, the General Counsel, Regional Administrators, Area Managers and Service Office Supervisors to make sure that the requirements of this Part are implemented. Under the principle that the HUD official responsible for approval decisions on a given action is responsible for environmental review of that action, most environmental reviews will be made at the Area Office and Service Office levels as most HUD actions are decided at these levels. Specific responsibilities are assigned in this Subpart.

§ 50.11 Assistant Secretary for Community Planning and Development (AS/CPD).

The Assistant Secretary for Community Planning and Development (AS/CPD), represented by the Office of Environment and Energy whose Director shall serve as the Department's Environmental Clearance Officer, is assigned the overall Departmental responsibility for environmental policies and procedures for compliance with NEPA and related laws and authorities, and shall:

(a) Issue additional advice and guidance as necessary;

(b) Interpret environmental policies and procedures contained in this Part;

(c) Concur in program regulations and guidance information for compliance with HUD's environmental policies and procedures;

(d) Monitor, evaluate and audit Headquarters and field office compliance with all environmental requirements;

(e) Review and approve EA's and FONSI's or EIS's prepared for Headquarters actions covered in this Part;

(f) To the extent permitted by applicable laws and the CEQ regulations, approve waivers and exceptions or establish criteria for exceptions from the requirements of this Part; and

(g) Provide liaison with CEQ and other Federal agencies on environmental matters.

§ 50.12 Other Assistant Secretaries, Administrators, and the General Counsel.

Other Assistant Secretaries, administrators and the General counsel shall assist the AS/CPD in carrying out the Departmental responsibilities and shall:

(a) Designate a senior official as program ECO who will be the principal environmental advisor. The ECO shall advise staff and program officials on compliance with NEPA and related laws and shall review and concur on EA's and FONSI's or EIS's prepared for Headquarters actions identified in this Part.

(b) Assign qualified personnel and other resources to implement environmental policies and procedures.

(c) Ensure that program policies and procedures are carried out in a manner consistent with these policies.

(d) Issue additional advice and guidance as may be necessary with the concurrence of the AS/CPD.

(e) In addition, the General Counsel shall:

(1) Require the preparation of an EA and FONSI or an EIS for legislation, regulations, standards and handbooks not specifically excluded;

(2) Be given the opportunity to review the Draft and Final EIS's prepared for Headquarters actions.

§ 50.13 Regional Administrators.

Each Regional Administrator shall:

(a) Designate the Regional Director of CPD as regional ECO (RO/ECO) who will be the principal advisor on environmental matters and in carrying out the Regional responsibilities describd in this Part. When approved by the AS/CPD another RO official may be designated to act as the Regional ECO.

(b) Assure that there will be a Regional Environmental Officer (REO) who shall assist the ECO and act for the ECO when authorized.

(c) Monitor and review field office performance to ensure that AO and SO staff implement HUD's environmental responsibilities.

§ 50.14 Area Managers

Each Area Manager shall:

(a) Assure that there will be an Area Environmental Officer (AEO), reporting to the Area Manager, who shall be the principal environmental advisor for the AO and SO's, and act as the Area ECO (AO/ECO). The AEO shall be responsible for ensuring compliance with NEPA and related laws identified in § 50.4 for all programs, and shall monitor environmental assessments and evaluate the adequacy of program staff performance regarding such assessments.

(b) Designate the Service Office Supervisor as the Environmental Clearance Officer (SO/ECO) who shall be responsible for ensuring compliance with NEPA and related authorities cited in § 50.4 for all programs, and shall have the lead responsibility for all environmental functions assigned to the Service Office for single family programs.

§ 50.15 [Reserved]

Subpart C—General Policy: Decision Points

§ 50.16 Policies.

An EA and FONSI or EIS on all policy level actions not categorically excluded shall be completed prior to the approved action. Policy level actions include all legislative proposals, regulations, Handbooks, HUD standards, policy guidance documents and program issuances.

§ 50.17 Projects.

An EA and FONSI or EIS for individual projects shall be completed before the applicable program decision points below for projects not meeting the criteria of § 50.20 and shall be re-evaluated and updated as required by § 50.37.

(a) *New Construction.* (1) Subdivisions:' Issuance of HUD Form 92255;

(2) Multifamily project mortgage insurance, including Title X, nursing homes, hospitals, group practice facilities, manufactured and mobile homes and parks: Issuance of SAMA Letter or equivalent indication of HUD approval, whichever comes first;

(3) Public Housing: Notification of tentative site approval;

(4) Section 8HAP Program: Notification of selection of preliminary proposal.

(b) *Rehabilitation* (other than 312 Program). Rehabilitation Projects: Use the decision points under "new construction."

(c) *Public Housing Modernization. Modernization Projects:* Approval of the modernization program.

(d) *Property Disposition Program.* (1) Vacant land and one to four family structures: Approval of the Disposition Program or Planned Program Approach (PPA).

(2) Multifamily structures, college housing, nursing homes, hospitals, manufactured and mobile homes and

parks, group practice facilities: Approval of the Disposition Program.

(e) *Community Development Block Grant Program (CDBG).* For cases in which HUD (and not a State) must exercise environmental review responsibility under this part for a CDBG recipient which lacks legal capacity to do so under 24 CFR Part 58, the decision point is: HUD's execution of a grant agreement.

(f) *Urban Renewal Program.* HUD approval of major amendment to urban renewal plan.

(g) *New Community Development Corporation.* Approval by the Secretary or the NCDC Board of Directors of a development plan, plan amendment, termination of a development plan, or plan of disposition of HUD interest.

(h) *312 Program.* Approval of loan application.

(i) *Programs not Specifically Covered Above.* Consult with the AS/CPD for decision points.

§§ 50.18–50.19 [Reserved]

Subpart D—General Policy: Environmental Review Procedures

§50.20 Categorical Exclusions.

The following actions, activities and programs are categorically excluded from the NEPA requirements of this Part. These actions, activities and programs, however, are not excluded from individual compliance requirements of other environmental statutes, Executive Orders and HUD standards listed in § 50.4. The format to be used by HUD in documenting compliance is contained in Appendix B of this Part. Where the responsible official determines that any action, activity or program identified in this section may have an environmental effect because of extraordinary circumstances, the requirements of NEPA shall apply.

(a) An individual action on a one-to-four family dwelling or an individual action on a project of five-or-more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site;

(b) Training grants and technical assistance;

(c) Acquisition, property disposition (including Homesteading), rehabilitation and/or modernization projects when all of the following conditions are met:

(1) Unit density is not increased more than 20 percent;

(2) The project does not involve changes in land use from residential to nonresidential or from nonresidential to residential;

(3) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; and

(4) The proposal does not involve the demolition of one or more buildings, or parts of a building, containing the primary use served by the project.

(d) The Existing Housing Program under Section 8 of the U.S. Housing Act of 1937, as amended.

(e) Interstate Land Sales Registration Actions.

(f) Mortgage purchase commitments and mortgage purchases by the Government National Mortgage Association pursuant to the Emergency Home Purchase Assistance Act of 1974, 12 U.S.C. 1723e, as amended.

(g) Demonstration projects costing less than $1 million which do not result in physical change.

(h) Interest reduction assistance and rent supplement payments on existing contruction.

(i) Acquisition of an existing structure, provided that the property to be acquired is in place and will be retained in the same use.

(j) Purchased or refinanced housing and medical facilities under Section 223(f).

(k) Internal administrative procedures whose content does not constitute a development decision nor affect the physical condition of project areas or building sites but which relate only to the performance of accounting, auditing and fiscal functions or the preparation of reports, personnel practices, designations of officials, delegations of authority, public information issuances, or similar HUD management activities which may be excluded by the Assistant Secretary, CPD.

(l) Statutorily required establishment and review of interest rates, loan limits, building cost limits, prototype costs, fair market rent schedules, HUD-determined prevailing wage rates, and similar rate and cost determinations which do not constitute a development decision that affects the physical condition of specific project areas or building sites.

(m) Activities supported by the Neighborhood Self-Help Development Program which are primarily financial or administrative.

§50.21 Aggregation.

(a) Individual actions which are geographically related and are logical parts of a composite of contemplated actions shall be evaluated together. For example, under the following conditions, a single review shall be done:

(1) When an applicant's project is part of an uncompleted portion of a development plan prepared for a private entity and approved by the locality, the evaluation shall include the number of units in the uncompleted portion; or

(2) When an applicant's project is a portion of a larger site over which private land use control is centralized, the evaluation shall include the uncompleted portion of the total site.

(b) When an EIS is required as a result of applying subsection (a) of this section, the AO Manager may allow each project to be processed as an "early start" in accordance with § 50.43, provided the total number of all "early starts" in the aggregated area does not exceed ten percent of the units or lots in the total project for which the EIS is being prepared or a total of 500 units/lots.

§50.22 Local area certification.

(a) The Local Area Certification (LAC) procedures identified in HUD Handbook 4135.1, Rev., apply only to single family proposed housing construction applications under Section 203(b) of the National Housing Act, as amended.

(b) In fully certified communities an EA and/or an EIS is not required. In conditionally certified communities (or portions of communities not receiving full certification status) HUD shall prepare an EA and/or an EIS if required by the regulation or the guidelines pertaining to the conditioned factor or combination of factors cited as the basis for conditioning the certification.

(c) In fully and conditionally certified jurisdictions, Appendix B shall be used by HUD to meet the requirements of § 50.4 and any conditioned factors.

§50.23 Use of contractors.

Contractors may be used either to prepare specialized elements of an EA or EIS or to prepare the entire EIS. Where a contractor is to be used to prepare an EIS, the selecting official shall be the Area Manager. The selection process shall be consistent with the requirements of 40 CFR 1506.5(c) and the contactor shall execute the disclosure statement required therein. In all cases, however, HUD must independently or as a lead agency, make its own evaluation of the product and take responsibility for its scope, content and distribution as a HUD document, and, in the case of an EIS, furnish guidance and participate in its preparation.

§50.24 Environmental management and monitoring.

An Environmental Management and Monitoring Program shall be established prior to project approval when it is deemed necessary by the HUD

approving official. The program shall be part of the approval document and must:

(a) Be concurred in by the AO/ECO and any cooperating agencies;

(b) Contain specific standards, safeguards and commitments to be completed during project implementation;

(c) Identify the staff who will be responsible for the post-approval inspection; and

(d) Specify the time periods for conducting the evaluation and monitoring the applicant's compliance with the project agreements.

§ 50.25 Public participation.

HUD shall inform the affected public about NEPA-related hearings and public meetings and environmental documents. Project actions which result in a FONSI normally require only notification to the A–95 clearinghouses. In all cases HUD shall mail notices to those who have requested them. Additional efforts for involving the public in specific notice or compliance requirements shall be made in accord with the NEPA-related statutes and Executive Orders and their implementing procedures identified in § 50.4.

(a) A NOI/EIS shall be forwarded to the AS/CPD to the attention of the ECO for publication in the **Federal Register.**

(b) Notices will be bilingual if the affected public is largely non-English speaking and will identify a date when the official public involvement element of the proposed action is completed and HUD internal processing will continue.

(c) All notices shall be published in an appropriate local printed news medium, and sent to individuals and groups known to be interested in the proposed action.

(d) All notices shall inform the public where additional information may be obtained.

§ 50.26 Review of other agencies' EIS's.

Where EIS's on project level actions initiated outside HUD are referred to the HUD RO in whose jurisdiction the project falls, the RO/ECO shall determine whether HUD has an interest in the EIS and, if so, will assign the EIS to the appropriate AO for review and comments. EIS's from other Federal agencies on legislative proposals, regulations, or other policy level documents shall be sent to the AS/CPD for comment, and the AS/CPD shall provide the General Counsel the opportunity for comment.

§§ 50.27–50.30 [Reserved]

Subpart E—Environmental Assessments

§ 50.31 Environmental assessments.

(a) The EA format to be used by HUD is contained in Appendix A. If the format does not meet specific program needs, the AS/CPD shall provide assistance and guidance in the development of an acceptable format. The introduction of new formats requires the approval of the AS/CPD.

(b) The program representative shall obtain interdisciplinary assistance from professional experts and other HUD staff as needed. Additional information may also be requested of the sponsor/applicant. HUD is responsible for assessing and documenting the extent of the environmental impact.

(c) Comments received from clearinghouses, or from States and local environmental agencies through clearinghouses, shall be considered in the preparation of the EA and be reported in any Draft EIS when it is circulated for review.

§ 50.32 Responsibility for the assessment.

The program staff in the HUD Office responsible for processing the project application or recommending a policy level action is responsible for conducting the EA. The collection of the data and studies as part of the information contained in the EA may be done by an applicant, or the applicant's contractor, provided HUD makes its own evaluation of the environmental issues, responsibility for its scope and content, and prepares the environmental finding. Assessments for projects over 200 lots/dwelling units or beds require the review and concurrence of the ECO.

§ 50.33 Action resulting from the assessment.

(a) A proposal may be accepted without modifications if the EA indicates that the proposal will not significantly affect the quality of the human environment and a FONSI is prepared.

(b) A proposal may be accepted with modifications provided that:

(1) Changes have been made that would reduce adverse environmental impact to acceptable and insignificant levels, and

(2) An Environmental Management and Monitoring Program is developed in accordance with § 50.24.

(c) A proposal should be rejected if significant and unavoidable adverse environmental impacts would still exist after modifications have been made to the proposal and an EIS is not prepared.

(d) A proposal (if not rejected) shall require an EIS if the EA indicates that it has significant environmental impacts.

§ 50.34 Time delays for exceptional circumstances.

Under the circumstances described below, the FONSI must be made available for public review for 30 calendar days before a final decision is made whether to publish an EIS and before the HUD action is taken. The circumstances are:

(a) When the proposed action is, or is closely similar to, one which normally requires the preparation of an EIS pursuant to § 50.42(b) but it is determined, as a result of an EA or in the course of preparation of a draft EIS, that the proposed action will not have a significant impact on the human environment; or

(b) When the nature of the proposed action is without precedent and does not appear to require more than an assessment.

In such case, the FONSI must be concurred in by the AS/CPD and the CO Program Lead, and for field actions, also by the Regional Administrator and the AO/ECO. Notice of the availability of the FONSI shall be given to the public in accordance with subsections (a)–(d) of § 50.25 and to any Federal agency described in 40 CFR 1502.19(a).

§ 50.35 Use of prior environmental assessments.

When other Federal, State, or local agencies have prepared EA's or other environmental analyses for a proposed HUD project, these documents should be requested and used to the extent possible. HUD must, however, conduct the environmental analysis and prepare the EA and be responsible for the required environmental finding except as provided in § 50.36.

§ 50.36 Acceptance of environmental assessments prepared by the Veterans Administration.

A subdivision project for which HUD has received a FONSI issued by the Veterans Administration (VA) pursuant to 38 CFR Part 26 and 40 CFR 1501.4(c) or equivalent confirmation of VA environmental assessment resulting in a finding of no significant impact on the human environment will be deemed to meet the requirements of NEPA. Such FONSI or equivalent confirmation will be deemed to meet the requirements of NEPA in the absence of independent evidence known to HUD or presented to HUD which tends to challenge in a substantial manner the assessment made by VA. A copy of the FONSI or other confirmation should be inserted in

the project file prior to approval by HUD. HUD shall use Appendix B of this Part to document compliance with the related laws and Executive Orders identified in § 50.4.

§ 50.37 Updating of environmental assessments.

The EA must be re-evaluated and updated when the basis for the original environmental finding is affected by a major change requiring HUD approval in the nature, magnitude or extent of a project and the project is not yet complete. A change only in the amount of financing or mortgage insurance involved does not normally require the Envrionmental Assessment (EA) to be re-evaluated or updated.

§ 50.38 Policy level environmental assessments.

Policy level actions are subject to an EA and FONSI or EIS, unless excluded under § 50.20 (k) and (l). If it is not readily determined that an EIS is needed because of the proposed action, an EA shall be prepared to determine whether an EIS is required. The decision as to whether a policy level action is categorically excluded from an EA shall be made by the program ECO as early as possible. Where the program ECO has any doubt as to whether a proposed action qualifies for exclusion, the ECO shall request a determination by the AS/CPD.

§ 50.39–50.40 [Reserved]

Subpart F—Environmental Impact Statements

§ 50.41 Policy.

EIS's will be prepared and considered in program determinations pursuant to the general environmental policy stated in § 50.3 and 40 CFR 1505.2 (b) and (c).

§ 50.42 Cases when environmental impact statements (EIS's) are required.

(a) An Environmental Impact Statement (EIS) is required if the proposal is determined to have a significant impact on the human environment pursuant to Subpart E.

(b) An EIS will normally be required if the proposal:

(1) is an Amendment to the Development Plan of a New Community pursuant to 24 CFR 720.65 which results in a change of land use or population by 30% or more; or

(2) would provide a site or sites for hospitals or nursing homes containing a total of 2,500 or more beds; or

(3) would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 50.20), or which would result in the construction or installation of 2,500 or more housing units, or which would provide sites for 2,500 or more housing units.

(c) When the environmental concerns of one or more Federal authorities cited in § 50.4 will be affected by the proposal, the cumulative impact of all such effects should be assessed to determine whether an EIS is required. However, where all of the affected authorities provide alternative procedures for resolution, those procedures should be used in lieu of an EIS.

(d) Notwithstanding subsections (a)–(c) above, an EIS is not required where § 50.49 is applicable.

§ 50.43 "Early Start" procedures.

The following procedures apply to developments involving single family subdivisions, Title X, or multifamily projects when an EIS is required solely because of the number of units/lots being proposed for the total development.

(a) Construction may be started on the first segment of a larger development prior to the completion of the EIS if such first segment would form a project which would be financially and functionally separate and complete without regard to whether the total development is ever completed; and the "early start" portion:

(1) Does not exceed ten percent of the units/lots in the total development with a maximum total of 500 units/lots and with no more than 200 units/lots for a single sponsor/applicant;

(2) Is in an area with a population density of 1,000 or more persons per square mile or within two miles of such areas;

(3) Can be served with existing roads, sewers and water, and other utilities located off-site; and

(4) Will have no significant impact on the human environment, as documented by an EA and a FONSI prepared in accordance with paragraph (b) of this section.

(b) An EA shall be documented to show its compliance with (a) of this section and a FONSI must be prepared for the "early start" portion and receive concurrence by the AO/ECO. In addition:

(1) The EA must include information on the entire development and its consistency with areawide plans;

(2) The "early start" portion and the larger development must not have received any significant unresolved comments from State, Regional, or local governments related to environmental impacts;

(3) The "early start" portion must be in compliance with the procedural requirements under the laws and authorities cited in § 50.4;

(4) A NOI/EIS shall be prepared and published in accordance with § 50.44 and § 50.25; and

(5) A letter shall be written from the AO Manager or the SO Supervisor informing all sponsors/applicants receiving "early starts" under § 50.43 that there will be no further application approvals until the Final EIS for the total development has been satisfactorily completed, and any actions by the developer foreclosing options to be explored in the EIS may jeopardize approval of the larger development.

(c) A copy of the "early start" request and the supporting documentation identified in (a) and (b) of this section shall be sent to the RO for comment, along with the management schedule for the preparation of the EIS. Comments and recommendations by the RO/EO shall be provided to the reviewing office within ten working days from receipt.

§ 50.44 Notice of intent to prepare an EIS

(a) Immediately after a determination is made that an EIS will be prepared, a NOI/EIS shall be published in accordance with § 50.25.

(b) If, subsequent to the publication and dissemination of a NOI/EIS, a determination is made that an EIS is not required, a Notice of Intent Not To Prepare an EIS shall be prepared. This Notice shall contain the reasons for the determination and shall be published in the same manner as the NOI/EIS.

§ 50.45 Scoping, lead agencies and cooperating agencies.

Scoping shall be conducted in accord with 40 CFR 1501.7 and 1508.25. HUD may serve as a Cooperating Agency when asked to do so by the Lead Agency and as the Lead Agency when other Federal agencies are involved in a HUD action or related actions that require the preparation of an EIS (see 40 CFR 1501.5, 1501.6, 1508.5 and 1508.16).

§ 50.46 Tiering.

Tiering may be conducted in accord with 40 CFR 1502.20 and 1508.28. This concept is used when broader EIS's are referenced in the evaluation of subsequent site-specific action by the use of an EIS Supplement or an EA. The tiering concept can also be used in referencing or accepting State and local findings when such State or local procedures have been certified by CEQ as being substantially equivalent to Federal procedures.

§ 50.47 Procedural requirements.

(a) The minimum review period for the Draft EIS is 45 calendar days and runs from the date of the Federal register publication of EPA's notice of EIS filing. The Draft must be on file with EPA at least 90 calendar days prior to HUD's approval of, or commitment to, the proposed action. The Final EIS must be filed with EPA at least 30 calendar days prior to HUD's approval of, or commitment to, the proposed action.

(b) Draft and Final EIS's shall be circulated pursuant to 40 CFR 1502.19. Five copies each of the Draft and Final EIS are to be transmitted to the appropriate Regional EPA Office and Headquarters. One copy of the Draft and Final EIS are sent to HUD CO Library and the applicable Regional ECO.

(c) The Draft and Final EIS shall be prepared and distributed by the initiating program office or appropriate field office having program review responsibility. For EIS's prepared by the field office, the Draft and Final EIS shall be concurred in by the Area and Regional Office ECO and the Area Counsel shall be given the opportunity to review concurrently with the AO/ECO. For EIS's prepared by a CO unit, the Draft and Final EIS shall have the concurrence of the CO ECO and the General Counsel shall be given the opportunity to review prior to issuance.

(d) In connection with any project, legislative proposal, or policy issuance for which an EIS is prepared, HUD offices shall prepare a Record of Decision in accordance with 40 CFR 1505.2(a), (b) and (c).

§ 50.48 Adoption of other agencies' environmental impact statements.

A Draft or Final EIS prepared by another agency may be adopted by HUD provided that the EIS was prepared in accordance with 40 CFR Parts 1500–1508. If an EIS prepared by another Federal agency is adopted, the procedure in 40 CFR 1506.3 shall be followed.

An adopted EIS may have to be revised to adapt it to the particular environmental conditions and circumstances of the HUD project. In such cases HUD must prepare, circulate and file a Supplemental draft and Supplemental Final EIS and otherwise comply with the clearance and time requirement of the EIS process except that scoping requirements shall not apply. The agency which prepared the original EIS should be informed that HUD intends to amend and adopt the EIS.

HUD may adopt an EIS when acting as a Cooperating Agency in its preparation pursuant to 40 CFR 1506.3. HUD is not required to re-circulate or file the EIS but must complete the clearance process. The decision to adopt a prior EIS shall be made a part of the Record of Decision.

§ 50.49 Use of prior environmental impact statements.

Where any Final HUD EIS has been listed in the Federal Register for a project pursuant to this Part, or where an areawide or similar broad scale Final EIS has been issued and the EIS anticipated a further project which would otherwise require an EIS, then no new EIS is required for the subsequent project if all the conditions set forth below are met.

(a) An EA is prepared and a finding is made that the proposed project is not a new major Fedeal action significantly affecting the quality of the human environment. The EA shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA:

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) A determination that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS; and

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS was filed or updated within five (5) years, and:

(1) the EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;

(2) the EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which have significant environmental impact on the project area covered by the pior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

§ 50.50 Emergencies.

In cases of national emergency and disasters or cases of imminent threat to health and safety which require the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

§ 50.51–50.60 [Reserved]

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Appendix A

U. S. Department of Housing and Urban Development

ENVIRONMENTAL ASSESSMENT FOR SUBDIVISION AND MULTIFAMILY PROJECTS

PROJECT NAME:_____ APPLICANT:_____

LOCATION:_____ (street) ADDRESS:_____ (street)

_____ (city) _____ (county) _____ (state) _____ (city) _____ (state) _____ (zip) _____ (phone)

PROJECT NO._____ DATE REC'D_____ ACRES_____ LOTS/UNITS_____

FINDINGS AND RECOMMENDATIONS (to be prepared AFTER analysis is completed)

1. ENVIRONMENTAL FINDING

• ___ Finding of No Significant Impact (FONSI) is made OR ___ Environmental Impact Statement (EIS) is required

2. COMMENTS AND RECOMMENDATIONS

• ___ Recommended for approval subject to the following conditions (if any, specify):

• ___ Project should be rejected (explain):

_____ (Preparer) _____ (date) _____ (Supervisor) _____ (date)

3. COMMENTS BY ENVIRONMENTAL CLEARANCE OFFICER:

___ Concur OR ___ Non-concur
(Required for projects over 200 lots/units)

_____ (Environmental Clearance Officer) _____ (date)

4. APPROVAL AND SPECIAL INSTRUCTIONS:

_____ (Housing Division Director or Service Office Supervisor) _____ (date)

A. PROJECT DATA

Project No.: _____

1. PROJECT TYPE (check applicable items)

- ___ Family
- ___ Elderly
- ___ Special Program (specify)
- ___ Market Rate
- ___ Assisted/Subsidized
- ___ New construction
- ___ Rehabilitation
- ___ Land development
- ___ Other (specify)
- ___ Detached
- ___ Semi-detached
- ___ Walk-up
- ___ Townhouse
- ___ Elevator

___ No. of stories

If required, in compliance with Section 213? Yes___ No___ and/or Housing Assistance Plan? Yes___ No___

2. STATUS AND MARKETABILITY (for subdivision projects ONLY)

- Marketability is acceptable: Yes___ No___ (If "No", indicate in FINDINGS on page 1 and discontinue processing)
- Has construction started? Yes___ No___

If "Yes", _____ number of units completed

_____ number of units under construction

_____ percent grading completed

_____ percent water/sewer completed

_____ percent streets completed

- Most marketable price or rental range is $_____ to $_____
- Most marketable units are: ___ 0-2 bedrooms ___ 3 bedrooms ___ 4 or more bedrooms
- Estimated market price of lot is $_____
- Typical lot size is _____ ft. by _____ ft.

B. APPROVALS AND COORDINATION

- Has locality approved the project? Yes___ No___
- Identify other Federal agency approval: _____
- Has an environmental assessment (EA) for the project been prepared by that agency? Yes___ No___ and/or Has an EA been prepared under State or local law? Yes___ No___
- Does the file contain the EA? Yes___ No___
- Has the A-95 process been completed? Yes___ No___
- If "Yes", when? _____ (Areawide) _____ (State)

C. CUMULATIVE IMPACTS AND ALTERNATIVES

- Are there any conditions which require the assessment of cumulative impacts? Yes___ No___ If "Yes", explain:

- Does project involve unresolved conflicts concerning alternative uses of available resources under Section 102(2)(E) of NEPA? Yes___ No___ If "Yes", reasonable alternatives are:

D. PLANNING FINDINGS

- Is the project in compliance or conformance with the following plans? LOCAL: Yes___ No___ Not available___
  AREAWIDE: Yes___ No___ Not available___ AIR QUALITY (SIP): Yes___ No___ Not applicable___
  COASTAL ZONE: Yes___ No___ Not applicable___ WATER QUALITY (208): Yes___ No___ Not applicable___
  If the answer to any is "No", explain:

Project No.: _____

E. COMPLIANCE FINDINGS

COMPLIANCE FACTOR	Actions Taken to Achieve compliance: Is in compliance	Consultation	Mitigation and/or modification	Special study	Is not in compliance	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. Noise (24 CFR Part 51B)						
2. Historic preservation (36 CFR Part 800)						
3. Floodplain management (E. O. 11988)						
4. Wetlands protection (E. O. 11990)						
5. Hazards (24 CFR Part 51 and HUD Notice 79-33)						
Other:						

F. UNDERWRITING/ENVIRONMENTAL FINDINGS

UNDERWRITING/ENVIRONMENTAL FACTOR	Deficiencies/Impact: None	Minor	Major	Requires mitigation or modification	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. Compatibility with surrounding development					
2. Site accessability					
3. Demographic/neighborhood character					
4. Schools					
5. Parks and recreation					
6. Social services					
7. Emergency health care					
8. Public safety-fire					
9. Public safety-police					
10. Commercial/retail					
11. Transportation					

Project No.: _____

G. ENVIRONMENTAL FINDINGS

ENVIRONMENTAL FACTOR	Impact Anticipated: None	Minor	Major	Requires mitigation or modification	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. LAND USE AND DEVELOPMENT FACTOR					
1.1 Physical site suitability					
1.2 Soil stability and erodability					
1.3 Natural hazards					
1.4 Man-made hazards and nuisances					
1.5 Air quality					
1.6 Displacement					
1.7 Energy consumption					
2. INFASTRUCTURE AND FACILITIES (*See 24 CFR §50.4 for other relevant authorities)					
2.1 Water supply*					
2.2 Waste water					
2.3 Storm water					
2.4 Solid waste*					
3. NATURAL FEATURES AND AREAS (*See 24 CFR §50.4 for other relevant authorities)					
3.1 Water resources*					
3.2 Unique natural features and areas					
3.3 Important and productive farmlands*					
3.4 Vegetative and animal life*					

H. PARTICIPATING STAFF

Environmental assessment conducted by:
(in addition to Preparer)

_____ _____ _____

_____ _____ _____

Field inspection conducted by:
(if different from Preparer)

_____ _____ _____

_____ _____ _____

Additional technical analysis by:

_____ _____ _____
(name) (title) (date)

Appendix B

Project No.: _____

COMPLIANCE AND LAC CONDITIONS RECORD

(Appendix B is to be used for analysis and documentation of projects and activities under §50.20 and §50.36 and for jurisdictions under the LAC process and placed in the project file.)

Project/activity _____ Location _____

COMPLIANCE FINDINGS

COMPLIANCE FACTOR	Is in compliance	Actions Taken to Achieve compliance: Consultation	Actions Taken to Achieve compliance: Mitigation and/or modification	Actions Taken to Achieve compliance: Special study	Is not in compliance	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES
1. Noise (24 CFR Part 51B)						
2. Historic preservation (36 CFR Part 800)						
3. Floodplain management (E. O. 11988)						
4. Wetlands protection (E. O. 11990)						
5. Hazards (24 CFR Part 51 and HUD Notice 79-33)						
Other:						

ENVIRONMENTAL FINDINGS FOR CONDITIONED FACTORS

CONDITIONED FACTOR (List Factors)	Impact Anticipated: None	Impact Anticipated: Minor	Impact Anticipated: Major	Impact Anticipated: Requires mitigation or modification	NOTE CONDITIONS and/or SOURCE DOCUMENTATION THAT SUPPORTS FINDING REFERENCE NOTES

_____ (Preparer) _____ (date)

_____ (Supervisor) _____ (date)

BILLING CODE 4210-29-C

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Dated: September 20, 1982.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 82-34004 Filed 12-14-82; 8:45 am]

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federal register

Wednesday
December 15, 1982

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Comprehensive Outpatient Rehabilitation Facility Services; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 488 and 489

Medicare Program; Comprehensive Outpatient Rehabilitation Facility Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations expand the scope of benefits under Medicare-Part B to include services furnished by comprehensive outpatient rehabilitation facilities (CORFs).

They establish the conditions these facilities must meet to participate in Medicare, define CORF services, specify the conditions under which those services will be covered, and establish CORF reimbursement on a reasonable cost basis.

The regulations are necessary to implement section 933 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499). The purpose is to enable beneficiaries to receive coordinated comprehensive rehabilitation services at one location, rather than having to go to different sources.

DATE: These regulations are effective December 15, 1982.

FOR FURTHER INFORMATION CONTACT:
John Clegg (Coverage of Services), (301) 594–9372
Stefan Miller (Conditions of Participation), (301) 597–5138
John Callahan (Reimbursement), (301) 594–8480

SUPPLEMENTARY INFORMATION:

I. Background

Section 933 of Pub. L. 96–499 amended several sections of the Social Security Act to define "comprehensive outpatient rehabilitation facility" (CORF) as a distinct type of Medicare provider, and CORF services as a new benefit under Medicare Part B. Under current law, Supplementary Medical Insurance (Medicare Part B) covers certain rehabilitation services in a variety of settings. For example, such services are covered when furnished "incident to" a physician's service. Outpatient physical therapy and speech pathology services are covered when furnished by a hospital, clinic, or other health facility. Physical therapy is covered when furnished by a physical therapist in independent practice. Section 933 provides Medicare coverage for a broad range of items and services when they are provided by a physician or other qualified personnel to a beneficiary who is an outpatient of the CORF.

The statutory amendments specify certain conditions that a facility must meet to be eligible for participation in Medicare. Those include, for example, the requirement that the facility provide at least physician services, physical therapy, and social or psychological services, maintain patient clinical records, and have policies established by a group of professional personnel. The amendments also authorize the Secretary to impose any other conditions necessary for the health and safety of the patient, including personnel qualifications, and require that the services be furnished under a plan of treatment and that a physician certify that (1) the beneficiary needs skilled rehabilitation services; (2) a plan of treatment was established and periodically reviewed by a physician; and (3) the services were furnished while the beneficiary was under the care of a physician. In addition, the amendments also require (1) that the services be furnished on an outpatient basis, by a physician or other qualified personnel, in a CORF approved for participation in Medicare, and (2) that reimbursement be on a cost basis.

A notice of proposed rulemaking (NPRM) to implement section 933 was published in the **Federal Register** on May 10, 1982 (47 FR 20092). The notice elicited numerous comments from over 200 sources, representing a broad sector of the public. The provisions of the proposal, the comments received, and any changes in response to those comments are discussed below.

II. Discussion of Comments and Changes

A. The Proposal in General

Comments: The National Council of Community Health Centers and 40 other commenters, most of them local health centers, concurred with the proposal as written. Nine commenters opposed the proposal on the grounds that it constitutes unnecessary duplication of existing coverage of rehabilitation services and will be unnecessarily costly. They considered it would be preferable to expand existing coverage of rehabilitation services, and recommended that the proposal be withdrawn.

Response: The proposal cannot be withdrawn because the provisions are required by Section 933 of Pub. L. 96–499.

B. Effective Date of Final Regulations

Comment: Eight commenters recommended that the regulations be effective on July 1, 1981, the statutory effective date.

Response: The regulations are effective on publication. However, facilities cannot be reimbursed for CORF services until they apply for participation, are surveyed and are found to be in compliance with the conditions of participation. It would be impossible for a survey to determine that a facility would have been in compliance on July 1, 1981 with the conditions established by these final regulations. Payment, therefore, cannot be made retroactive to July 1, 1981. The regulations at 42 CFR Part 489 provide that the earliest effective date for a provider agreement is the date of the on-site survey, and then only when a provider is found to meet all conditions of participation. Under these rules, CORFs will be reimbursed for services furnished on or after the date they are certified.

C. Requirements for Coverage

(Section 405.260 of the NPRM; § 405.262 of the final regulation.)

Proposal: The preamble stated that the services must be furnished to individuals who have significant potential for improvement and who require a rehabilitation program aimed at achieving specific goals in a predictable period of time.

Comments: Sixteen commenters considered this preamble language to be vague, confusing, and potentially misleading. They recommended clarification. Two others suggested that the statement be revised to indicate that services may be continued as long as "meaningful" or "observable and measurable" improvement takes place.

Response: The preamble merely attempts to describe the regulatory provisions. The phrase "achieving specific goals within a predictable period of time" is consistent with the existing Medicare statutory requirement that services be "reasonable and necessary for the diagnosis or treatment of illness or injury" and with the plan of treatment provisions (§ 405.262(c)) which require a plan that—

1. Prescribes the type, amount, frequency, and duration of the services to be furnished, and indicates the diagnosis and anticipated rehabilitation goals; and

2. Is reviewed at least every 60 days by a physician who certifies or recertifies that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effects on the patient. (This language has been revised to require that a CORF physician be responsible for review of the plan of treatment.)

Proposal: The proposed regulations required the referring physician to make available to the CORF the patient's medical history, current medical findings, diagnosis, rehabilitation goals if determined, and any treatment contraindications.

Comments: There were only three comments. Two suggested that provision be made for obtaining the information from the patient if the referring physician did not provide it. One recommended that professionals other than physicians be permitted to refer cases to a CORF.

Response: We have not changed the regulations (§ 405.262(a)) because

- The referral of medical information is essential for patient health and safety, and in developing the goals for CORF services and is required from other Medicare providers and suppliers;
- We have no reason to believe that a physician would be unwilling to furnish the needed information; and
- Since the statute requires that services must be furnished while the individual is under the care of a physician, it is clearly that physician who is best qualified to refer the patient and furnish the specified information.

Proposal: All services must be furnished on the premises of the CORF.

Comments: This provision elicited negative comments from 33 writers. They objected on the grounds that—

- Neither the language of the amendment nor the legislative history supports this provision.
- It contravenes congressional intent to increase access to less costly outpatient care.
- It may reduce the efficacy of CORF by depriving homebound and rural beneficiaries of needed rehabilitation services.

Response: Although the statute does not specifically require that all CORF services be provided on site, there are several indications that this was Congress' intent:

- The House Committee on the Budget Report on the 1980 Omnibus Reconciliation Act (H.R. Rep. No. 96–1167, 96th Congress, 2nd Session, p. 375) recounted the various disjointed settings in which the Medicare program covers rehabilitation services, thus requiring beneficiaries in need of multiple services to seek them at various locations. The report emphasized that the provisions of section 933 of that Act were intended to remedy this situation by recognizing a CORF as a new type of provider under Medicare capable of furnishing a broad array of rehabilitation services in a coordinated fashion. The provision of routine services at off-site locations would dispel the very reason for a CORF's existence.
- If Congress had not intended onsite provision of CORF services, it could simply have expanded the coverage of home health services and outpatient physical therapy and speech pathology services. Instead it chose to identify a new provider capable of furnishing several services at one location.
- There is no reason to believe that a CORF service furnished off-site will be less costly than a comparable service on site.
- Services to beneficiaries who are homebound or living in rural areas are currently made available through existing Medicare providers and suppliers.

However, because of comments received from a number of professionals that the home environment can directly affect the rehabilitation potential of the patient, we have revised the final regulations (§ 405.260(m)) to permit one offsite service—a single home visit to evaluate the potential impact of the home environment on the rehabilitation goals. This exception is also included in the conditions of participation (§ 488.58(e)).

Comment: A question was raised whether laboratory services must also be furnished on the CORF premises.

Response: We did not intend to require CORFs to set up laboratories. Any tests performed in offsite laboratories would be covered as laboratory services, rather than CORF services.

Proposal: Services must be furnished under a plan of treatment established by a physician.

Comments: Twenty-nine of the commenters concurred with this provision.

Eight indicated that individual therapists are qualified to write the plan.

Six pointed out that, under section 944 of Pub. L. 96–499, a speech pathologist is authorized to establish a plan for speech pathology services.

Response:

- Section 933 of Pub. L. 96–499 specified that, for CORF services, the plan must be established by a physician. This is appropriate since it is expected that a CORF plan will be for several kinds of services. However, these regulations also contain the provision that, if appropriate, the plan of treatment be developed in consultation with CORF professional personnel.
- Section 944 authorizes a speech pathologist to establish the initial plan of treatment but only with respect to services furnished by an outpatient physical therapy/speech pathology provider. While we expect the physician to rely heavily on advice from the speech pathologist (and on advice from other professionals in their areas of expertise), we have retained this provision as required by the statute.

Comment: One commenter suggested that the facility physician be responsible for the plan, with input from the referring physician. Another recommended that the referring physician be responsible without duplication by the CORF physician.

Response: We have not changed the regulation (§405.262(c)) because we believe it is preferable to retain the flexibility provided by permitting either the referring physician or the facility physician to establish the plan.

Comment: One hospital considered that the plan of treatment and specific rehabilitation goals ought not to be written until after an evaluation period.

Response: An initial assessment (during an evaluation period) would presumably be made by the physician who would use this information in establishing the plan. Subsequently, care would begin. Under the law, only care furnished under a plan of treatment qualifies for Medicare coverage. It is expected that the plan will be refined and revised as further experience is gained with the patient and the patient's needs change.

Proposal: The plan of treatment must be reviewed by a physician at least once every 30 days.

Comments: Three commenters concurred. One pointed out an inconsistency between the coverage provision which requires review by "a physician" and the condition of participation which specifies review by "the facility physician". Others recommended that other professionals be allowed to review the plan or that the regulations specify that other professionals must be involved.

Response: We have conformed the coverage provision (§ 405.262(c)) to the condition of participation (§ 488.58(a)(4)). We believe that the coordination of services intended by the CORF legislation can be ensured by requiring that a facility physician review the plan of treatment, in consultation, when appropriate, with the staff providing the services.

Comment: Review every 30 days is inappropriate because rehabilitation patients progress very gradually. Suggest every 60 or 90 days.

Response: We agree and have revised the regulations to require review every 60 days.

Comment: Permit review and recertification by a physician assistant.

Response: The statute requires that periodic review be by a physician.

D. Services That May Be Reimbursed as CORF Services

(Section 405.261 of the NPRM; §405.260 of the final regulations.)

Proposal: The NPRM listed 12 services that could be covered as CORF services:

1. Physicians' service.
2. Physical therapy.
3. Occupational therapy.
4. Speech pathology services.
5. Respiratory therapy.
6. Prosthetic devices.
7. Orthotic devices.
8. Social services.
9. Psychological services.
10. Nursing care.
11. Drugs and biologicals.
12. Supplies, appliances, and equipment for use in the facility.

It also specified that any of the listed services would be excluded from coverage as CORF services if—

- It would not be covered as an inpatient hospital service if furnished to a hospital patient;
- It is provided to an individual who is experiencing a temporary loss or reduction of function that is expected to improve spontaneously; or
- It is part of a maintenance program of repetitive activities that do not require the skilled services of nurses or therapists.

1. Physicians' services.

Comments: Twenty-nine of the commenters fully agreed with the definition. One recommended a change from "include" to "may include", on the grounds that a physician ought not to be required to provide administrative services.

Response: Since the statute requires the physician to perform certain administrative functions, this specific change was not made. However, other changes were made in this section and are discussed below in the section on reimbursement.

2. Services numbered 2 through 7.

Comment: Several national organizations and many institutions and individuals objected to the proposed definitions of these services as services furnished only by specified practitioners. They believed that this would preclude other personnel from providing services that they have been providing with full acceptance throughout the medical community and which are already covered by Medicare in other settings. For example, it was stated that registered nurses currently provide some aspects of care identified in the proposed regulations as respiratory therapy; and that occupational and physical therapists engage in the design and development of orthotic and prosthetic devices, a function that the proposed regulation reserved to orthotists and prosthetists. We also received numerous comments from physical therapists and respiratory therapists and their respective organizations concerning the qualifications we should require with respect to the provision of respiratory therapy.

Response: We accept the premise that particular aspects of care cannot be automatically and consistently classified as falling within the purview of a particular profession. We have revised the regulations to require that services be furnished by qualified personnel. To be qualified, the practitioner must meet at least the qualification requirements specified in § 488.70. In addition, by the application of provisions contained in the NPRM, we would hold the CORF responsible for ensuring that a practitioner performing a particular service is qualified to do so under State law and accepted professional standards and practices. We believe that this change will not adversely affect patient care and safety for several reasons. First, the regulations now specify that all personnel must comply with State laws for licensure, certification, or registration (§ 488.54). These personnel presumably would be subject to administrative or legal actions, or both, regarding charges of malpractice. Second, since the regulations require that all services be provided consistent with accepted professional standards and practice (§ 488.58(d)(7)), the CORF as well as the practitioners would be held accountable for action that failed to meet those standards. Noncompliance with this rule would raise serious questions concerning the CORF's ability to ensure patient safety and could lead the State survey agency to recommend that the facility be terminated from Medicare.

3. Physical and occupational therapy.

Comment: Include in the definitions all of the services identified in the HCFA operating manual.

Response: Inclusion in regulations of specific items contained in the HCFA operating guidelines is neither necessary nor desirable. The preamble indicated that the existing guides would be applicable to CORF services, and will be included in the operating instructions for CORFs. In response to a specific concern expressed by physical therapists and occupational therapists, we note that under the revision described in the preceding response, those practitioners (if qualified) may provide services related to orthotics and prosthetics.

Comment: Specify in the regulations (as is stated in the preamble) that physical therapy services "are for the purpose of restoring" (rather than "to restore"). Otherwise, services that did not result in complete restoration of function would not be covered.

Response: We agree and have revised § 405.260(b) to refer to services "aimed at storing".

Comment: Object to provision that services relating solely to vocational rehabilitation would not be covered as CORF services.

Response: We have not changed this provision (§ 405.260(c)(4)) because services related solely to vocational rehabilitation would not meet the basic Medicare requirement that, to be covered, services must be reasonable and necessary for the diagnosis or treatment of illness or injury. Accordingly, while general assessment of the beneficiary's vocational potential would be a covered service, activities related to specific job training do not meet Medicare's basic coverage requirements.

4. Speech pathology services.

Comment: Speech pathology should be a required service for a "comprehensive" facility.

Response: The statute provides that a facility may qualify as a CORF if it provides three specified services: physicians' services, physical therapy, and social or psychological services. We do not have the authority to require a CORF to provide services not specified in the statute.

5. Psychological services.

Comment: Suggestions for revising the definition of psychological services to list specific services.

Response: The definition was revised to include specific services, for consistency with other definitions.

Comment: Object to preamble language that excludes counselling of family members.

Response: The preamble of the NPRM made clear that counselling of family members is covered only when it is a necessary part of the beneficiary's treatment. Accordingly, counselling solely for the benefit of another family member would not be covered unless that individual is eligible for services in his or her own right, i.e. is a Medicare beneficiary and an outpatient of the CORF.

Comment: Object to regulation language requiring that a physician certify that the patient exhibits a "special need" for these services. The statute imposes no such requirement.

Response: We have deleted the requirement for a special physician

certification. We believe that the plan of treatment requirement, and the provision that services are covered only if they are medically reasonable and necessary, provide sufficient safeguard to ensure the proper utilization of psychological services.

6. Nursing services.

Comment: Suggest that services furnished by other nursing staff be covered if performed under the supervision of an RN or LPN.

Response: The introductory statement of § 405.260 now specifies that CORF services are services furnished "by qualified personnel" and the definition of nursing care services (§ 405.260(j)) no longer specifies practitioners.

7. Appliances and equipment.

Comment: Object to excluding appliances and equipment for use outside the facility. Since the statute refers to "purchase or rental", it must mean that the equipment may be used outside the facility.

Response: The final rule (§ 405.260(l)) provides that durable medical equipment may be rented or purchased for use by the beneficiary at home. However, to be covered outside the CORF, the equipment must be of the type specified in Section 405.231(g), (excluding renal dialysis systems), and must meet HCFA policy guidelines with respect to such equipment. Under these guidelines durable medical equipment is equipment that is primarily and customarily used to serve a medical purpose. Exercise appliances and other self-help devices that can be used for general conditioning would be covered only if furnished for use at the facility.

E. Exclusions From Coverage

(Section 405.262 of the NPRM; § 405.261 of the final regulations.)

1. Exclusion of an item or service that would not be included as a covered service if furnished to an inpatient of a hospital.

Comments: Questioned the legality and rationale of this exclusion, and requested clarification as to whether Medicare will pay for services when equipment used is not normally found in acute care hospitals.

Response: This exclusion is contained in the CORF legislation and is identical to language that provides the basis for coverage for outpatient physical therapy and speech pathology services. This exclusion does not require a finding that specific hospitals use specific rehabilitation equipment. It merely limits CORF coverage to items and services that would be covered as inpatient hospital services if furnished by a hospital to an inpatient.

2. Exclusion of treatment for temporary loss of function expected to improve spontaneously.

Comments: a. CORF services may speed up recovery of function.

b. Who would make the determination, when, and on the basis of what information?

Response: We have deleted this limitation as a specific exclusion and have substituted the basic principle that to be covered by Medicare, an item or service must be medically reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the function of a malformed body member. This provision permits some flexibility that would not be possible under the NPRM language, while at the same time prohibiting reimbursement for services from which the beneficiary would derive little or no meaningful benefit.

3. Exclusion of maintenance therapy.

Comment: Object to exclusion because maintenance therapy could be the factor that prevents a patient from deteriorating to the point of requiring more expensive care.

Response: We agree that maintenance therapy is important. However, maintenance therapy cannot be covered as a CORF service for two reasons:

- Section 1835(a)(2)(E) of the Act requires that a physician certify the patient's need for "skilled rehabilitation services".

Maintenance services are not considered "skilled" services. Once a condition reaches the maintenance level, the kinds of services necessary to stabilize the patient and to prevent deterioration or retard further loss of function do not require skilled therapists. They can be performed, for instance, by members of the patient's family. Skilled services needed to establish a maintenance program and to train others to carry out that program would be covered as CORF services.

- As discussed above, section 1861(cc) of the Act excludes any service that would not be covered as an inpatient hospital service. If a CORF patient had to be hospitalized for an acute condition, maintenance therapy would be covered because the patient would be completely dependent on the institution for a full range of services, including nonskilled routine care. However, even in a hospital, maintenance care is not identified and reimbursed as skilled therapy. Like meals and baths, maintenance therapy would be covered as part of routine care for inpatients, but excluded as not reasonable and necessary if furnished to outpatients.

F. Other Services To Be Included as CORF Services

(The preamble of the NPRM requested suggestions of other services that could be included as medically necessary for the rehabilitation of the patient and ordinarily furnished by CORFs.)

Comments: The following were suggested:

1. Routine hearing and vision examinations.
2. Hearing aids and eyeglasses.
3. Self-help counseling.
4. Patient education.
5. Dietary training.
6. Adult socialization programs, adult day care, and miscellaneous social and recreational activities.
7. Work education and work activity programs.
8. Transportation.
9. Podiatry and dentistry.
10. Substance abuse therapy and counseling.
11. Early intervention services.
12. Cardiac rehabilitation.

Response: The first 2 items are excluded from Medicare coverage by statute. Those numbered 3 through 5 are already included as elements of other covered services. Items 6 and 7 would not meet the basic criterion of "reasonable and necessary for the diagnosis or treatment of illness or injury". Items 8 through 10 are covered under Medicare only under certain limited circumstances. (For instance, transportation is covered only when it is by ambulance and does not include ambulance service to a CORF.) Item 11 is usually represented by preventive measures which are generally excluded from Medicare. Item 12, cardiac rehabilitation, does not appear to be a single service. Almost any of the listed services (e.g., respiratory, physical, and occupational therapy, social or psychological services) might be appropriate for a heart patient and would be covered, if included in the plan of treatment.

G. Conditions of Participation

(Part 481 in the NPRM; Part 488 in the final regulations.)

Proposal: Definition of CORF.

We proposed to define CORF as a freestanding facility, that is, one not affiliated with or currently certified as a Medicare provider or supplier.

Comment: Commenters objected because, under this definition, any facility currently participating in Medicare would be precluded from—

- Participating as a CORF;
- Establishing a CORF on its premises; or

• Owning or operating a CORF.

Response: The proposed definition reflected our belief that—

• A CORF should be a special type of provider, distinct from all currently participating entities.

• "Dual" participation (that is, a single facility participating as a CORF and as some other type of provider or supplier) might lead to furnishing duplicative or excessive services.

• Certain facility alignments might lead to duplicate billing.

Although our beliefs have not changed, we have, in response to the comments, revised the regulation to accomplish our objectives in a manner that does not categorically preclude participation by an entity owned or affiliated with an existing provider or supplier. In particular, we have revised the definition to delete the "freestanding" language and specify instead that the facility must be nonresidential and must be established and operated exclusively for the purpose of furnishing CORF services. However, the principals of an existing Medicare certified facility may establish or operate an additional entity that could be certified as a CORF. This entity may be contained within the physical structure housing the already certified facility, but must be certified separately and be functionally and operationally independent.

Proposal: Specific conditions.

The NRPM proposed that, in order to participate in the Medicare program as a CORF, a facility must—

• Comply with State and local laws;

• Meet specified conditions pertaining to its governing body and administration;

• Provide a coordinated rehabilitation program that includes at least physicians' services, physical therapy, and social or psychological services, furnished by staff that meet specified qualifications;

• Maintain clinical records on all patients;

• Provide a physical environment that protects the health and safety of patients, personnel, and the public;

• Have written procedures for handling of patients, personnel, records, and the public in disaster situations; and

• Have in effect a written utilization review plan to assess the need for services and promote the most efficient use of the services furnished by the facility.

1. Three required services.

Comments:

• A rehabilitation program consisting solely of physicians' services, physical therapy, and social/psychological services is not a comprehensive program.

• Should add others such as occupational therapy and speech pathology services.

• Physicians' services are unnecessary. Requiring them would effectively preclude certain facilities from being certified as CORFs.

Response: As indicated under D. 4 above, the statute specifies that the CORF must provide, at a minimum these 3 services. We do not have the authority to require CORFs to provide services not specified in the statute. Conversely, we cannot eliminate any of the three that are specified.

Comments:

• Permit Centers for Independent Living and Geriatric Centers to qualify as CORFs.

• Permit a one-specialty facility such as a respiratory therapy clinic or a cardiac rehabilitation facility to qualify.

Response: The statute specifies the three services that a facility must provide in order to qualify as a CORF. Acceptance of either of these comments would violate the statute because, so far as we know, neither type of facility would provide those three services. For example, although physical therapy includes services related to cardiopulmonary function, the provision of cardiac rehabilitation services does not constitute physical therapy. Thus, facilities of the types indicated in the comments cannot qualify as CORFs unless they expand the range of services they provide to include the three mandatory services and meet the other conditions of participation.

2. To accept or retain a patient, the CORF must have available on its premises all of the services required by the patient, as established in the plan of treatment.

Comment: This rule is unrealistic; some of the services included as CORF services may seldom be needed and a CORF may experience difficulty in securing needed personnel. A CORF ought to be able to accept a patient even if it cannot provide all the services.

Response: The intent of this rule is clearly consistent with the legislative purpose—to make needed comprehensive services available at a single location. We believe that facilities will be able to furnish, on site, on an "as needed" basis, those services that are required infrequently or by few of the CORF's patients.

In the final regulation, the content of § 481.25(b) has been modified and the revised content incorporated into §§ 488.58(d)(2) and 488.58(e). Section 488.58(d)(2) makes clear that services may be furnished either by facility employees or by others under arrangements. Services for which other types of providers (such as hospitals and SNFs) make arrangements are usually furnished at locations other than the hospital or SNF. However, in the case of a CORF, the rule that all services must be furnished "on site" applies also to services furnished under arrangements. This is made clear by the new standard (§ 488.58(e)—Scope and site of services) which carries over the intent of the proposed rule. However, although the facility must provide all the services required in the plan of treatment and furnish them "on site", personnel who furnish services other than the required three, need to be available only when those other services are actually required by a patient under the plan of treatment. This new standard reiterates the need that, except for the single home visit to evaluate the impact of the home environment on the rehabilitation goals, all services be provided on the premises of the CORF.

Since all the services included in the plan of treatment must be furnished by the CORF, a conforming change was needed in the standard for patient care policies. Section 488.56(e)(7) was revised to delete the requirement for a procedure to assist the referring physician to locate a source for services needed by the patient but not available in the CORF.

3. Definitions of practitioners.

(The proposed "definitions" appear in the final regulations under § 488.70—Personnel qualifications.)

• Facility physician.

Comment: Many commenters expressed concern that the definition did not require enough specialized training and experience to enable the physician to furnish the services needed in a facility providing a broad array of comprehensive rehabilitation services. They suggested that the facility physician have at least 2 years of specialized training in rehabilitation medicine.

Response: We did not accept this recommendation because we believe it would be extremely difficult for many prospective CORFs to obtain the services of a physician meeting those qualifications. However, as a result of these comments, we have revised the proposal to require that a facility physician have one of the following:

• At least one year of training (obtained after completion of one year of hospital internship) in the medical management of patients requiring rehabilitation services.

• At least one year of full-time or part-time experience in a rehabilitation setting providing physician services of the type required by these regulations. We believe that these requirements are sufficient to ensure quality physician care.

• Social Worker.

Comments: Require a master's degree in place of a bachelor's degree.

Response: We did not accept this recommendation because we believe that, (1) an individual holding a bachelor's degree who has had one year of experience as a social worker in a health care setting is sufficiently prepared to provide services to CORF patients and (2) it would be difficult for many CORFs to obtain the services of a social worker meeting the suggested qualifications.

• Psychologist.

Comments:

• Require a doctoral degree (instead of a master's) and experience in health services.

• Delete the requirement that the psychologist be eligible for membership in the American Psychological Association.

Response:

• We did not change to requiring a doctoral degree because we believe that a master's degree qualifies a psychologist to provide the kinds of services needed by CORF patients.

• We deleted the other requirement because membership for credentialling purposes is contrary to the Association's policy.

4. Compliance with State and local laws.

Comment: One commenter questioned the clarity of this standard.

Response: This standard has been revised to conform more closely with the statutory language and to require that practitioners meet the requirements of State or local law for licensure, certification, or registration.

5. Governing body and administration.

Comment: Several commenters requested clarification on whether the proposed delegation of authority language precluded—

• The delegation of clinical supervision to professional personnel who are not employees of the facility; and

• Ownership or administration of more than one CORF by one individual, corporation, organization, or agency.

Response: This requirement was not intended to preclude either of the above, but rather to ensure that the facility itself retains responsibility for overall administration, management, and operation. We have revised the regulations to clarify this intent (§ 488.56(f)). The definition of a CORF has been revised to allow the principals of any existing Medicare certified provider or supplier to establish and operate a CORF.

6. Plan of treatment and onsite provision of services. Plan of treatment and onsite provision of services are also requirements for coverage of CORF services and were discussed above under that topic.

7. Patient reassessment.

Comments:

• Assessment is a continuous process.

• Reassessment should be performed at least every 30 days.

• Reassessments should not be required every 60 days because reassessment is not always appropriate at 60 day intervals. Professionals in the course of treating patients monitor and document patients' progress.

Response: We deleted the requirement for patient reassessments every 60 days in order to be less prescriptive and to provide the professionals more flexibility in reassessing patients when in their professional judgement reassessment is needed.

8. Utilization review plan.

Comment: Specify time intervals (every 30, 60, or 90 days) in order to ensure the effectiveness of the program.

Response: We have amended the regulation to require that the utilization review plan be implemented at least every quarter.

Comment: Allow facilities more flexibility in determining the membership of the review committee.

Response: We revised the regulations to provide such flexibility by allowing that the review committee be composed of professional personnel not associated with the facility.

Comment: Require that a physician trained in rehabilitation medicine oversee utilization review.

Response: We did not accept this suggestion because we consider that such a requirement would be too prescriptive.

H. Reimbursement

(Sections 405.243, 405.401, 405.455, and 405.502)

Proposal: Basic rule.

The preamble to the NPRM specified that CORF services would be reimbursed on a reasonable cost basis and gave the rationale. Section 942 of Pub. L. 96-499 (the same law that established CORF services under section 933) authorized Medicare payment for those services based on "the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A). . ." less applicable Part B deductible and coinsurance amounts. Section 1861(v)(1)(A) defines reasonable cost as the cost actually incurred, excluding any cost found unnecessary for efficient delivery of needed health services, and authorizes the Secretary to prescribe in regulations how reasonable cost is to be determined. The regulations that implement section 1861(v)(1)(A) appear in 42 CFR Part 405, Subpart D. With one exception and two additional limitations, the Subpart D provisions will apply to reimbursement for CORF services. The final regulations amend § 405.401 to make this clear.

Exception. Since the amended statute did not specify for CORFs, as it does for other providers, payment of the lower of reasonable cost and customary charges, we proposed to amend § 405.455 to make clear that this provision does not apply to CORFs.

CORF services are subject to the Medicare Part B deductible. In addition a CORF may charge a beneficiary an additional amount that does not exceed 20 percent of its customary charges.

Payment will be based on the reasonable cost that remains after subtracting any applicable deductible amount and will be the lesser of the following:

1. 80 percent of the remaining reasonable cost.

2. The remaining reasonable cost minus 20 percent of reasonable charges.

Limitation on outpatient psychiatric services. As discussed in the preamble of the NPRM, section 1833(c) of the statute imposes a limitation on reimbursement under Part B for outpatient psychiatric services. This provision limits the amount of a beneficiary's incurred expenses that will be recognized, in any calendar year, to $312.50 or 62½ percent of incurred expenses, whichever is less.

Under regulation § 405.243, the limitation previously applied only to expenses incurred for services and supplies furnished by psychiatric or nonpsychiatric physicians for the treatment of psychiatric disorders, and exempted all other services from the limitation.

The justification for the previous regulation, developed in the late 1960's, was our belief that—

• The intent of the law would be adequately achieved because physicians' services constituted the greatest part of the cost of outpatient psychiatric care.

• Applying the limitation to other services would create administrative

difficulties, i.e., the need to determine how and when to apply the limit to different types of services and to keep track of when the overall limit was reached.

The first rationale is no longer valid because, as a result of changes in the practice of medicine, physicians' services are not always the most costly component of psychiatric care. As an example, many of the psychiatric services covered as CORF services will be furnished by nonphysicians.

We also realized that tracking the limitation would be no more difficult than tracking the Part B deductible. Accordingly, we proposed to apply the limit to CORF services as well as physicians' services.

Comments: Six comments dealt with the limitation on psychiatric services. Three expressed concern that application to CORF services, while other Part B outpatient psychiatric services furnished by nonphysician practitioners are not capped, will restrict use of CORF services and thus require more costly alternatives.

One considered that applying to CORF a limit based on charge reimbursement was inconsistent with the fact that CORF services are reimbursed on a cost basis.

One requested reassurance that the full range of occupational therapy services furnished to a patient with a psychiatric diagnosis is reimbursable up to the limit. Others requested a clarification as to how the limit will be applied.

Response: As explained in the preamble to the proposed rules, the regulation did not conform literally to the language of the statute, which does not restrict the psychiatric limit to physician services. As further discussed, we do not believe it would be in the best interest of the public and the program to extend the limitation to other benefits that have long been available to beneficiaries. Accordingly, we proposed to amend the regulation by applying the psychiatric limit to CORF services (whether furnished by physicians or nonphysicians) as required by law. This is not a limit separate from the limit on physician's services. Under § 405.243, as revised, the beneficiary will be entitled to no more than $250 (i.e. 80 percent of § 312.50) in program reimbursement per year for outpatient physician services and CORF services furnished for the treatment of a mental, psychoneurotic or personality disorder. Note, however, that the limitation does not apply to initial diagnostic testing. In applying the limitation to CORF services, intermediaries will use the "customary charges" determined for the CORF services as the beneficiary's "incurred expenses".

Occupational therapy services (as defined in § 405.260), if furnished to a CORF patient with a psychiatric diagnosis, are reimbursable within the limitation that applies to expenses incurred by that patient during the calendar year for physicians' services and CORF services.

Comment: A question was raised as to whether a CORF could qualify for interim reimbursement under the periodic interim payment (PIP) method.

Response: Current regulations at § 405.454(j) limit the availability of the PIP method of reimbursement to hospital and SNF inpatient services and home health agency services. We are not amending this regulation section at the present time to include CORFs because the PIP method is generally inappropriate in situations where an intermediary does not have an accurate basis for computing program payments. Since CORFs are a new provider class, we have no cost and utilization experience to use in determining appropriate PIP amounts. Once sufficient experience is gained, we will consider amending the regulations to extend the availability of PIP to CORFs.

Comment: A question was raised as to whether a proprietary CORF would receive a return on equity capital.

Response: The NPRM indicated that with the specific exception of the lower of cost or charges provision, the reimbursement regulations generally applicable to providers would be equally applicable to CORFs. Accordingly, proprietary CORFs will be entitled to a return on equity capital under § 405.429.

Limitation on Reimbursement for Services Furnished Under Arrangements

We proposed to add a new § 405.431(a) that would limit, to 60 percent of reasonable charges, the aggregate reimbursement for physicians' services furnished under arrangement and paid by the CORF on a fee-for-service basis. For this purpose, reasonable charges would be the amount that Medicare would pay for physician services furnished to beneficiaries who are not CORF patients.

Comments: Commenters objected to the 60 percent limitation. They argued that this limit was inequitable because physicians who furnish services to CORF patients and bill those patients (instead of accepting payment from the CORF) would not be subject to the 60 percent limitation. They also pointed out that the proposed payment method appeared to limit the physician's right to bill directly, even though the CORF legislation did not amend section 1832(a)(1) of the Act under which a beneficiary is entitled to "have payment made to him or on his behalf for medical and other health services". Related to this issue is the CORF provision that excludes from CORF coverage any service that would not be covered as a hospital service if provided to a hospital inpatient. Since the Medicare law precludes payment to a hospital for physician's services (with the exception of those furnished by interns and residents and, in certain circumstances, by physicians in teaching hospitals), this provision appears to prohibit payment to the CORF for those physician services that may be covered under section 1832(a)(1) and reimbursed on a reasonable charge basis. Commenters also suggested that CORF physicians not be subject to greater payment limitations than other physicians in similar outpatient provider settings.

Response: In response to these comments, we have revised the regulation to provide that all medical services furnished to individual CORF patients will be billed as physicians' services, not CORF services, and reimbursed by the carrier on a reasonable basis. In addition, although we have retained the 60 percent limitation on Medicare payment for physician services furnished to an individual CORF patient, we have made it applicable on the same basis that it is applicable to physician services furnished in other outpatient settings.

That limitation is imposed by § 405.502(f) and will apply to physicians' services furnished in the CORF if those services do not constitute CORF physician services as redefined in the final regulations. Under the revised definition (§ 405.260(a)), CORF physicians' services are services other than direct individual treatment, such as the establishment and review of a plan of treatment for services furnished by other practitioners, consultation to and supervision of nonphysician personnel, and other medical-administrative functions that benefit CORF patients in general.

The costs incurred by the CORF for these services will be reimbursable to the CORF under the reasonable cost reimbursement principles. Proposed limits on the amount of physician compensation (for services to providers) that may be recognized as "reasonable cost" of the provider, will, if published in final, apply to CORF physician

services.[1] It should be noted that any limitations on reasonable charge payments established under the authority of Subpart E apply to the physician services furnished to an individual CORF patient. We believe these changes are necessary to properly implement the CORF amendments without contravening the provisions of section 1832(a)(1), and to simplify administration of CORF benefits. They also reflect our belief that individual medical services will usually be furnished to CORF patients in the physician's office and not at the CORF.

Several organizational, technical, and conforming changes are made in the final regulations:

- A new Subchapter E—STANDARDS AND CERTIFICATION is established and the conditions of participation are redesignated under a new Part 488. (Part 481, under which the NPRM placed these provisions, deals with conditions of certification for certain health facilities.)
- Section 489.2 is amended to include CORFs in the list of providers subject to the requirements of the part.
- Centered headings are added in Subpart B in order to highlight the new CORF provisions.
- Sections 405.230 and 405.243 are revised, the first to clarify to whom Medicare payment is made in different situations, the second to clarify the content in general.
- The proposed revision of § 405.250 was changed because final regulations published on October 26, 1982 (47 FR 47388) to implement other statutory amendments (regarding physician certification of need for services), completely revised § 405.250. That revision also made it necessary to add a new § 405.1635, to set forth the certification requirements that apply to CORF services.
- "Physical therapy assistant" is changed to "physical therapist assistant".
- "Speech pathology" and "speech pathologist" are changed to "speech-language pathology" and "speech-language pathologist."
- The qualifications for a speech-language pathologist are made the same as those that were already set forth in the conditions of participation for facilities that are certified as providers of outpatient speech-language pathology services.

[1] See notice of proposed rulemaking published in the **Federal Register** on October 1, 1982 at page 43578.

III. Impact Analysis

A. Executive Order 12291

This order requires us to develop and publish a regulatory impact analysis for any "major" regulation, that is, a regulation that will result in an economic impact of $100 million or more or meet other related criteria specified in section 1(b) of the Order. We have determined that a regulatory impact analysis is not required because this is not a "major" regulation.

It is not possible to determine accurately how much Medicare expenditures will be increased, because we do not know how many facilities will seek to participate as CORFs.

We believe the increase will be small because, with one exception, CORF services were already covered under Medicare Part B. The only expansion of coverage applies to occupational therapy, previously covered only as a hospital outpatient or home health service and now also covered as an outpatient service furnished at a CORF. We estimate that Medicare expenditures may increase by $10 to $20 million for fiscal year 1983; $15 to $25 million for 1984, and $20 to $30 million for 1985.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C., 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these final regulations will not result in a significant impact on a substantial number of small entities.

After review of the provisions of these final regulations, we find that no substantive changes have been made, to the provisions noted in the NPRM published May 10, 1982, that will affect the impact of these provisions. Therefore, the regulatory flexibility analysis detailed in that publication will still apply and no further analysis will be required for these final regulations.

IV. Information Collection Requirements

Sections 405.262(c), 488.56(e), 488.58(b), 488.60, 488.64(a), and 488.66 contain information collection requirements subject to the provisions of the Paperwork Reduction Act 1980. As required by the Act, HCFA requested Office of Management and Budget (OMB) approval of these requirements along with the paperwork burden associated with the certification of CORFs to participate in Medicare. OMB has approved this information collection under OMB approval number 09380267. For billing purposes, CORFs will use HCFA-Form 1487 under OMB approval number 0938–0012.

V. Waiver of Delayed Effective Date

By court order issued September 21, 1982 in *National Association of Rehabilitation Facilities, Inc., et al.* v. *Schweiker, et al.*, U.S.D.C. D.C., Civil Action No. 82–0494, unless the Department publishes final regulations effective by December 15, 1982, the NPRM would become final and effective as of that date. We believe that the public interest is best served by these final regulations which have been revised consistent with comments from a broad sector of the public. The version published as an NPRM did not have the benefit of public comment. We also believe that the public has had sufficient notice and time to prepare for implementation, so that making the regulations effective without the usual 30-day delay will not be prejudicial. Accordingly, we find "good cause" for waiving delayed effective date.

VI. List of Subjects

42 CFR Part 405

Administrative practice and procedure. Certification of compliance, Clinics, Comprehensive outpatient rehabilitation facilities, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient provider, Reporting requirements, Rural areas, X-rays.

42 CFR Part 488

Administrative practice and procedure, Clinics, Comprehensive outpatient rehabilitation facilities, Health Facilities, Medicaid, Medicare, Nurse practitioner, Rural areas.

42 CFR Chapter IV is amended as set forth below:

A. The table of contents of Chapter IV is amended by establishing a Subchapter E, composed of Parts 480 through 499, to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

* * * * *

SUBCHAPTER E—STANDARDS AND CERTIFICATION

Part
480—[Reserved]
481—Certification of Certain Health Facilities
482–487—[Reserved]

Part
488—Conditions of Participation: Specialized Providers
489—Provider Agreements Under Medicare
490–499—[Reserved]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

B. Part 405 is amended as set forth below:

1. The table of contents of Part 405, Subpart B is amended to insert undesignated centered headings, revise the titles of §§ 405.243 and 405.250, reflect the addition of §§ 405.260 through 405.262, and revise the authority statement, to read as follows:

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

General Provisions

405.201 Supplementary medical insurance; general
405.202 Enrollment; general.

Enrollment and Coverage

405.205 Eligibility requirements for enrollment.
405.206 Persons ineligible to enroll.
405.210 Individual enrollment; enrollment procedures.
405.211 Individual enrollment; enrollment periods; general.
405.212 Individual enrollment; initial enrollment period.
405.213 Individual enrollment; general enrollment periods.
405.214 Individual enrollment; limitation on enrollment and reenrollment.
405.215 Individual enrollment; enrollment periods ending on a nonworkday.
405.217 Enrollment pursuant to a State agreement.
405.220 Coverage period; general.
405.221 Individual enrollment; coverage period beginning date.
405.222 Enrollment pursuant to a State agreement; coverage period beginning date.
405.223 Individual enrollments; State enrollments; manner and time of termination of enrollment and coverage period.
405.226 Equitable relief for individual whose enrollment rights have been prejudiced by government misrepresentation, inaction or error.

Benefits—General

405.230 Supplementary medical insurance benefits.

Medical and Other Health Services

405.231 Medical and other health services; included items and services.
405.232 Medical and other health services; conditions, limitations, and exclusions.
405.232a Physician defined.
405.232b Chiropractors.
405.232c Optometrists.

Home Health Services

405.233 Home health services; general.
405.234 Home health services; conditions.
405.235 Home health services; place where items and services must be furnished.
405.236 Home health services; items and services included.
405.237 Home health services; items and services not included.
405.238 Home health services; "visits" defined.
405.239 Option available to patients under a home health plan who require physical therapy or speech therapy services.

Payment of Benefits

405.240 Payment of supplementary medical insurance benefits; amounts payable.
405.241 Payment of supplementary medical insurance benefits; election by group-practice prepayment plan as to method of determining amount of payment.
405.243 Psychiatric services limitation; expenses incurred for physician services and comprehensive outpatient rehabilitation facility services.
405.244 Incurred expenses; expenses excluded from total expenses or not considered for purposes of the deductibles.
405.244–1 Payment of supplementary medical insurance benefits; kidney donor services.
405.245 The supplementary medical insurance benefits deductible.
405.246 Supplementary medical insurance blood deductible.
405.249 Payment to a nonparticipating hospital furnishing emergency outpatient services.
405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility; home health services; comprehensive outpatient rehabilitation facility services.
405.250–1 Outpatient physical therapy and speech pathology services furnished by participating provider; plan of treatment requirements.
405.250–2 Procedures for payment; rural health clinic services furnished by a rural health clinic.
405.251 Procedures for payment; medical and other health services furnished by other than a participating provider or ESRD facility.
405.252 Conditions prohibiting payment of benefits.

Comprehensive Outpatient Rehabilitation Facility (CORF) Services

405.260 Included services.
405.261 Excluded services.
405.262 Requirements for coverage of CORF services.

Authority: Sec. 1102, 1831–1833, 1835–1843, 1861, 1862, 1866, and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395j–1395l, 1395n–1395v, 1395x, 1395y, 1395cc, and 1395hh.

2. Undesignated centered headings are inserted in the text of Subpart B as follows:

"General Provisions" is inserted immediately before § 405.201.
"Enrollment and Coverage" is inserted immediately before § 405.205.
"Benefits—General" is inserted immediately before § 405.230.
"Medical and Other Health Services" is inserted immediately before § 405.231.
"Home Health Services" is inserted immediately before § 405.233.
"Payment of Benefits" is inserted immediately before § 405.240.

3. Section 405.230 is revised to clarify content, remove outdated material correct technical errors, and include CORF services. As revised, § 405.230 reads as follows:

§ 405.230 Supplementary medical insurance benefits.

(a) *Basic rules.* (1) Any individual who is enrolled under the supplementary medical insurance program established by Part B of title XVIII of the Act is subject to the conditions, limitations, and exclusions set forth in this Part 405 and in Part 416 of this chapter, entitled to have payment made for the services specified in paragraph (b) of this section.

(2) In order to be reimbursable under Medicare Part B, the services specified in paragraph (b) of this section must—

(i) Except in the case of the services specified in paragraphs (b)(1) through (b)(4) of this section, be furnished by entities that have in effect agreements to participate in Medicare; and

(ii) Be furnished to an individual during a coverage period. (The rules for determination of coverage periods are set forth in §§ 405.220 through 405.223.)

(b) *Benefits provided.* If the conditions of paragraph (a) of this section are met, Medicare Part B payment will be made as follows:

(1) To the individual, or to a physician or other supplier on the individual's behalf, for medical and other health services furnished by the physician or other supplier.

(2) To a nonparticipating hospital on the individual's behalf for emergency outpatient services furnished by the hospital, in accordance with § 405.249.

(3) To the individual, for emergency outpatient services furnished by a nonparticipating hospital, in accordance with § 405.1672(b).

(4) To the individual, for physicians' services and ambulance services furnished outside the United States in accordance with § 405.1672(b).

(5) To a provider on the individual's behalf for medical and other health services furnished by the provider (or by others under arrangements made with them by the provider).

(6) To a home health agency on the individual's behalf for home health services furnished by the home health agency.

(7) To a clinic, rehabilitation agency, or public health agency on the individual's behalf for outpatient physical therapy or speech pathology services furnished by the clinic or agency (or by others under arrangements made with them by the clinic or agency).

(8) To a rural health clinic on the individual's behalf for rural health clinic services furnished by the rural health clinic.

(9) To an ambulatory surgical center (ASC) on the individual's behalf for covered ambulatory surgical center facility services that are furnished in connection with surgical procedures performed in an ASC, as provided in Part 416 of this chapter.

(10) To a comprehensive outpatient rehabilitation facility (CORF) on the individual's behalf for comprehensive outpatient rehabilitation facility services furnished by the CORF.

4. Section 405.243 is revised to read as follows:

§ 405.243 Psychiatric services limitation; expenses incurred for physician services and comprehensive outpatient rehabilitation facility services.

(a) *Definitions.* As used in this section, unless the context indicates otherwise, "*Mental, psychoneurotic, or personality disorder*" means the specific psychiatric conditions described in the American Psychiatric Association's Diagnostic and Statistical Manual—Mental Disorders. "*Hospital*" means any hospital that is primarily engaged in providing, by or under the supervision of physicians, diagnostic and therapeutic services for the medical diagnosis, treatment, and care of injured, disabled or sick persons, or rehabilitation services for the rehabilitation of injured, disabled or sick persons; or psychiatric services for the diagnosis and treatment of mentally ill persons; and medical services for the diagnosis and treatment of tuberculosis.

(b) *Services subject to limitation.* The psychiatric services limitation applies to physician services and CORF services (furnished by physicians or nonphysicians) for the treatment of a mental, psychoneurotic, or personality disorder, when the services are furnished to an individual who is not an inpatient in a hospital.

(c) *Limitation.* Of the expenses incurred during any calendar year for services specified in paragraph (b) of this section, only $312.50 or 62½ percent of the expenses (whichever is less) will be considered reimbursable under Medicare Part B, subject to the amount of payment and deductible provisions set forth in §§ 405.240 and 405.245.

(d) *Example.*

As a private patient, Mr. X's only medical expenses during the calendar year 1982 amounted to $750 for physicians' services in connection with the treatment of a mental disorder which did not require inpatient hospitalization. The statutory limit for any calendar year on the amount of these expenses that is covered under this Subpart B is $312.50 ($312.50 being lesser in amount than 62½ percent of $750). Mr. X is required to meet the first $75 as a deductible, and 20 percent of the balance. The remaining 80 percent is payable under this Subpart B.

Total covered expenses	Mr. X's payment	Payment under subpart B
$312.50	[2]$437.50	
−75.00 [1]	[1]75.00	
237.50	[3]47.50	[4]190.00

[1] Deductible, (see § 405.245).
[2] In excess of $312.50.
[3] 20 percent of total covered expenses less deductible.
[4] 80 percent of total covered expenses less deductible.

If Mr. X had incurred $350 of the above expenses while an inpatient of an institution (see paragraph (b) of this section), and the remaining $400 while not an inpatient of an institution, payment would be computed as follows:

Total covered expenses	Mr. X's payment	Payment under subpart B
$250 [1]	[2]$150	
+350 [3]		
600	[4]75	
−75		
525	[5]105	[6]420

[1] 62½ Percent of $400.
[2] In excess of 62½ percent of $400.
[3] 100 percent of expenses incurred while an inpatient.
[4] Deductible.
[5] 20 percent of total covered expenses less deductible.
[6] 80 percent of total covered expenses less deductible.

5. In § 405.250, the title, the introductory statement, paragraph (a) and paragraph (b) are revised to read as follows:

§ 405.250 Payment for home health services, for medical and other health services furnished by a participating provider or an ESRD facility, and for comprehensive outpatient rehabilitation facility (CORF) services: Conditions.

Payment under Medicare Part B, for home health services, for medical and other health services, or for CORF services, may be made to the provider or facility only if the following conditions are met:

(a) *Request for payment.* A written request for payment is filed by or on behalf of the individual to whom the services were furnished.

(b) *Physician certification.* (1) For home health services, a physician provides certification and recertification in accordance with § 405.1633.

(2) For medical and other health services, a physician provides certification and recertification in accordance with § 405.1634.

(3) For CORF services, a physician provides certification and recertification in accordance with § 405.1635.

* * * * *

6. An undesignated centered heading and §§ 405.260 through 405.262 are added, to read as follows:

Comprehensive Outpatient Pehabilitation Facility (CORF) Services

§ 405.260 Included services.

Subject to the conditions and limitations set forth in §§ 405.261 and 405.262, CORF services means the following services furnished to an outpatient of the CORF by personnel that meet the qualifications set forth in §488.70 of this chapter.

(a) *Physicians' services.* The following services of the facility physician constitute CORF services: consultation with and medical supervision of non-physician staff, esablishment and review of the plan of treatment, and other medical and facility administration activities. Those services are reimbursed on a reasonable cost basis under Subpart D. Diagnostic and therapeutic services furnished to an individual patient are not CORF physician's services. If covered, payment for these services would be made by the carrier on a reasonable charge basis subject to the provisions of Subpart E.

(b) *Physical therapy services.* (1) These services include—

(i) Testing and measurement of the function or dysfunction of the neuromuscular, musculoskeletal, cardiovascular and respiratory systems; and

(ii) Assessment and treatment related to dysfunction caused by illness or injury, and aimed at preventing or reducing disability or pain and restoring lost function.

(2) The establishment of a maintenance therapy program for an individual whose restoration potential has been reached is a physical therapy service; however, maintenance therapy itself is not covered as part of these services.

(c) *Occupational therapy services.* These services include—

(1) Teaching of compensatory techniques to permit an individual with a physical impairment or limitation to engage in daily activities.

(2) Evaluation of an individual's level of independent functioning.

(3) Selection and teaching of task-oriented therapeutic activities to restore sensory-integrative function; and

(4) Assessment of an individual's vocational potential, except when the assessment is related solely to vocational rehabilitation.

(d) *Speech-language pathology services.* These are services for the diagnosis and treatment of speech and language disorders that create difficulties in communication.

(e) *Respiratory therapy services.* (1) These are services for the assessment, diagnostic evaluation, treatment, management, and monitoring of patients with deficiencies or abnormalities of cardiopulmonary function.

(2) These services include—

(i) Application of techniques for support of oxygenation and ventilation of the patient and for pulmonary rehabilitation.

(ii) Therapeutic use and monitoring of gases, mists, and aerosols and related equipment;

(iii) Bronchial hygiene therapy;

(iv) Pulmonary rehabilitation techniques such as exercise conditioning, breathing retraining and patient education in the management of respiratory problems.

(v) Diagnostic tests to be evaluated by a physician, such as pulmonary function tests, spirometry and blood gas analysis; and

(vi) Periodic assessment of chronically ill patients and their need for respiratory therapy.

(f) *Prosthetic device services.* These services include—

(1) Prosthetic devices (excluding dental devices and renal dialysis machines), that replace all or part of an internal body organ or external body member (including contiguous tissue) or replace all or part of the function of a permanently inoperative or malfunctioning external body member or internal body organ; and

(2) Services necessary to design the device, select materials and components, measure, fit, and align the device, and instruct the patient in its use.

(g) *Orthotic device services.* These services include—

(1) Orthopedic devices that support or align movable parts of the body, prevent or correct deformities, or improve functioning; and

(2) Services necessary to design the device, select the materials and components, measure, fit, and align the device, and instruct the patient in its use.

(h) *Social services.* These services include—

(1) Assessment of the social and emotional factors related to the individual's illness, need for care, response to treatment, and adjustment to care furnished by the facility;

(2) Casework services to assist in resolving social or emotional problems that may have an adverse effect on the beneficiary's ability to respond to treatment; and

(3) Assessment of the relationship of the individual's medical and nursing requirements to his or her home situation, financial resources, and the community resources available upon discharge from facility care.

(i) *Psychological services.* These services include—

(1) Assessment, diagnosis and treatment of an individual's mental and emotional functioning as it relates to the individual's rehabilitation;

(2) Psychological evaluations of the individual's response to and rate of progress under the treatment plan; and

(3) Assessment of those aspects of an individual's family and home situation that affect the individual's rehabilitation treatment.

(j) *Nursing care services.* These services include nursing services specified in the plan of treatment and any other nursing services necessary for the attainment of the rehabilitation goals.

(k) *Drugs and biologicals.* These are drugs and biologicals that are—

(1) Prescribed by a physician and administered by or under the supervision of a physician or a registered professional nurse; and

(2) Not excluded from Medicare Part B payment for reasons specified in § 405.232(c).

(l) *Supplies, appliances, and equipment.* These include—

(1) Non-reusable supplies such as oxygen and bandages;

(2) Medical equipment and appliances; and

(3) Durable medical equipment of the type specified in § 405.231(g), (except renal dialysis systems) for use outside the CORF, whether purchased or rented.

(m) *Home environment evaluation.* This is a single home visit to evaluate the potential impact of the home situation on the rehabilitation goals.

§ 405.261 Excluded services.

None of the services specified in § 405.260 is covered as a CORF service if the service—

(a) Would not be covered as an inpatient hospital service if furnished to a hospital inpatient;

(b) Is not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. An example would be services furnished as part of a maintenance program involving repetitive activities that do not require the skilled services of nurses or therapists.

§ 405.262 Requirements for coverage of CORF services.

Services specified in § 405.260 and not excluded under § 405.261 are covered as CORF services if the following requirements are met:

(a) *Referral and medical history.* The services must be furnished to an individual who is referred by a physician who certifies that the individual needs skilled rehabilitation services, and makes the following information available to the CORF before or at the time treatment is begun:

(1) The individual's significant medical history.

(2) Current medical findings.

(3) Diagnosis(es) and contraindications to any treatment modality.

(4) Rehabilitation goals, if determined.

(b) *When and where services are furnished.* (1) All services must be furnished while the individual is under the care of a physician; and

(2) Except for the home evaluation visit (§ 405.260(m)), the services must be furnished onsite at a participating CORF. (The conditions for CORF participation in Medicare are set forth in Part 488, Subpart B, of this chapter.)

(c) *Plan of treatment.* (1) The services must be furnished under a written plan of treatment that—

(i) Is established and signed by a physician before treatment is begun; and

(ii) Prescribes the type, amount, frequency, and duration of the services to be furnished, and indicates the diagnosis and anticipated rehabilitation goals.

(2) The plan must be reviewed at least every 60 days by a facility physician who, when appropriate, consults with the professional personnel providing the services.

(3) The reviewing physician must certify or recertify that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effects on the patient.

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

7. The authority statement of subpart D is amended to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww, unless otherwise noted.

8. Section 405.401(a) is revised to read as follows:

§ 405.401 Introduction.

(a) Under Medicare, the amount paid to a hospital, skilled nursing facility (SNF), home health agency (HHA), or comprehensive outpatient rehabilitation facility (CORF), or to a provider of outpatient physical therapy or speech pathology services, will be the reasonable cost of the services, subject to the provisions of §§ 405.455 and 405.460.

* * * * *

9. In § 405.455, paragraph (a) is revised to specify that it does not apply to comprehensive outpatient rehabilitation facility services. As revised, paragraph (a) reads as follows:

§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.

(a) *Principle.* Providers of services, other than comprehensive outpatient rehabilitation facilities, will be paid the lesser of the reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. (Payment to comprehensive outpatient rehabilitation facilities is based on the reasonable cost of services.) Public providers of service furnishing services free of charge or at a nominal charge will be paid fair compensation for services furnished to beneficiaries. This principle is applicable to services furnished by providers in cost reporting periods beginning after December 31, 1973. For special rules concerning HMO's and providers of services and other health care facilities that are owned or operated by an HMO, or related to an HMO by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

* * * * *

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

10. The authority statement for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1842(b), 1861(v)(1)(k), and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395u(b), 1395x(v)(1)(k), 1395hh, unless otherwise noted.

11. Section 405.502 is amended by revising paragraph (f)(1) to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(f) *Determining charge payments for certain physicians' services furnished in outpatient settings.*—(1) *General rule.* When physician services of the type routinely furnished in physicians' offices are furnished in outpatient settings, carriers will determine the reasonable charge for those services by applying the limits described in paragraph (f)(4) of this section. As used in this paragraph (f), "outpatient settings" means hospital outpatient departments, clinics and emergency rooms, and comprehensive outpatient rehabilitation facilities (CORFs).

* * * * *

12. Subpart P is amended by adding a new § 405.1635 to read as follows:

§ 405.1635 Comprehensive outpatient rehabilitation facility (CORF) services.

As a condition for Medicare Part B payment for CORF services, the following requirements must be met:

(a) *Certification.* A physician must certify that—

(1) The services were required because the individual needed skilled rehabilitation services;

(2) A written plan for furnishing the services has been established and is reviewed by a physician; and

(3) The services were furnished while the individual was under the care of a physician.

(b) *Recertification.* (1) Recertification is required at least every 60 days, based on review by a facility physician who, when appropriate, consults with the professional personnel providing the services.

(2) The facility physician must certify that the plan is being followed, the patient is making progress in attaining the rehabilitation goals, and the treatment is having no harmful effect on the patient.

C. A new Part 488 is added to read as follows:

PART 488—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

Subpart A—[Reserved]

Subpart B—Conditions of Participation: Comprehensive Outpatient Rehabilitation Facilities

Sec.
488.50 Basis and scope.
488.51 Definition.
488.54 Condition of participation: Compliance with State and local laws.
488.56 Condition of participation: Governing body and administration.
488.58 Condition of participation: Comprehensive rehabilitation program.
488.60 Condition of participation: Clinical records.
488.62 Condition of participation: Physical environment.
488.64 Condition of participation: Disaster procedures.
488.66 Condition of participation: Utilization review plan.
488.70 Personnel qualifications.
488.74 Appeal rights.

Authority: Secs. 1102, 1861(aa), and (cc) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395x and 1395hh.

Subpart A—[Reserved]

Subpart B—Conditions of Participation: Comprehensive Outpatient Rehabilitation Facilities

§ 488.50 Basis and scope.

This subpart sets forth the conditions that facilities must meet to be certified as comprehensive outpatient rehabilitation facilities (CORFs) under section 1861(cc)(2) of the Social Security Act and be accepted for participation in Medicare in accordance with Part 489 of this chapter.

§ 488.51 Definition.

As used in this subpart, unless the context indicates otherwise, *"comprehensive outpatient rehabilitation facility", "CORF",* or *"facility"* means a nonresidential facility that—

(a) Is established and operated exclusively for the purpose of providing diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons, at a single fixed location, by or under the supervision of a physician; and

(b) Meets all the requirements of this subpart.

§ 488.54 Condition of participation: Compliance with State and local laws.

The facility and all personnel who provide services must be in compliance with applicable State and local laws and regulations.

(a) *Standard: Licensure of facility.* If State or local law provides for licensing, the facility must be currently licensed or approved as meeting the standards established for licensure.

(b) *Standard: Licensure of personnel.* Personnel that provide service must be licensed, certified, or registered in accordance with applicable State and local laws.

§ 488.56 Condition of participation: Governing body and administration.

The facility must have a governing body that assumes full legal responsibility for establishing and implementing policies regarding the management and operation of the facility.

(a) *Standard: Disclosure of ownership.* The facility must comply with the provisions of Part 420, Subpart C of this chapter that require health care providers and fiscal agents to disclose certain information about ownership and control.

(b) *Standard: Administrator.* The governing body must appoint an administrator who—

(1) Is responsible for the overall management of the facility under the authority delegated by the governing body;

(2) Implements and enforces the facility's policies and procedures;

(3) Designates, in writing, an individual who, in the absence of the administrator, acts on behalf of the administrator; and

(4) Retains professional and administrative responsibility for all personnel providing facility services.

(c) *Standard: Group of professional personnel.* The facility must have a group of professional personnel associated with the facility that—

(1) Develops and periodically reviews policies to govern the services provided by the facility; and

(2) Consists of at least one physician and one professional representing each of the services provided by the facility.

(d) *Standard: Institutional budget plan.* The facility must have an institutional budget plan that meets the following conditions:

(1) It is prepared, under the direction of the governing body, by a committee consisting of representatives of the governing body and the administrative staff.

(2) It provides for—(i) An annual operating budget prepared according to generally accepted accounting principles; (ii) A 3-year capital expenditure plan if expenditures in excess of $100,000 are anticipated, for that period, for the acquisition of land; the improvement of land, buildings, and equipment; and the replacement, modernization, and expansion of buildings and equipment; and (iii) Annual review and updating by the governing body.

(e) *Standard: Patient care policies.* The facility must have written patient care policies that govern the services it furnishes. The patient care policies must include the following:

(1) A description of the services the facility furnishes through employees and those furnished under arrangements.

(2) Rules for and personnel responsibilities in handling medical emergencies.

(3) Rules for the storage, handling, and administration of drugs and biologicals.

(4) Criteria for patient admission, continuing care, and discharge.

(5) Procedures for preparing and maintaining clinical records on all patients.

(6) A procedure for explaining to the patient and the patient's family the extent and purpose of the services to be provided.

(7) A procedure to assist the referring physician in locating another level of care for—patients whose treatment has terminated and who are discharged.

(8) A requirement that patients accepted by the facility must be under the care of a physician.

(9) A requirement that there be a plan of treatment established by a physician for each patient.

(10) A procedure to ensure that the group of professional personnel reviews and takes appropriate action on recommendations from the utilization review committee regarding patient care policies.

(f) *Standard: Delegation of authority.* The responsibility for overall administration, management, and operation must be retained by the facility itself and not delegated to others.

(1) The facility may enter into a contract for purposes of assistance in financial management and may delegate to others the following and similar services:

(i) Bookkeeping.

(ii) Assistance in the development of procedures for billing and accounting systems.

(iii) Assistance in the development of an operating budget.

(iv) Purchase of supplies in bulk form.

(v) The preparation of financial statements.

(2) When the services listed in paragraph (f)(1) of this section are delegated, a contract must be in effect and:

(i) May not be for a term of more than 5 years;

(ii) Must be subject to termination within 60 days of written notice by either party;

(iii) Must contain a clause requiring renegotiation of any provision that HCFA finds to be in contravention to any new, revised or amended Federal regulation or law;

(iv) Must state that only the facility may bill the Medicare program; and

(v) May not include clauses that state or imply that the contractor has power and authority to act on behalf of the facility, or clauses that give the contractor rights, duties, discretions, or responsibilities that enable it to dictate the administration, mangement, or operations of the facility.

§ 488.58 Condition of participation: Comprehensive rehabilitation program.

The facility must provide a coordinated rehabilitation program that includes, at a minimum, physicians' services, physical therapy services, and social or psychological services. The services must be furnished by personnel that meet the qualifications set forth in § 488.70 and must be consistent with the plan of treatment and the results of comprehensive patient assessments.

(a) *Standard: Physician services.*

(1) A facility physician must be present in the facility for a sufficient time to—

(i) Provide, in accordance with accepted principles of medical practice, medical direction, medical care services, and consultation;

(ii) Establish the plan of treatment in cases where a plan has not been established by the referring physician;

(iii) Assist in establishing and implementing the facility's patient care policies; and

(iv) Participate in plan of treatment reviews, patient case review conferences, comprehensive patient assessment and reassessments, and utilization review.

(2) The facility must provide for emergency physician services during the facility operating hours.

(b) *Standard: Plan of treatment.* For each patient, a physician must establish a plan of treatment before the facility initiates treatment. The plan of treatment must meet the following requirements:

(1) It must delineate anticipated goals and specify the type, amount, frequency and duration of services to be provided.

(2) It must be promptly evaluated after changes in the patient's condition and revised when necessary.

(3) It must, if appropriate, be developed in consultation with the facility physician and the appropriate facility professional personnel.

(4) It must be reviewed at least every 60 days by a facility physician who, when appropriate, consults with the professional personnel providing services. The results of this review must be communicated to the patient's referring physician for concurrence before treatment is continued or discontinued.

(5) It must be revised if the comprehensive reassessment of the patient's status or the results of the patient case review conference indicate the need for revision.

(c) *Standard: Coordination of services.* The facility must designate, in writing, a qualified professional to ensure that professional personnel coordinate their related activities and exchange information about each patient under their care. Mechanisms to assist in the coordination of services must include—

(1) Providing to all personnel associated with the facility, a schedule indicating the frequency and type of services provided at the facility;

(2) A procedure for communicating to all patient care personnel pertinent information concerning significant changes in the patient's status;

(3) Periodic clinical record entries, noting at least the patient's status in relationship to goal attainment; and

(4) Scheduling patient case review conferences for purposes of determining appropriateness of treatment, when indicated by the results of the initial comprehensive patient assessment, reassessment(s), the recommendation of the facility physician (or other physician who established the plan of treatment), or upon the recommendation of one of the professionals providing services.

(d) *Standard: Provision of services.*

(1) All patients must be referred to the facility by a physician who provides the following information to the facility before treatment is initiated:

(i) The patient's significant medical history.

(ii) Current medical findings.

(iii) Diagnosis(es) and contraindications to any treatment modality.

(iv) Rehabilitation goals, if determined.

(2) Services may be provided by facility employees or by others under arrangements made by the facility.

(3) The facility must have on its premises the necessary equipment to implement the plan of treatment and sufficient space to allow adequate care.

(4) The services must be furnished by personnel that meet the qualifications of § 488.70 and the number of qualified personnel must be adequate for the volume and diversity of services offered. Personnel that do not meet the qualifications specified in § 488.70 may be used by the facility in assisting qualified staff. When a qualified individual is assisted by these personnel, the qualified individual must be on the premises, and must instruct these personnel in appropriate patient care service techniques and retain responsibility for their activities.

(5) A qualified professional must initiate and coordinate the appropriate portions of the plan of treatment, monitor the patient's progress, and recommend changes, in the plan, if necessary.

(6) A qualified professional representing each service made available at the facility must be either on the premises of the facility or must be available through direct telecommunication for consultation and assistance during the facility's operating hours. At least one qualified professional must be on the premises during the facility's operating hours.

(7) All services must be provided consistent with accepted professional standards and practice.

(e) *Standard: Scope and site of services.* The facility must provide all the CORF services required in the plan of treatment, with the exception of one home visit to evaluate the potential impact of the home environment on the rehabilitation goals, must provide the services on its premises.

(f) *Standard: Patient assessment.* Each qualified professional involved in the patient's care, as specified in the plan of treatment, must—

(1) Carry out an initial patient assessment; and

(2) In order to identify whether or not the current plan of treatment is appropriate, perform a patient reassessment after significant changes in the patient's status.

§ 488.60 Condition of participation: Clinical records.

The facility must maintain clinical records on all patients in accordance with accepted professional standards and practice. The clinical records must be completely, promptly, and accurately documented, readily accessible, and systematically organized to facilitate retrieval and compilation of information.

(a) *Standard: Content.* Each clinical record must contain sufficient information to identify the patient clearly and to justify the diagnosis and treatment. Entries in the clinical record must be made as frequently as is necessary to insure effective treatment and must be signed by personnel providing services. All entries made by assistant level personnel must be countersigned by the corresponding professional. Documentation on each patient must be consolidated into one clinical record that must contain—

(1) The initial assessment and subsequent reassessments of the patient's needs;

(2) Current plan of treatment;

(3) Identification data and consent or authorization forms;

(4) Pertinent medical history, past and present;

(5) A report of pertinent physical examinations if any;

(6) Progress notes or other documentation that reflect patient reaction to treatment, tests, or injury, or the need to change the established plan of treatment; and

(7) Upon discharge, a discharge summary including patient status relative to goal achievement, prognosis, and future treatment considerations.

(b) *Standard: Protection of clinical record information.* The facility must safeguard clinical record information against loss, destruction, or unauthorized use. The facility must have procedures that govern the use and removal of records and the conditions for release of information. The facility must obtain the patient's written consent before releasing information not required to be released by law.

(c) *Standard: Retention and preservation.* The facility must retain clinical record information for 5 years after patient discharge and must make provision for the maintenance of such records in the event that it is no longer able to treat patients.

§ 488.62 Condition of participation: Physical environment.

The facility must provide a physical environment that protects the health and safety or patients, personnel, and the public.

(a) *Standard: Safety and comfort of patients.* The physical premises of the facility and those areas of its surrounding physical structure that are used by the patients (including at least all stairwells, corridors and passageways) must meet the following requirements:

(1) Applicable Federal, State, and local building, fire, and safety codes must be met.

(2) Fire extinguishers must be easily accessible and fire regulations must be prominently posted.

(3) A fire alarm system with local (in-house) capability must be functional, and where power is generated by electricity, an alternate power source with automatic triggering must be present.

(4) Lights, supported by an emergency power source, must be placed at exits.

(5) A sufficient number of staff to evacuate patients during a disaster must be on the premises of the facility whenever patients are being treated.

(6) Lighting must be sufficient to carry out services safely; room temperature

must be maintained at comfortable levels; and ventilation through windows, mechanical means, or a combination of both must be provided.

(7) Safe and sufficient space must be available for the scope of services offered.

(b) *Standard: Sanitary environment.* The facility must maintain a sanitary environment and establish a program to identify, investigate, prevent, and control the cause of patient infections.

(1) The facility must establish written policies and procedures designed to control and prevent infection in the facility and to investigate and identify possible causes of infection.

(2) The facility must monitor the infection control program to ensure that the staff implement the policies and procedures and that the policies and procedures are consistent with current practices in the field.

(3) The facility must make available at all times a quantity of laundered linen adequate for proper care and comfort of patients. Linens must be handled, stored, and processed in a mannner that prevents the spread of infection.

(4) Provisions must be in effect to ensure that the facility's premises are maintained free of rodent and insect infestation.

(c) *Standard: Maintenance of equipment, physical location, and grounds.* The facility must establish a written preventive maintenance program to ensure that—

(1) All equipment is properly maintained and equipment needing periodic calibration is calibrated consistent with the manufacturer's recommendations; and

(2) The interior of the facility, the exterior of the physical structure housing the facility, and the exterior walkways and parking areas are clean and orderly and maintained free of any defects that are a hazard to patients, personnel, and the public.

(d) *Standard: Access for the physically impaired.* The facility must ensure the following:

(1) Doorways, stairwells, corridors, and passageways used by patients are—

(i) Of adequate width to allow for easy movement of all patients (including those on stretchers or in wheelchairs); and

(ii) In the case of stairwells, equipped with firmly attached handrails on at least one side.

(2) At least one toilet facility is accessible and constructed to allow utilization by ambulatory and nonambulatory individuals.

(3) At least one entrance is usable by individuals in wheelchairs.

(4) In multi-story buildings, elevators are accessible to and usable by the physically impaired on the level that they use to enter the building and all levels normally used by the patients of the facility.

(5) Parking spaces are large enough and close enough to the facility to allow safe access by the physically impaired.

§ 488.64 Condition of participation: Disaster procedures

The facility must have written policies and procedures that specifically define the handling of patients, personnel, records, and the public during disasters. All personnel associated with the facility must be knowledgeable with respect to these procedures, be trained in their application, and be assigned specific responsibilities.

(a) *Standard: Disaster plan.* The facility's written disaster plan must be developed and maintained with assistance of qualified fire, safety, and other appropriate experts. The plan must include—

(1) Procedures for prompt transfer of casualties and records;

(2) Procedures for notifying community emergency personnel (for example, fire department, ambulance, etc.);

(3) Instructions regarding the location and use of alarm systems and signals and fire fighting equipment; and

(4) Specification of evacuation routes and procedures for leaving the facility.

(b) *Standard: Drills and staff training.*

(1) The facility must provide ongoing training and drills for all personnel associated with the facility in all aspects of disaster preparedness.

(2) All new personnel must be oriented and assigned specific responsibilities regarding the facility's disaster plan within two weeks of their first workday.

§ 488.66 Condition of participation: Utilization review plan.

The facility must have in effect a written utilization review plan that is implemented at least each quarter, to assess the necessity of services and promotes the most efficient use of services provided by the facility.

(a) *Standard: Utilization review committee.* The utilization review committee, consisting of the group of professional personnel specified in §488.56(c), a committee of this group, or a group of similar composition, comprised by professional personnel not associated with the facility, must carry out the utilization review plan.

(b) *Standard: Utilization review plan.* The utilization review plan must contain written procedures for evaluating—

(1) Admissions, continued care, and discharges using, at a minimum, the criteria established in the patient care policies;

(2) The applicability of the plan of treatment to established goals; and

(3) The adequacy of clinical records with regard to—(i) Assessing the quality of services provided; and

(ii) Determining whether the facility's policies and clinical practices are compatible and promote appropriate and efficient utilization of services.

§ 488.70 Personnel qualifications.

This section sets forth the qualifications that must be met, as a condition of participation, under § 488.58, and as a condition of coverage of services under § 405.260 of this chapter.

(a) A facility physician must be a doctor of medicine or osteopathy who—

(1) Is licensed under State law to practice medicine or surgery; and

(2) Has had, subsequent to completing a 1-year hospital internship, at least 1 year of training in the medical management of patients requiring rehabilitation services; or

(3) Has had at least 1 year of full-time or part-time experience in a rehabilitation setting providing physicians' services similar to those required in this subpart.

(b) A licensed practical nurse must be licensed as a practical or vocational nurse by the State in which practicing, if applicable.

(c) An occupational therapist and an occupational therapist assistant must meet the qualifications set forth in § 405.1202(f) and (g) of this chapter.

(d) An orthotist must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program in orthotics that is jointly recognized by the American Council on Education and the American Board for Certification in Orthotics and Prosthetics; and

(3) Be eligible to take that Board's certification examination in orthotics.

(e) A *physical therapist* and a *physical therapist assistant* must meet the qualifications set forth in § 405.1702 (d) and (e) of this chapter.

(f) A *prosthetist* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program in prosthetics that is jointly recognized by the American Council on Education and the American Board for Certification in Orthotics and Prosthetics; and

(3) Be eligible to take that Board's certification examination in prosthetics.

(g) A *psychologist* must be certified or licensed by the State in which practicing, if applicable, and must hold a master's degree from a training program approved by the State.

(h) A *registered nurse* must be a graduate of an approved school of nursing and be licensed as a registered nurse by the State in which practicing, if applicable.

(i) A *rehabilitation counselor* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Hold at least a bachelor's degree; and

(3) Be eligible to take the certification examination administered by the Commission on Rehabilitation Counselor Certification.

(j) A *respiratory therapist* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(3) Either—

(i) Be eligible to take the registry examination for respiratory therapists administered by the National Board for Respiratory Therapy, Inc.; or

(ii) Have equivalent training and experience as determined by the National Board for Respiratory Therapy, Inc.

(k) A *respiratory therapy technician* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Have successfully completed a training program accredited by the Committees on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(3) Either—

(i) Be eligible to take the certification examination for respiratory therapy technicians administered by the National Board for Respiratory Therapy, Inc.; or

(ii) Have equivalent training and experience as determined by the National Board for Respiratory Therapy, Inc.

(l) A *social worker* must—

(1) Be licensed by the State in which practicing, if applicable;

(2) Hold at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education; and

(3) Have 1 year of social work experience in a health care setting.

(m) A *speech-language pathologist* must meet the qualifications set forth in §405.1702(j) of this chapter.

§ 488.74 Appeal rights.

The appeal provisions set forth in Part 405, Subpart O of this chapter, for providers, are applicable to any entity that is participating or seeks to participate in the Medicare program as a CORF.

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

The authority citation for Part 489 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

D. In Part 489, § 489.2 is amended by adding a new paragraph (b)(5) to read as follows:

§ 489.2 Scope of part.

* * * * *

(b) The following providers are subject to the provisions of this part:

* * *

(5) Comprehensive outpatient rehabilitation facilities (CORFs).

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: November 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 8, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-34109 Filed 12-14-82; 8:45 am]

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Wednesday
December 15, 1982

Part V

Department of the Interior

Bureau of Land Management

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3833

[Circular No. 2516]

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations for the recordation of mining claims and the annual filing of evidence of assessment work and notices of intention to hold mining claims, mill sites, or tunnel sites. The amendment eliminates obsolete and unnecessary provisions, clarifies previous ambiguities in the filing requirements, and generally streamlines the overall administration of the mining claim recordation program.

In order to reduce the burden of regulatory compliance for the current year, these regulations must become effective on or before December 30, 1982. Making the regulations effective on December 30, 1982. is appropriate because the regulations impose no new compliance burden, but instead reduce the existing burdens upon the industry.

EFFECTIVE DATE: December 30, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (570), Bureau of Land Mangement, 1800 "C" Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Roger A. Haskins, (202) 343–8537,
or
Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking amending the existing recordation regulations was published in the Federal Register on May 4, 1982, (47 FR 19298) with comments invited for 30 days. The comment period was later extended to July 6, 1982.

The discussion of the comments is divided into two sections. The general comments are discussed first, then the specific comments are addressed in relation to the section to which they refer.

General Comments

In response to the proposed rulemaking amending the Mining Claim Recordation regulations, forty-two comments were received: six were from individuals, four from legal firms, thirteen from mining companies, three from mining associations, and sixteen from various Federal and State agencies. These comments contained discussions of 189 specific items in the proposed rulemaking and also a number of general statements.

Most of the comments were very supportive of the objective of updating and streamlining the regulations. Many comments reflected the last six years of experience with the existing regulations and identified those procedures which were felt to make recordation of a mining claim unnecessarily difficult. A number of comments contained legal arguments questioning the Department of the Interior's interpretation of its authority for promulgating various sections of the existing regulations. Many comments were critical of several sections of the proposed rulemaking especially §§ 3833.0–5 (Definitions), 3833.1–3 (Fees), 3833.2–3 (Notice of Intent to Hold), 3833.4 (Failure to File), and 3833.5 (Effect of Recordation).

Most of the comments also objected to the inclusion in the proposed rulemaking of the intention to apply these regulations retroactively whenever possible. While the Bureau of Land Management recognizes that all the provisions cannot be applied retroactively, the new provisions can be applied in specific instances to cases pending before the Bureau on which a decision has not been issued. In such cases, the pending action can be adjudicated under the changes made by this final rulemaking if they take effect prior to the Bureau's taking action on the pending case, and do not adversely affect either the filing claimants or an adverse claimant's rights. (See 45 IBLA 386, 388.)

Based on the public comments, the proposed rulemaking has been revised. Obsolete, redundant, and unnecessary language has been removed from various sections of the existing regulations. Several additions have been made by the final rulemaking to the sections on definitions and policy to clarify the regulations, and to more clearly define the Department of the Interior's policy for the recordation process.

This final rulemaking will significantly reduce the burden of compliance with the requirements for the recordation of mining claims. The change made by the final rulemaking in the definition of the term "timely filed" will save a large number of mining claimants from the loss of their claims due to delays in the mails over the holiday season.

The specific comments, changes made, and reasons for adopting or not adopting suggested changes are provided below, on a section by section basis.

Specific Comments

Purpose—§ 3833.0–1—Two comments expressed the view that these regulations should be restricted to a strict implementation of section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744) and suggested that the last sentence of this section, which requires notification to the Bureau of Land Management of transfers of interest in mining claims, should be removed because there is no specific authority for it in section 314. The Department's authority to make this requirement was affirmed in *Topaz Beryllium Company v. United States*, 649 F. 2d 775, (1981). The proper management of the public lands and the maintenance of records require that the Bureau be informed of transfers of interest in mining claims, leases, permits and related matters. Due process requires that all parties in interest be notified if a parcel of land is to be sold, exchanged, or conveyed. The owner of an unpatented mining claim or site is a party in interest in those lands and is entitled to an opportunity to respond to such proposed sales, exchanges, or conveyances. Because of this responsibility, the final rulemaking keeps the requirement in the statement of purpose. However, the section has been subdivided in the final rulemaking to make it easier to read and understand.

Objectives—§ 3833.0–2—Seven comments were received. One comment recommended combining the "Purpose" and "Objectives" sections into one comprehensive statement. The current format requirements of the Code of Federal Regulations call for separate sections for purpose and objectives, if, as in this case, both are used. This recommendation was not adopted in the final rulemaking.

Four comments objected to references to the term "status of mining claims" in the proposed rulemaking because it is undefined and open to varying interpretation. After careful consideration of the comments, the reference to "status of mining claims" has been removed from the final rulemaking. The final rulemaking also restructures this section to make it easier to read and understand.

Authority—§ 3833.0–3—Five comments were received. One comment had no objection. Three comments suggested editorial changes which were adopted by the final rulemaking. One comment suggested that the Bureau of Land Management's authority should be limited only to that provided in the Federal Land Policy and Management Act. The statutory authority of the Department of the Interior for management of the public lands and the mineral resources therein is found in the General Mining Law of May 10, 1872 (30

U.S.C. 22), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Secretarial authority to issue regulations and regulate matters pertaining to the public lands granted by R.S. 453 (43 U.S.C. 2) and R.S. 2478 (43 U.S.C. 1201).

One comment suggested that the reference to 31 U.S.C. 483(a) be removed from the proposed rulemaking as it repeats the Secretary of the Interior's authority for setting fees under section 304 of the Federal Land Policy and Management Act (43 U.S.C. 1734). This suggestion was not adopted because the Department's fee collection and budget authorization process are derived by statute from 31 U.S.C. 483(a). Therefore, the citation is retained in the final rulemaking. Another change made to this section of the existing regulation by the final rulemaking is the deletion of paragraph (b) because it is obsolete since the schedule for compliance with those provisions expired on September 28, 1977. Deletion of paragraph (b) is not intended to relieve claimants of any obligations claimants they had under the prior rules. Paragraph (d) of this section was deleted and its provisions incorporated into the new paragraphs (a) and (b).

Definitions—§ 3833.0–5—Twenty-one comments were received on this section of the proposed rulemaking. The term "unpatented mining claims" was the subject of three comments. One comment had no objection to the language of the proposed rulemaking, and two suggested deleting that portion of the sentence following the phrase "(30 U.S.C. 21–54)." Other comments expressed the view that a claimant should know whether a claim has or has not been patented. The Bureau of Land Management has concluded that while it is reasonable to expect a claim owner to know whether a claim has or has not been patented, it is also useful for the public to have a complete definition of what constitutes an unpatented mining claim. Because of this, the suggestion was not adopted in the final rulemaking.

The term "mill site" has been modified by the final rulemaking to conform to the definition of "unpatented mining claim" contained in paragraph (b) of this section as mill sites are also patentable.

Two comments suggested deleting the term "Federal lands" as it appears in the proposed rulemaking and replacing it with the term "public lands" as it appears in section 103(e) of the Federal Land Policy and Management Act (43 U.S.C. 1702). The term "public lands" as defined in that Act restricts jurisdiction to those lands administered by the Bureau of Land Management. Since the Secretary of the Interior is authorized to promulgate regulations regarding recordation of mining claims and since section 314 of Federal Land Policy and Management Act applies to all mining claims, these regulations apply to all lands on which mining claims may be located under the general mining laws and not just lands administered by the Bureau of Land Management. Therefore, the definition of the term "Federal lands" is retained in the final rulemaking.

The term "proper BLM office" contained in paragraph (g) of the existing regulations received eight comments. Three of the comments expressed the view that the proposed rulemaking was adequate, two suggested retaining the language found in the existing regulations, and three felt that a corridor should be established along the Alaska District boundary line so that individuals having claims within the corridor could file in either office. This suggestion was considered and not adopted in the final rulemaking because of the cost and difficulty of locating the boundaries of such a corridor on lands which are unsurveyed.

The term "copy of the official record" found in paragraph (i) of § 3833.0–5 of the proposed rulemaking received seven comments. Two comments expressed the view that language of the proposed rulemaking was adequate as written. One comment suggested an editorial revision of this section. Four comments objected to two points in the proposed rulemaking. The first objection was to the use of the phrase "or will be filed" in existing regulations and the proposed rulemaking because it is contrary to a strict interpretation of section 314 of the Federal Land Policy and Management Act which requires that a "copy of the official record" of the instruments filed for record with the local jurisdiction be filed with the Bureau of Land Management.

The Bureau of Land Management recognized in 1976 that most local jurisdictions cannot record and return a claimant's notice or certificate of location in time for the claimant to file a copy of the official record with the proper BLM office within the 90-day time limit imposed by section 314 of the Federal Land Policy and Management Act. Because of this, the Bureau has adopted a policy of accepting an exact copy of the location instrument as an initial filing with the Bureau, with the expectation that when the claimant receives the stamped original document back from the local jurisdiction, it will be filed with the proper BLM office to complete the recordation process. The final rulemaking continues this policy so as not to impose an additional burden upon the mining community.

The second objection focused on the language of the proposed rulemaking pertaining to "other evidence acceptable to the proper BLM office." The comment expressed the view that this phrase was too vague and ambiguous and could vary in interpretation among the Bureau of Land Management's various State offices. This phrase was included in the original regulations to assist in recording claims located prior to October 21, 1976, which were being held by right of possession under 30 U.S.C. 38 (R.S. 2332). As the deadline for recordation of these claims has passed, this provision is no longer necessary. This change will not affect prior recordations. In response to this comment, the final rulemaking removes the above phrase and replaces it with language that states that the Bureau will accept what was or will be filed for record if it is consistent with State law. This will provide for consistency in interpretation, both for the Bureau and for the public.

The definition of the term "affidavit of assessment work" contained in the proposed rulemaking was the subject of eleven comments. Two comments had no objection. Five comments objected to requiring sworn statements in connection with the filing of evidence of annual assessment work because many State mining laws do not require sworn statements, and oaths are not generally required for public land matters. Because of these comments and for the reasons stated, the heading of this section has been changed to "evidence of assessment work". The language of the section has been changed by the final rulemaking to reflect that the Bureau will accept those instruments required under the State mining laws as being sufficient to satisfy the filing requirements of section 314 of the Federal Land Policy and Management Act, provided that they contain the information required in § 3833.2–2 of this title.

The reference to the time for filing evidence of annual assessment work has been moved by the final rulemaking to § 3833.2–1 (When to File) to provide better organization. Three comments proposed editorial changes for this section, some of which were adopted by this final rulemaking.

The term "notice of intention to hold a mining claim" received three comments. One comment urged a strict interpretation of section 314 of the Federal Land Policy and Management Act for filing requirements. The rationale for keeping the phrase "or will be" was discussed earlier in this

preamble. The other two comments questioned the format of the notice of intent to hold as set out in the proposed rulemaking. They pointed out that some local jurisdictions will not accept a letter for purposes of recordation. Therefore, the language in this section has been modified by the final rulemaking to require an "instrument" which is recordable rather than a "letter" or an undefined notice. Thus, a mining claimant can tailor the document to meet the requirement of State law, and the Bureau of Land Management will accept that document, provided that it contains the information specified in section 3833.2–3 of this title.

The term "notice of intention to hold a mill site or tunnel site" received two comments supporting the language of the proposed rulemaking. The term itself has been modified by the final rulemaking to be consistent with the revisions made in the definition of the term "notice of intention to hold a mining claim".

The term "filed or file" as defined in the proposed rulemaking received nineteen comments. Three comments favored the language of the proposed rulemaking. The remaining sixteen comments objected to the changes made by the proposed rulemaking on two points. One major objection was that the definition of the term "timely filed" contained in the final rulemaking allowed "a grace period of twenty days" for filing evidence of annual assessment work. As stated earlier in the preamble, the change made by the final rulemaking in the definition of the term "timely filed" will save a large number of mining claimants from the loss of their claims due to delays in the mails over the holiday season. The experience of the Bureau of Land Management has been that many of the late filings have resulted from the heavy volume of holiday mail and unusual delays in delivery times. As an example, annual proofs of labor and notices of intention to hold postmarked two or three weeks prior to the statutory December 30th deadlines, have often been delivered to the proper BLM office in January, which is after the filing deadline. Under the existing regulations, the late delivery of the required documents by the Postal System, although for reasons beyond the control of the claimants, gives the Bureau no alternative but to declare the affected claims null and void for failure to comply with the requirements of the regulations. The change made by the final rulemaking will provide a solution to this problem. It does not change the required date of filing of the evidence of annual assessment work, but makes it clear that the Bureau of Land Management will accept, for a period of twenty days from the due date, December 30, any document postmarked by the U.S. Postal Service on or before the due date. This means that the claimant must have completed all annual assessment work and mailed the document evidencing that work to the proper BLM office on or before December 30. Thus, the change in the regulations does not provide a "grace period" for late filing. Filing must still be made on or before December 30th. For the purposes of annual filing, the postmark will constitute evidence of filing. Such filing is conditioned upon subsequent receipt by the Bureau of Land Management. It should be noted that the envelope containing the required documents must be postmarked on or before the December 30 date in order for it to be accepted. Any later date will cause the documents in the envelope to be rejected and the claim covered by them to be declared null and void.

This provision allowing acceptance of a properly postmarked submission within 20 days after the due date does not apply to copies of notices or certificates of location. Notices or certificates of location are still required to be filed with the proper BLM office within the 90 day period prescribed by section 314 of the Federal Land Policy and Management Act.

Parenthetically, we note that most State mining laws require that a claimant's annual proof of labor be filed from 30 to 90 days after the end of the assessment year, which ends on September 1st of each year. This difference is confusing to many people and adds to the confusion that this final rulemaking is intended to reduce. In accordance with R.S. 2324 as amended (30 U.S.C. 28), whether or not possessory rights are lost by failure to file evidence of annual assessment work with the State is determined by State mining laws and deadlines for filing an annual proof of labor. The provision in the final rulemaking allowing acceptance of documents postmarked on or before December 30 to be accepted twenty days after the due date will not adversely affect the possessory rights. The Department of the Interior has determined that a claimant who has in good faith complied with the requirements of the statutes should not be penalized if the documents are postmarked on or before December 30th and received within twenty days of December 30th.

Comments suggested that the term "previous assessment year" should be specifically defined. As presently used it is difficult to determine whether the term refers to the assessment year ending in the same year as the filing year, or the assessment year which ended in the year preceding the current filing year.

In final rulemaking, the term "assessment year" is defined to specify that for the purposes of complying with the filing requirements of the Federal Land Policy and Management Act, the calendar year in which the assessment year ends is the year for which a claimant must file either a notice of intention to hold a claim or evidence of annual assessment work.

The term the "filing year" has been defined in the final rulemaking to clarify when the filing year actually begins and ends under section 314 of the Federal Land Policy and Management Act. This change will help to eliminate the current problem of claimants thinking that the filing year ends on December 31st, instead of on December 30th.

Section 3833.1–1—Recordation of Mining Claims and Sites Located Prior to October 21, 1976—Eleven comments were received on this section of the proposed rulemaking. Three comments either had no objections or were in favor of the changes made by the proposed rulemaking. The remaining eight comments offered various editorial suggestions, several of which have been incorporated into the final rulemaking.

Section 3833.1–2—Manner of Recordation of Mining Claims Located After October 21, 1976—Fifteen comments were received regarding this section of the proposed rulemaking. Three comments had no objection to the language of the proposed rulemaking, while five comments recommended various editiorial changes, several of which were incorporated into the final rulemaking. Seven comments took exception to the Bureau of Land Management's acceptance of exact copies of documents that will be filed with the local jurisdiction as opposed to only accepting copies of documents that had already been filed with the local jurisdiction. The reasons for this policy are discussed earlier in this preamble in connection with the term "copy of the official record".

Section 3833.1–3—Recordation Fee—Fourteen comments were received on this section of the proposed rulemaking. All of the comments expressed the view that filing fees are necessary to complete a recordation and that failure to submit the proper fees at the time of filing should not be excused, as that appeared to be contrary to the historical practices of public land law

administration. Establishing a filing fee for the Department of the Interior's recordation system is a discretionary action by the Secretary of the Interior. Recordation fees were established through issuance of regulations and through regulations the Department of the Interior has the authority to modify fee collection procedures and requirements to ensure equity and minimize compliance burdens on the public.

It is the policy of the Department of the Interior to accept for recordation mining claims or sites that are accompanied by insufficient recordation fees, subject to the claimant presenting the proper amount for recording the claim within thirty calendar days of receiving notification of a deficiency from the Bureau of Land Management. Claimants failing to correct this deficiency within the thirty day time period will have their recordation cancelled and the claims declared abandoned for failure to complete the recordation of the claims in question.

Section 3833.1–4—When Recordation Is Not Required—Eleven comments were received concerning this section of the proposed rulemaking. One comment favored the language of the proposed rulemaking and the other ten felt that paragraph (a) of the proposed rulemaking was no longer necessary as the time limits required by statute expired on October 22, 1979. This section has been removed in the final rulemaking. The deletion of this paragraph is not intended to affect the prior recordation of mining claims included in patent applications which were covered by the provisions in this paragraph. Regarding paragraph (b) of this section of the proposed final rulemaking, it is normally not feasible to complete a recordation and file for a mineral survey in 90 days. Because of this fact, this section has been deleted by the final rulemaking as being impractical to implement.

Section 3833.2–1—When a Filing is Required—Twenty-seven comments were received on the proposed rulemaking. Two comments had no objections, one objected to any change, preferring the existing regulations. Four comments suggested various editorial changes. Those were considered in the final rulemaking process. The remaining twenty comments discussed at length deficiencies in this section of the proposed rulemaking because of a conflict between the requirement concerning the assessment year found in the Federal Land Policy and Management Act and those in State mining laws, as that term applies to filing an affidavit of annual assessment work or a notice of intention to hold.

Based on the suggestions submitted in the comments, this section has been revised extensively in the final rulemaking to clarify the requirements and procedures to be followed in order to avoid the loss of a mining claim that may have resulted from the different filing requirements of the several statutes involved (30 U.S.C. 28 and 43 U.S.C. 1744).

Section 3833.2–2—Contents for Evidence of Assessment Work—Eight comments were received. All of the comments recommended various editorial revisions to clarify ambiguities in the language of this section. These suggestions were considered and several have been incorporated in the final rulemaking.

Section 3833.2–3—Contents for a Notice of Intention To Hold a Claim or Site—Twenty-one comments were received on this section of the proposed rulemaking. Two comments approved of the language of the proposed rulemaking and seven comments suggested editorial changes and clarifications. Five comments expressed the view that paragraphs (b)(1)(iii) and (iv), and (d)(3) and (4), in the proposed rulemaking are unnecessary in the context of this section. After consideration of these comments, these subparagraphs have been deleted by the final rulemaking.

Seven comments discussed at length issues of: annual filings for mill sites and tunnel sites being curable defects, the problem or treating defective assessment filings as notices of intent to hold, the lack of a definition for the term "year", and the problems concerning loss of possessory rights that may be incurred by filing a notice of intent to hold mining claims in lieu of annual evidence of assessment work. After careful consideration of these comments concerning the problems associated with a defective annual assessment document being treated by BLM as if it were a notice of intent to hold, it has been determined that it is impractical to treat evidence of assessment work as if it were a notice of intent to hold. The Interior Board of Land Appeals has found a defective annual assessment to be a curable defect. In conformance with those decisions, the final rulemaking inserts a statement to that effect in § 3833.4(b).

The ambiguities surrounding the term "year" have been eliminated in the final rulemaking at § 3833.0–5(o) and in paragraph (a) of § 3833.2–3. The final rulemaking adds a statement to part (a) of § 3833.2–3 to make it clear that a claimant's election to file a notice of intention to hold a mining claim does not excuse the claimant from complying with 30 U.S.C. 28 or State laws pertaining to the performance of the required annual assessment work. Failure to perform the required assessment work will leave the claimant's mining claims open to adverse locations. Since there is no requirement for assessment work to be conducted on mill sites or tunnel sites under the Federal Land Policy and Management Act, this provision does not apply to such sites. However, a notice of intention to hold a mill site or tunnel site must still be filed each calendar year with both the local jurisdiction and the proper BLM office.

Paragraph (a) of this section of the proposed and final regulations requires that if a claimant elects to file a notice of intention to hold a mining claim for a given year with the Bureau of Land Management, the notice of intention must also be recorded with the local jurisdiction. Otherwise the claimant will be subject to the penalty prescribed in § 3833.4(d) of the regulations.

Section 3833.2–4—When Evidence or Notice Is Not Required—Fifteen comments were received concerning this section of the proposed rulemaking. Three comments suggested editorial changes which were considered in the final rulemaking. The other twelve comments focused on a potential problem in the proposed rulemaking that a mining claimant who has filed for patent is still required to comply with annual assessment requirements under 30 U.S.C. 28 and State mining laws. Based on the comments received and an analysis of the requirements of 30 U.S.C. 28, the Department has decided to retain the language in the existing regulations, as the language of the existing regulation offers the claimant greater protection from adverse claims than the proposed rulemaking.

Section 3833.4—Failure To File—Nineteen comments were received on this section of the proposed rulemaking. All comments discussed the apparent conflicts between paragraphs (a) and (b) of the proposed rulemaking regarding the issue of curable defects. This has been corrected in the final rulemaking by inserting the appropriate section cross references so that the applicable limits of each paragraph, (a) and (b), are clear. A number of editorial changes were recommended to clarify the section and remove unnecessary language. Many of these suggestions were incorporated in the final rulemaking. The Interior Board of Land Appeals has ruled that compliance with section 314 of the Federal Land Policy and

Management Act requires that the claimant meet State filing requirements as well as the Federal requirements in order to maintain a claim. Paragraph (d) has been added to this section by the final rulemaking to clarify this requirement.

Section 3833.5—Effect of Recording and Filing—Seven comments were received on this section of the proposed rulemaking. Four comments offered editorial suggestions, some of which were adopted in the final rulemaking. Three comments focused on two concerns. One concern was that this section of the proposed rulemaking addressed only claims located after October 21, 1976. This was an error in the provision and has been corrected by the final rulemaking. These regulations apply to all mining claims located on Federal lands. The other concern related to the actions or contests "initiated by the United States". The comments were of the view that the United States should not be imposing itself into an area traditionally reserved for private party disputes with respect to performance of annual assessment work and the right of possession of locators under the mining laws. Paragraph (d) is not a policy statement regarding the types of contest or other administrative actions the United States will initiate. It does set forth the Government's position that in providing notice to potential parties in such actions, the United States will rely upon these records to determine who should receive notice of those actions. The final rulemaking revises this section to more clearly state the intention and effects of this subpart.

The information collection requirements contained in 43 CFR Part 3833 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507 and have received OMB approval number 1004–0114.

The Department of the Interior has determined that this document is not a major rule under the terms of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This final rulemaking will have equal impact on all persons that possess unpatented mining claims located on the public lands. The changes made by this final rulemaking will reduce the regulatory burden imposed on all such individuals.

The principal author of these final regulations is Roger Haskins, Division of Mineral Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management.

List of Subjects in 43 CFR Part 3830

Mines, Public lands—mineral resources.

Under the authority of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and the general mining laws (R.S. 2319 *et seq.*, 30 U.S.C. 22 *et seq.*), Subpart 3833, Part 3830, Group 3800, Subchapter II of Title 43 of the Code of Federal Regulations is amended as follows:

Garrey E. Carruthers,

Assistant Secretary of the Interior.

November 30, 1980.

PART 3830—[AMENDED]

Subpart 3833—Recordation of Mining Claims and Filing Proof of Annual Assessment Work or Notice of Intention to Hold Mining Claims, Mill or Tunnel Sites

Note.—The information collection requirements contained in Subpart 3833 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0114. The information is being collected to meet the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) to allow the Bureau of Land Management to record mining claims and annual filings (evidence of annual assessment work or notice of intent to hold) properly. This information will be used to verify that the claimant continued to have an interest in the mining claims or sites as provided for in the statute. The obligation to respond is mandatory.

1. Section 3833.0–1 *Purpose* is revised to read as follows:

§ 3833.0–1 Purpose.

The purpose of the regulations is to establish procedures for:

(a) The recordation in the proper BLM office of unpatented mining claims, mill sites, or tunnel sites on federal lands;

(b) The filing in the same office of evidence of performance of annual assessment work or of a notice of intention to hold an unpatented mining claim;

(c) Notifying the proper BLM office of the transfer of an interest in unpatented mining claims, mill sites, or tunnel sites.

(d) These regulations are not intended to supersede or replace existing recording requirements under state law except when specifically changed by the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), and are not intended to make the Bureau office the official recording office for all ancillary documents (wills, liens, judgments, etc.) involving an unpatented mining claim, mill site or tunnel site.

2. Section 3833.0–2 *Objectives* is revised as follows:

§ 3833.0–2 Objectives.

The objectives of these regulations are:

(a) To determine the number and location of unpatented mining claims, mill sites, or tunnel sites located on Federal lands in order to assist in the surface management of those lands and the mineral resources therein;

(b) To remove any cloud on the title to those lands that may exist because they are subject to mining claims that may have been abandoned;

(c) To provide the BLM with information as to the location of active mining claims;

(d) To keep the BLM informed of transfers of interest in unpatented mining claims, mill sites, or tunnel sites.

§ 3833.0–3 [Amended]

3. Section 3833.0–3 is amended by:

A. Revising paragraph (a) to read:

(a) Section 314 (a) and (b) of the Act (43 U.S.C. 1744) require the recordation of unpatented mining claims, mill sites, and tunnel sites and the filing of information concerning annual assessment work performed or a notice of intention to hold mining claims in the proper BLM office within specified time periods. Section 314(c) of the Act sets forth the consequences of the failure to file such information or documents within the time limits prescribed.

B. Revising paragraph (b) to read:

(b) The Secretary has the general responsibility and authority for the management of Federal lands under 43 U.S.C. 2 and section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

C. Amending paragraph (c) by adding the words "The General Mining Law of May 10, 1872" to the beginning of the first sentence and changing the word "Section" to "section".

D. Removing paragraph (d) in its entirety.

E. Redesignating paragraph (e) as paragraph (d)

§ 3833.0–5 Amended]

4. Section 3833.0–5 is amended as follows:

A. Paragraph (a) is amended by revision the parenthetical expression to read as follows:

(43 U.S.C. 1701 et seq.)

B. Paragraph (b) is amended by inserting the words "and held" after the word "located" and removing the phrase

"34 CFR" and replacing it with the phrase "43 CFR Part".

C. Paragraph (c) is amended by removing the period at the end of the sentence and adding the phrase "for which patent under 30 U.S.C. 42 and 43 CFR 3860 has not been issued".

D. Amending paragraph (g) by adding at the end thereof the sentence "Notwithstanding the requirements of § 1821.2–1(d) of this title, filings made under this subpart in Alaska may be filed in either office in that State".

E. Revising paragraph (i) to read as follows:

(i) "Copy of the official record" means a legible reproduction or duplicate, except microfilm, of the instrument which was or will be filed under state law in the local jurisdiction where the claim or site is located. It also includes and exact reproduction, duplicate, except microfilm, of an amended instrument which may change or alter the description of the claim or site.

F. Adding new paragraphs (j), (k), (l), (m), (n) and (o) as follows:

* * * * *

(j) "Affidavit of assessment work" means the instrument required to be filed under state law for the purpose of evidencing that labor or improvements, valued at not less than $100, have been made upon or for the benefit of the mining claim as required by 30 U.S.C. 28 or, if state law does not require the filing of such an instrument, an affidavit evidencing the performance of such assessment work.

(k) "Notice of intention to hold a mining claim" means an instrument containing the information required in § 3833.2–3 of this title which has been or will be filed under state law in the local jurisdiction indicating that the owner continues to have an interest in the claim.

(l) "Notice of intention to hold a mill or tunnel site" means an instrument containing the information in the form required in § 3833.2–3 of this title indicating that the owner continues to hold an interest in the site.

(m) "Filed or file" means being received and date stamped by the proper BLM office. For the purpose of complying with § 3833.2–1 of this title, "timely filed" means being file within the time period prescribed by law, or received by January 19th after the period prescribed by law in an envelope bearing a clearly dated postmark affixed by the United States Postal Service within the period prescribed by law. This 20 day period does not apply to a notice of location filed pursuant to § 3833.2–1(a) of this title. (See § 1821.2–2(e) of this title where the last day falls on a date the office is closed.)

(n) "Assessment year" is defined in 30 U.S.C. 28 and commences at 12 o'clock noon on September 1st of each year. For the purpose of complying with the requirements of section 314(a) of the Act, the calendar year in which the assessment year ends is the year for which the evidence of annual assessment work shall be filed.

(o) "Filing year" for the purposes of complying with the Act begins on December 31st of each year and continues through December 30th of the following year.

5. Section 3833.1–1 is revised to read as follows:

§ 3833.1–1 Recordation of mining claims and mill sites located on or before October 21, 1976.

Mining claims and sites which were located prior to October 21, 1976, the effective date of the Act, but which had not been recorded in the proper BLM office on or before October 22, 1979, as required by the Act, are by law conclusively deemed abandoned and void. There is no statutory provision for accepting a notice or certificate of location for such an abandoned and void claim or site.

§ 3833.1–2 [Amended]

6. Section 3833.1–2 is amended by:

A. Revising the title to read:

§ 3833.1–2 Recordation of mining claims, mill sites and tunnel sites located after October 21, 1976.

B. Revising paragraph (a) to read:

"(a) The owner of an unpatented mining claim, mill site or tunnel site located after October 21, 1976, on Federal lands, excluding lands within units of the National Park System shall file within 90 days after the date of location of that claim or site in the proper BLM office, a copy of the official record of the notice or certificate of location of that claim or site that was or will be filed under state law. If state law does not require the recordation of a notice or certificate of location of a claim or site, a notice or certificate of location containing the information in paragraph (b) of this section shall be filed.

C. Removing paragraph (b) in its entirety;

D. Redesignating paragraph (c) as paragraph (b) and revising paragraph (b)(5) to read:

(b)(5) For all claims or sites a description shall be furnished.

(i) This description shall recite, to the extent possible, the section(s), the approximate location of all or any part of the claim to within a 160 acre quadrant of the section (quarter section), or sections, if more than one is involved, and the township, range, meridian and State obtained from an official survey plat or other U.S. Government map showing either the surveyed or protracted U.S. Government grid, whichever is applicable.

(ii) The location of the claims or sites shall be depicted on either a topographic map published by the U.S. Geological Survey or by a narrative or a sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic, or man-made feature. Such map, narrative description, or sketch shall set forth the boundaries and position of the individual claim or site with such accuracy as will permit the authorized officer of the agency administering the lands or mineral interests in such lands to identify and locate the claims or sites on the ground.

(iii) More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified;

E. Removing paragraph (b)(6) and redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(6) and (b)(7) respectively, and revising (b)(6) to read:

(b)(6) In place of the requirements of (b)(5) of this section, an aproved mineral survey may be supplied. A mining claim described by legal subdivisions, section, town, range, meridian and State fulfills the requirements of paragraph (b)(5) of this section.

F. Removing paragraph (d) in its entirety.

7. Section 3833.1–3 is revised to read as follows:

§ 38.33.1–3 Recordation fee.

Each claim or site filed shall be accompained by a one time nonrefundable recordation fee of $5. A Certificate of Location not accompained by the appropriate recordation fee will be noted as being recorded on the date received if, upon notification by the authorized offficer, the claimant submits the fee within 30 days from the receipt of the certified notification to submit the proper fee. Failue to submit the proper fee shall cause the recordation to be rejected and returned to the owner.

§ 3833.2–1 [Amended]

3. Section 3833.2–1 is amended as follows:

A. By adding the words "is" after the word "filing" in the title;

B. By revising paragraph (a) to read as follows:

(a) The owner of an unpatented mining claim located within the boundary unit of the National Park System shall comply with the requirements of 36 CFR 9.5. Evidence of annual assessment work or notice of intent to hold shall be filed yearly with the proper BLM office as provided for in this subpart. The BLM will forward copies of such annual filings to the proper office of the National Park Service.

C. By redesignating paragraphs (b)(1) and (b)(2) as paragraphs (a)(1) and (a)(2) and revising them to read as follows:

(a)(1) Except as provided in subparagraph (2) of this section, the owner of an unpatented mining claim, mill site or tunnel site located within any unit of the National Park System shall file before October 22, 1979, and on or before December 30 of each calendar year after the year of recording (See 30 CFR 9.5), a notice of intention to hold the mining claim, mill site or tunnel site. Such notice shall be in the form prescribed by § 3833.2–3 of this title and shall be filed with the proper BLM office.

(a)(2) Where a claimant has received a permit under 36 CFR 9.5 to do assessment work on a claim in a unit of the National Park System, the claimant may file with the Bureau of Land Management in lieu of the notice required by paragraph (1) of this section, evidence of assessment work in the form prescribed in § 3833.2–2 of this title.

D. Redesignate paragpaph (c) as paragraph "(b)".

E. Newly redesignated paragraph (b) is further amended by inserting immediately after "(b)", the figure "(1)", by removing the words "but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service" following the words "National Park System" and inserting in lieu thereof the words "established on or before September 28, 1976, shall have filed or caused to have been filed", and by adding a new paragraph (b)(2) to read as follows:

(b) * * *

(2) Evidence of assessment work performed which is filed under these regulations at any time during the interval of January 1 to September 1 shall be deemed to have been filed on or before December 30, of that calendar year; and

F. Redesignate paragraph (d) as paragraph "(c)";

G. Paragraph (c) is amended by adding immediately after the phrase "National Park System" the phrase "established on or before September 28, 1976," and immediately after the phrase "United States Forest Service" the phrase "shall have filed or caused to have been filed"; and

H. Adding a new paragraph (d) to read:

(d) Section 314 of the Act (43 CFR 1744) requires that the owner of an unpatented mining claim shall file, prior to December 31st of each year following the calendar year in which the claim was located, either a notice of intent to hold the claim, or evidence of annual assessment work. The General Mining laws (30 U.S.C. 28) allow the required annual assessment work to be initiated in the assessment year following the assessment year in which the claim was located. Therefore, in order to comply with the filing requirements of section 314 of the Act, claimants of mining claims located after 12 o'clock noon on September 1st of that same year, shall file with the proper BLM office, a notice of intent to hold the mining claim in the first calendar year following its location. This does not apply to the claimant who elects to perform his assessment work early and wishes to record the assessment work.

§ 3833.2–2 [Amended]

9. Section 3833.2–2 is amended by:

A. Removing the word "Form—" in the title and replacing it with the words "Contents for";

B. Revising paragraph (a), introductory text, as follows;

(a) An exact legible reproduction or duplicate, except microfilm of the evidence of assessment work which was performed under state law and was or will be filed for record pursuant to section 314(a) of the Act in the local jurisdiction of the state where the claim or group of claims is located and recorded setting forth the additional information:

C. Amending the first sentence of paragraph (a)(1) by inserting the phrase "Bureau of Land Management" after "The"; removing the words "by the authorized officer" after the word "claim"; removing the word "or" after "notice" and replacing it with ","; removing "or patent application" after the word "location";

D. Amending paragraph (b), introductory text, by removing the word "and" where it appears immediately after the phrase "30 U.S.C. 28–1" and replacing it with the phrase "which has been or will be"; and

E. Amending paragraph (b)(1) by removing the phrase "The serial number" and replacing it with the phrase "The Bureau of Land Management serial number" and by removing the phrase "by the authorized officer".

10. Section 3833.2–3 is revised as follows:

§ 3833.2–3 Contents for a notice of intention to hold claim or site.

(a) A notice of intention to hold a mining claim or group of mining claims may be filed at the election of the owner, regardless of whether the assessment has been suspended, deferred or not yet accrued. However, the claimant shall file with the Bureau of Land Management the same documents which have been or will be recorded with the county or local office of recordation. A notice of intention to hold a mining claim shall be effective only to satisfy the filing requirement for the year (as specified in § 3833.0–5 of this title), in which the notice is filed. The filing of a notice with the Bureau of Land Management shall not relieve the owner of complying with Federal and state laws pertaining to the performance of annual assessment work.

(b) A notice of intention to hold a mining claim or group of mining claims shall be in the form of either:

(1) An exact legible reproduction or duplicate, except microfilm, of an instrument, signed by the owner of the claim of his/her agent, which was or will be filed for record pursuant to section 314(a)(1) of the Act in the local jurisdiction of the State where the claim is located and recorded setting forth the following information:

(i) The Bureau of Land Management serial number assigned to each claim upon filing in the proper BLM office of a copy of the notice or certificate of location. Citing the serial number shall comply with the requirement in the Act to file an additional description of the claim;

(ii) Any change in the mailing address, if known, of the owner or owners of the claim;

(2) A reference to the decision on file in the proper BLM office by date and serial number which granted a deferment of the annual assessment work.

(3) A reference to a pending petition for deferment of the annual assessment work required by 30 U.S.C. 28 by date of filing and serial number and with the proper BLM office.

(c) A notice of intention to hold a mill or tunnel site or group of mill or tunnel sites shall be in the form of a letter or other notice signed by the owner(s) of such sites or their agent(s) setting forth the following information:

(1) The Bureau of Land Management serial number assigned to each site upon filing in the proper BLM office of a copy

of the official record of the notice or certification of location;

(2) Any change in the mailing address, if known, of the owner(s) of the site(s);

(3) In the case of a tunnel site, a statement that the owner(s) will continue to prosecute work on the tunnel with reasonable diligence for the discovery or development of a vein or lode.

§ 3833.2-4 When evidence or notice is not required.

12. The title to § 3833.2–4 is revised as set forth above.

13. Section 3833.4 is amended by redesignating paragraph (b) as paragraph (c) and revising it to read as set forth below and by adding new paragraphs (b) and (d) as follows:

§3833.4 Failure to file.

* * * * *

(b) The failure to file the information required in §§ 3833.1–2(b), 3833.2–1(c), 3833.2–2 (a) and (b) or 3833.2–3 (b) and (c) shall not be deemed conclusively to constitute an abandonment of the claim or site, but such information shall be filed within 30 days of receipt of a decision from the authorized officer calling for such information. Failure to file such information within the time allowed by decision shall cause the filing to be rejected by a decision appealable under the procedures of Part 4 of this title. Final affirmance of such rejection for failure to file such information shall be deemed conclusive evidence of abandonment of the mining claim, mill or tunnel site and such mining claim, mill or tunnel site shall be void.

(c) The fact that an instrument is filed in accordance with other laws permitting filing for record thereof and is defective or not timely filed for record under those laws shall not be considered failure to file under this subpart. The fact that an instrument is filed for record under this subpart by or on behalf of some, but not all of the owners of the mining claim, mill or tunnel site shall not affect the validity of this filing.

(d) Any mining claim deemed abandoned under section 314(c) of the Act for failure to file an instrument in the local jurisdiction of the State where the claim is located pursuant to section 314 (a)(1) and (b) of the Act, shall not be validated by filing the instrument with the BLM in accordance with § 3833.2–1 of this title, and such instrument is ineffective even though the claim may currently be shown to exist in the BLM records.

§ 3833.5 [Amended]

14. Section 3833.5 is amended as follows:

A. Amend paragraph (b) by removing the words "of section 2324 of the Revised Statutes as amended" in the first sentence and placing a period after the word "requirements";

B. Paragraph (d) is revised to read as follows:

(d) In the case of any action or contest initiated by the United States affecting an unpatented mining claim, mill or tunnel site, only those owners who have recorded their claim or site pursuant to § 3833.1–2 of this title and filed a notice of transfer of interest pursuant to § 3833.3 of this title or owners whose names show on annual filings shall be considered by the United States as parties whose rights are affected by such action or contest and shall be personally notified and served by certified mail sent to their last address of record. All methods reasonably calculated to ensure that those parties receive actual notice of the action or contest shall be employed. If those methods are not successful, the interested parties shall be notified by publication in accordance with 43 CFR 4.450. Owners who have not recorded a claim or site or filed a notice of transfer shall not be personally served and will be bound by any contest proceeding even though they have not been personally served. This subpart shall not apply to procedures for public notice listed at Subpart 3860 of this title with respect to mineral patents.

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