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Friday
January 21, 1983

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Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Archives and Records
General Services Administration

Coal Mining
Surface Mining Reclamation and Enforcement Office

Drugs
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Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 470

Personnel Management Research Programs and Demonstration Projects

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: Under the authority granted by the Civil Service Reform Act of 1978, the Office of Personnel Management is publishing final regulations to implement statutory provisions which permit OPM to conduct or sponsor personnel management research and demonstration projects.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Hill, Office of Planning and Evaluation, (202) 254–6486.

SUPPLEMENTARY INFORMATION:

Background.

Authorities to conduct personnel management research and demonstration projects were enacted October 13, 1978, under Title VI of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 92 Stat. 1185) and codified under chapter 47 of title 5, United States Code. The purposes of these authorities are to stimulate and conduct personnel management research and to test, evaluate, and disseminate new and different personnel management concepts under controlled conditions. Proposed regulations were published in the **Federal Register** on September 18, 1981 (46 FR 46330). While both proposed and final regulations contain provisions for research programs and demonstration projects, Title VI research programs are not currently being funded by OPM and demonstration projects must be funded by the agencies proposing them. These regulations are not a solicitation for submission of research proposals to OPM.

Comments.

The Office of Personnel Management received comments from five organizations during the comment period which ended November 17, 1981. As a result of comments and suggestions received during this period, the Office has modified the final regulations as discussed below. The Office will be supplementing the regulations with guidance which will be issued as new Chapter 470 of the Federal Personnel Manual.

1. An official in the Office of the Chief of Naval Operations, Department of the Navy, suggested that additional provisions be added to guard against abuse of the demonstration authority by unauthorized duplication of approved demonstration projects and the extension of demonstration projects to additional unauthorized groups of employees. These safeguards have been placed in a revised § 470.315. The project evaluation provisions which were proposed for § 470.315 have been redesignated as § 470.317.

2. One labor organization requested no changes of its own to the proposed regulations, but stated that there are no restrictions inherent in the statute precluding a labor organization from proposing a demonstration project. It felt that OPM appears to recognize this in the proposed 5 CFR 470.205 by stating that unsolicited proposals for research projects may be accepted. The union fully concurred with the comments provided by another labor organization in "3" below.

3. Another labor organization submitted several comments. It requested that demonstration projects be collectively bargained. OPM made no changes to the regulations regarding this request since collective bargaining is covered by 5 U.S.C. 4703(f) and the regulations remind agencies of their relevant obligations in § 470.307. Secondly, it requested that OPM amend the regulations to encourage demonstration sites where unions represent the workforce. OPM has decided that it will maintain its neutrality on the selection of demonstration sites by agencies. Thirdly, the labor organization suggests that the regulations provide for employee organization roles in developing the criteria by which demonstration projects are judged. The opportunity to participate in the development of criteria for judging demonstration projects occurs during the consultation process on proposed regulations and on future amendments to regulations. Finally, the labor organization feels that § 470.311, which requires that the union be notified of the content of the final project plan being sent to Congress, does not provide an effecive union role. OPM believes that the union role begins with working with the agency prior to submission to OPM of the project proposal (§ 470.305(c)), continues with consultation and negotiation during the public comment period after the project has been tentatively approved by OPM (§ 470.307), and includes providing comments during public hearings (§ 470.309). The final project plan is the end result of the consultation/negotiation/hearing processes. However, OPM added a provision to § 470.311 stating that OPM will not permit implementation of a demonstration project until completion of all required consultation or negotiation.

4. A faculty member of a New Jersey technological university suggested editorial changes which describe better the purposes of research conducted under these regulations. The suggested phrases, except for the term "personnel management philosophy" which is not defined in Federal personnel regulations, have been included in § 470.201 of the regulations.

OPM Changes

OPM made several changes to the proposed regulations in response to internal comments and because of discovered omissions.

1. Section 470.301(b)(5) required the use of control groups in evaluating demonstration projects. OPM has deleted § 470.301(b)(5) because it believes that this requirement is too restrictive since there are alternative evaluation design methods which are equally effective. The guidance in the Federal Personnel Manual will recommend the use of control groups where appropriate.

2. Section 470.303(b) permitted an agency to be assisted in the conduct and

evaluation of a project by contract or agreement with individuals or other public or private institutions and organizations, while also stating that only a Federal agency may propose and conduct a demonstration project. Because 5 U.S.C. 4703(a) authorizes contracting and agreements with Federal agencies (with certain exclusions) and public and private organizations only, OPM has deleted references to "individuals" in 5 CFR 470.203(e) and 470.303(b). In addition, OPM has decided that the role of external organizations is primarily in the development and evaluation of demonstration projects. Because of the nature of demonstration projects and the responsibilities placed on the agencies which conduct them, OPM has so modified § 470.303(b).

3. The definition of "demonstration project" contained in § 470.103 referred to the waiver of law but omitted references to the waiver of rules and regulations, as is provided for in 5 U.S.C. 4703. The definition has been amended to include projects which require the waiver of eligible provisions of law, rule, or regulation.

4. Section 470.317(a) discusses OPM's authority to terminate an experiment which is not meeting legal, regulatory, or project plan requirements but does not discuss OPM's authority to terminate an experiment which is being conducted properly but is resulting in substantial hardship to, or is not in the best interest of, employees or the public. This omission has been incorporated into § 470.317(b).

5. The sentence in § 470.301(a) encouraging agencies to propose demonstrations whether or not a waiver of law or regulation is needed has been deleted because it conflicts with the definition of a demonstration project for purposes of these regulations as defined in section 470.103.

6. Section 470.305 has been clarified as to the circumstances under which OPM will delay action on a demonstration proposal.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it is primarily concerned with demonstration projects which are conducted by and in Federal agencies. The research provisions of the regulation offer opportunities for small entities to conduct research under contract or agreement for the Government, when funds are available, but do not impose reporting or other financial burdens on small entities.

List of Subjects in 5 CFR Part 470

Administrative practice and procedure, Government contracts, Research.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management adds a new Part 470 to Title 5 of the Code of Federal Regulations to read as follows:

PART 470—PERSONNEL MANAGEMENT RESEARCH PROGRAMS AND DEMONSTRATIONS PROJECTS

Subpart A—General Provisions

Sec.

470.101 Statutory authority.
470.103 Definitions.

Subpart B—Regulatory Requirements Pertaining to Research Programs

470.201 Purposes of research programs.
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Subpart C—Regulatory Requirements Pertaining to Demonstration Projects

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470.313 Project implementation regulations.
470.315 Project modification and extension.
470.317 Project evaluations.

Authority: 5 U.S.C. 4706.

Subpart A—General Provisions

§ 470.101 Statutory authority.

(a) Section 4702, title 5, United States Code, provides the Office of Personnel Management (OPM) with the authority to:

(1) Establish and maintain, and assist in the establishment and maintenance of, research programs to study improved methods and technologies in Federal personnel management;

(2) Evaluate the research programs established under paragraph (a)(1) of this section;

(3) Establish and maintain a program for the collection and public dissemination of information relating to personnel management research, and for encouraging and facilitating the exchange of information among interested persons and entities; and

(4) Carry out the preceding functions directly or through agreement or contract.

(b) Section 4703, title 5, United States Code, provides OPM with the authority to conduct and evaluate demonstration projects to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.

(c) This part supplements and implements the provisions of chapter 47 of title 5, United States Code, relating to the conduct of personnel research programs and demonstration projects, and must be read together with those provisions of law.

§ 470.103 Definitions.

In this part:

"Demonstration Project" means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management (5 U.S.C. 4701). The project must require the waiver of a provision of law, rule, or regulation which is eligible for waiver under the demonstration authority contained in 5 U.S.C. 4703. A project which can be undertaken under an agency's own authority and does not require the waiver of a provision of law, rule, or regulation is not considered a "demonstration project" for purposes of this part.

"Research" means systematic, intensive study directed toward fuller scientific knowledge or understanding of the subject studied. Activities classified as research are structured experimental or descriptive investigations conducted according to sound methodological principles.

"Research Program" means a planned study of the manner in which public management policies and systems are operating or have operated, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

Subpart B—Regulatory Requirements Pertaining to Research Programs

§ 470.201 Purposes of research programs.

The purposes of research programs undertaken under this subpart are to stimulate and conduct personnel management research which:

(a) Develops new knowledge, techniques, and materials about personnel management;

(b) Seeks solutions to personnel management problems;

(c) Provides a factual base to support existing or proposed changes in personnel management policies, techniques, and materials;

(d) Modifies or develops personnel management systems which improve the management of the Federal Government's human resources;

(e) Gathers, makes explicit, systematizes, and transmits the knowledge and techniques of practicing managers for the guidance of others and as a factual basis for research needs determination;

(f) Develops new methods or provides new standards for conducting personnel management research; or

(g) Designs systems for the assessment and transmittal of relevant personnel management strategies.

§ 470.203 Eligible parties.

Research may be conducted by the Office of Personnel Management, or under contract or agreement, as appropriate, by:

(a) Federal agencies;

(b) State and local governments;

(c) Institutions of higher education; or

(d) Other public or private institutions or organizations, profit or nonprofit.

§ 470.205 Initiation of research programs.

OPM will announce opportunities for research contracts by issuing Requests for Proposals (RFP's) in accordance with Federal procurement regulations. Unsolicited proposals may be accepted; however the relevance of the proposed research to OPM research needs will determine the acceptability of the proposal.

Subpart C—Regulatory Requirements Pertaining to Demonstration Projects

§ 470.301 Program expectations.

(a) Demonstration projects permit the Office of Personnel Management and Federal agencies to test alternative personnel management concepts in controlled situations to determine the likely effects and ramifications of proposed changes before putting them into general effect. OPM will assist agencies, within available resources, in developing projects which demonstrate new or improved personnel methods.

(b) The demonstration project must be proposed in a research context. The project plan must include a research design which contains:

(1) Measurable goals or objectives;

(2) Acceptable expected results or outcomes;

(3) A description of the procedures, methods and techniques to be demonstrated in achieving the desired goals or objectives;

(4) An evaluation section describing the data collection and analysis procedures to be used to assess the success or failure of the project from a qualitative and quantitative standpoint; and

(5) An itemization of all costs and benefits associated with the project, to the agency, the Government, and the community.

(c) OPM may establish and maintain activities which publish, exchange and apply the results of demonstration projects.

(d) OPM may seek legislation, or to the extent already authorized by law, make changes in regulation to implement permanently successful procedures, techniques, new management knowledge, and materials which improve personnel management programs or techniques.

§ 470.303 Eligible parties.

(a) Any Federal agency, or groups of two or more Federal agencies, eligible to propose demonstration projects under 5 U.S.C. 4701(a)(1) and 4701(b) may conduct demonstration projects after approval by the Office of Personnel Management and required Congressional and public review.

(b) While only a Federal agency may propose and conduct a demonstration project, the agency may be assisted in the development and evaluation of the project under contract or agreement with public or private institutions and organizations.

§ 470.305 Submission of proposals for demonstration projects.

(a) OPM will accept project proposals at any time. However, OPM may delay action for a reasonable amount of time on submitted proposals until comparisons can be made with other existing projects or with project proposals of a similar nature not yet received by OPM but known to be under development.

(b) Agencies must submit the project proposal in the form of a project plan to OPM for approval. OPM will prescribe the content of a project plan in its guidance and instructions, which at a minimum will contain the items identified in 5 U.S.C. 4703(b)(1) and 5 CFR 470.301(b).

(c) Agencies will outline, at the time proposed demonstration projects are submitted to OPM for approval, what discussions of the project have been held with labor organizations which have been accorded exclusive recognition for bargaining units containing employees involved in or affected by the proposed demonstration project.

(d) OPM may combine and evaluate similar project proposals received from different agencies as a single project, with the approval of the agencies involved.

§ 470.307 Notification responsibilities.

(a) 5 U.S.C. 4703 requires notification of tentatively approved demonstration project plans to Congress, employees, labor organizations, and the public.

(b) OPM shall:

(1) Notify each House of the Congress 180 days in advance of the beginning of each project; and

(2) Publish each tentatively approved project plan as a notice in the **Federal Register**.

(c) Each agency having a tentatively approved project plan shall:

(1) Notify and make available copies of the project plan to:

(i) All employees who may be interested in or affected by the activities of the demonstration project; and

(ii) All labor organizations accorded exclusive recognition for bargaining units which include employees in or affected by the project plan.

(2) Certify to OPM in writing when and how the requirements of § 470.307(c)(1) were carried out and document the manner in which it insured that all affected employees were notified.

(3) Observe the consultation and negotiation requirements of 5 U.S.C. 4703 (f) and (g).

§ 470.309 Public hearing.

(a) *Notice of public hearing.* OPM shall hold a public hearing no less than 30 days after the date of its notice in the **Federal Register** during which interested persons or organizations may present their written or oral views concerning the proposed demonstration project. The notice of public hearing shall be published in the **Federal Register** and shall:

(1) State the date, time, place and purpose of the hearing;

(2) Describe briefly the project;

(3) Indicate where more information and a copy of the project plan may be obtained;

(4) State the name and address of the person who will receive written comments from those unable to attend the hearing; and

(5) Indicate the date by which written comments must be received to be considered.

(b) *Nature of public hearing.* The hearing will be informal to encourage effective oral presentations by

interested individuals and organizations. The presiding officer, designated by the Director, OPM, shall in his or her reasonable discretion regulate the course of the proceedings and the conduct of those present at the hearing by appropriate means.

(c) A written summary shall be made of the oral evidence.

(d) The record shall be left open for 2 weeks after the conclusion of the hearing to receive additional written data, views, and arguments from the parties participating in the hearing.

§ 470.311 Final project approval.

(a) The Office of Personnel Management will consider all timely relevant oral and written views, arguments, and data before final approval or disapproval of a project plan. OPM may request that the agency modify the tentatively approved project plan before final approval because of comments and data received from the Congress, the public, labor organizations, and affected employees. OPM will not permit the agency to implement the project until all required consultation or negotiation has been completed, including the conclusion of impasse resolution and negotiability disputes.

(b) The Office of Personnel Management shall provide a copy of the final version of the project plan to each House of the Congress at least 90 days in advance of the date the project is to take effect.

(c) Agencies involved in the project shall communicate the content of the final project plan to:

(1) Labor organizations and affected employees; and

(2) Individuals and groups known to be interested in the project's activities.

§ 470.313 Project implementation regulations.

Agencies will prepare demonstration project implementing regulations, as appropriate, to replace Government-wide statutes and regulations waived for the project. Demonstration project implementing regulations issued pursuant to an OPM-approved demonstration project must be approved by OPM and shall have full force and authority pursuant to Title VI of the Civil Service Reform Act of 1978.

§ 470.315 Project modification and extension.

OPM-approved projects permit the testing of alternative personnel systems and procedures in accordance with the provisions of the project plan. The provisions of approved project plans will not be modified, duplicated in organizations not listed in the project plan, or extended by agencies to individuals or groups of employees not included in the project plan without the approval of the Office of Personnel Management. OPM will inform the agency of notification responsibilities under § 470.307. The extent of notification requirements will depend on the nature and extent of the requested project modification.

§ 470.317 Project evaluation.

(a) *Compliance evaluation.* OPM will review the operation of the project periodically to determine its compliance with the requirements of this part and the approved project plan. If OPM determines that an agency is not meeting legal, regulatory, or project plan requirements, it may, as appropriate, direct the agency to take corrective action or terminate the project.

(b) *Results evaluation.* All approved project plans will contain an evaluation section to measure the impact of the project results in relation to its objectives and to determine whether or not permanent changes in law and/or regulation should be considered or proposed. Where the project plan provides for agency evaluation of project results, OPM will review those project evaluation efforts, may conduct evaluations of its own, on a sample basis, to verify results, and may report its own conclusions. If OPM or the agency determines that an experiment is creating a substantial hardship on, or is not in the best interest of, the public, the Federal Government, employees, or eligibles, even though the experiment is being conducted properly, OPM or the agency may jointly or unilaterally terminate the project.

[FR Doc. 83-1530 Filed 1-20-83; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 560]

Navel Oranges Grown in Arizona and Designated Part of California; Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation requires fresh California-Arizona navel oranges shipped from the production area to be of a size not smaller than 2.32 inches in diameter for the period January 21, 1983 through March 24, 1983. Such action is necessary to promote orderly marketing of suitable sizes of fresh navel oranges in the interest of producers and consumers.

DATES: January 21, 1983 through March 24, 1983; comments which are received by February 22, 1983 will be considered prior to issuance of a final rule to become effective March 25, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement and Order No. 907 (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon recommendation and information submitted by the Navel Orange administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Under the terms of the regulation, size requirements would be effective January 21, 1983 through March 24, 1983. The final regulation will be effective for the period March 25, 1983 through July 28, 1983.

The committee met on January 4, 1983 to consider crop and market conditions and other factors affecting the need for regulation and recommended that navel oranges shipped from the production area be limited to sizes not smaller than 2.32 inches in diameter during the period January 21, 1983 through March 24, 1983.

The 1982-83 season crop of navels is currently estimated at 79,900 carlots, compared to 55,800 carlots during the past season. The committee reports that

demand in regulated fresh channels is expected to require about 56 percent of this volume. The remaining 44 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of navels are such that more than ample supplies of the more desirable larger sizes will be available to satisfy the demand in regulated channels. The committee also reports that when more than ample supplies of larger sizes are available for shipment, disposition of the sizes which would be eliminated by this regulation can be accomplished only at a substantial price discount and this tends to depress the market for all sizes. Navel oranges failing to meet such requirements could be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing. In those circumstances, elimination of sizes smaller than those specified is appropriate in the interest of producers and consumers.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 533), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. Handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

Therefore, § 907.860 is added to read as follow: (§ 907.860 expires March 24, 1983, and will not be published in the annual code of Federal Regulations):

§ 907.860 Navel orange regulation 560.

(a) During the period Janaury 21, 1983, through March 24, 1983, no handler shall handle any navel oranges grown in the production area which are of a size smaller than 2.32 inches in diameter: *Provided*, that not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handler", "handle" and "production area" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

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

Dated: January 17, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-1562 Filed 1-20-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 395]

Lemons Grown in California and Arizona Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 23–29, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 23, 1983.

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

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

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on January 18, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues easier.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.695 is added as follows:

§ 910.695 Lemon Regulation 395.

The quantity of lemons grown in California and Arizona which may be handled during the period January 23, 1983, through January 29, 1983, is established at 180,000 cartons.

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

Dated: January 20, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-1905 Filed 1-20-83; 11:49 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations applicable to nuclear power plants to clarify and strengthen the criteria for environmental qualification of electric equipment important to safety. Specific qualification methods currently contained in national standards, regulatory guides, and certain NRC publications for equipment qualification have been given different interpretations and have not had the legal force of an agency regulation. This amendment codifies the environmental qualification methods and criteria that meet the Commission's requirements in this area.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Satish K. Aggarwal, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5946.

SUPPLEMENTARY INFORMATION:

Previous Notice

On January 20, 1982, NRC published in the **Federal Register** a notice of proposed rulemaking on environmental qualification of electric equipment for nuclear power plants (47 FR 2876). The comment period expired March 22, 1982. A total of 69 comment letters raising 10 major issues were received by April 6, 1982. An additional 10 comment letters were received by April 21, 1982, but no new issues were raised. The major issues are discussed below.

Nature and Scope of the Rulemaking

Nuclear power plant equipment important to safety must be able to perform its safety functions throughout its installed life. This requirement is embodied in General Design Criteria 1, 2, 4, and 23 of Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities"; in Criterion III, "Design Control," and Criterion XI, "Test Control," of Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR Part 50; and in paragraph 50.55a(h) of 10 CFR Part 50, which incorporates by reference IEEE 279-1971,[1] "Criteria for Protection Systems for Nuclear Power Generating Stations." This requirement is applicable to equipment located inside as well as outside the containment.

The NRC has used a variety of methods to ensure that these general requirements are met for electric equipment important to safety. Prior to 1971, qualification was based on the fact that the electric components were of high industrial quality. For nuclear plants licensed to operate after 1971, qualification was judged on the basis of IEEE 323-1971. For plants whose Safety Evaluation Reports for construction permits were issued since July 1, 1974, the Commission has used Regulatory Guide 1.89, "Qualification of Class 1E Equipment for Light-Water-Cooled Nuclear Power Plants," which endorses IEEE 323-1974,[2] "IEEE Standard for Qualifying Class IE Equipment for Nuclear Power Generating Stations," subject to supplementary provisions.

Currently, the Commission has under way a program to reevaluate the qualification of electric equipment in all operating nuclear power plants. As a part of this program, more definitive criteria for environmental qualification of electric equipment important to safety have been deveolped by the NRC. A document entitled "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) was issued in November 1979. In addition, the NRC has issued NUREG-0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," which contains two sets of criteria: the first for plants originally reviewed in accordance with IEEE 323-1971 and the second for plants reviewed in accordance with IEEE 323-1974.

By its Memorandum and Order CLI-80-21 dated May 23, 1980, the Commission directed the staff to proceed with a rulemaking on environmental qualification of safety-related equipment and to address the question of backfit. The commission also directed that the DOR Guidelines and NUREG-0588 form the basis for the requirements licensees and applicants must meet until the rulemaking has been completed. This rule is based on the DOR Guildelines and NUREG-0588. The Commission recognizes the qualification efforts of the industry as a result of CLI-80-21. Therefore, the rule provides that requalification of electric equipment will not be required by applicants for and holders of operating licenses for nuclear power plants previously required by NRC to qualify equipment in accordance with DOR Guidelines or NUREG-0588 (Category I or II). Category I requirements of NUREG-0588, which supplement the recommendations of and apply to equipment qualified in accordance with IEEE 323-1974, apply to nuclear power plants for which the construction permit safety evaluation report was issued after July 1, 1974. Category II requirements, which supplement the recommendations of and apply to equipment qualified in accordance with IEEE 323-1971, apply to nuclear power plants for which the construction permit safety evaluation report was issued prior to July 1, 1974.

In CLI-80-21, the Commission stated that unless there were sound reasons to the contrary, replacement parts should be qualified to the standards set forth in Category I of NUREG-0588 or IEEE 323-1974. The Commission reaffirms that position in this rulemaking. Such qualification constitutes compliance with the provisions of paragraph 50.49(1). The Commission's position is designed to promote the policy of upgrading the environmental qualification and reliability of installed electric equipment. Situations may arise, however, in which such upgrading will not be feasible or compatible with overall plant safety. Licensee must review each situation on a case-by-case basis to determine that "sound reasons to the contrary" do exist to justify an exception from upgrading. Examples of acceptable "sound reasons to the contrary" will be included in Regulatory Guide 1.89.

The dates specified in this rule for completion of environmental qualification of electric equipment important to safety apply to all licensees and applicants and supersede any date previously imposed. No changes to licenses or technical specifications are necessary to reflect these new completion dates.

The scope of the final rule covers that portion of equipment important to safety commonly referred to as "safety-related" (which the Commission interprets as essentially "Class 1E" equipment defined in IEEE 323-1974), and nonsafety-related electric equipment whose failure under postulated environmental conditions could prevent the satisfactory accomplishment of required safety functions by safety-related equipment. Safety-related structures, systems, and components are those that are relied upon to remain functional during and following design basis events to ensure (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, and (iii) the capability to prevent or mitigate the

[1] Incorporation by reference approved by the Director of the Office of Federal Register on January 1, 1982. Copies may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10017.

[2] Copies may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10017.

consequences of accidents that could result in potential offsite exposures comparable to the guidelines of 10 CFR Part 100. Design basis events are defined as conditions of normal operation, including anticipated operational occurrences; design basis accidents; external events; and natural phenomena for which the plant must be designed to ensure functions (i) through (iii) above. Also covered in the scope of the final rule is certain postaccident monitoring equipment specified as "Category 1 and 2," in Revision 2 of Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."

Included in the final rule are specific technical requirements pertaining to (a) qualification parameters, (b) qualification methods, and (c) documentation. Qualification parameters include temperature, pressure, humidity, radiation, chemicals, and submergence. Qualification methods include (a) testing as the principal means of qualification and (b) analysis in combination with partial type test data or operating experience. The final rule requires that the qualification program include synergistic effects, radiation, environmental conditions and margin considerations. Also, a record of qualification must be maintained. Proposed Revision 1 to Regulatory Guide 1.89, which has been issued for public comment, describes methods acceptable to the NRC for meeting the provisions of this rule and includes a list of typical equipment covered by it. Revision 1 to Regulatory Guide 1.89 will be issued after resolution of public comments.

NRC will generally not accept analysis alone in lieu of testing. Experience has shown that qualification of equipment without test data may not be adequate to demonstrate functional operability during design basis event conditions. Paragraph 50.49(f) provides four methods for qualification. Testing will be preferred. To ensure integrity of a testing program, the Commission expects that the same piece of equipment will be used throughout the complete test sequence.

The final rule requires that each holder of an operating license provide a list of electric equipment important to safety within the scope of this rule previously qualified based on testing, analysis, or a combination thereof, and a list of equipment that has not been qualified. These lists and the schedule for completion of qualification of electric equipment must be submitted by May 20, 1983.

The general requirements for seismic and dynamic qualification for electric equipment are contained in the General Design Criteria and are not included within the scope of this rule. Further guidance is provided in Regulatory Guide 1.100, "Seismic Qualification of Electric Equipment for Nuclear Power Plants," (Revision 1) and NUREG–0800, "Standard Review Plan." NRC is considering future rulemaking concerning requirements for the environmental qualification of electric equipment important to safety and the requirements for seismic and dynamic qualification of electric equipment.

Comments On The Proposed Rule

The Commission received and considered the comments on the proposed rule contained in the 69 letters received from the public by April 6, 1982. Copies of those letters and a staff response to each comment are available for public inspection and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The major issues raised by the comments and NRC staff responses are as follows:

(1) Seismic and Dynamic Qualification—Paragraph 50.49(c)

Issue: Seismic and dynamic qualifications are an integral part of environmental qualification. It is therefore inappropriate to codify these requirements separately.

Response: Electric equipment at operating nuclear power plants was generally qualified for environmental and seismic stresses separately, i.e., by using separate prototypes for environmental and seismic qualification tests. The Commission has decided, after considerable deliberation, to pursue the issue of seismic and dynamic qualification separately at a future date. A future seismic rule may not require retesting for environmental stresses because a single prototype was not used during the original qualification. Also, the Commission has concluded that protection of electric equipment important to safety against other natural phenomena and external events should not be within the scope of this rule.

(2) Scope—Cold Shutdown Requirement—Paragraph 50.49(b)

Issue: The rule introduces a new requirement to qualify "equipment needed to complete one path of achieving and maintaining a cold shutdown condition." A change of this magnitude, at this advanced stage of the industry's qualification effort, most certainly introduces significant new costs and obligations with no demonstrated improvement in safety.

Response: Regulatory requirements in effect at the time of licensing of the majority of operating reactors did not require that all electric equipment and systems necessary to bring the reactor to cold shutdown be classified as safety related. However, electric equipment and systems necessary to shut down the reactor and maintain it in a safe shutdown condition are required to be classified as safety related and therefore are covered by the rule.

The Commission is currently studying the requirements for shutdown decay heat removal under Unresolved Safety Issue (USI) A–45. The overall purpose of A–45 is to evaluate the adequacy of current licensing requirements to ensure that failure to remove shutdown decay heat does not pose an unacceptable risk. Under A–45 a comprehensive and consistent set of shutdown cooling requirements for existing and future plants is being developed. The final technical resolution of A–45 is presently scheduled for October 1984.

The Commission believes it would be premature at this time to impose the requirement to environmentally qualify electric equipment and systems necessary to achieve and maintain cold shutdown prior to the final resolution of A–45. Therefore, this requirement is not included in the final rule.

(3) Scope—Equipment in a Mild Environment—Paragraph 50.49(b)

Issue: The rule makes no distinction between equipment located in a harsh or mild environment. The stresses for equipment in a mild environment are less severe than for those in a harsh environment.

Response: The final rule does not cover the electric equipment located in a mild environment. The Commission has concluded that the general quality and surveillance requirements applicable to electric equipment as a result of other Commission regulations, including 10 CFR Part 50, Appendix B (see for example, Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," Revision 3) are sufficient to ensure adequate performance of electric equipment important to safety located in mild environments. Since it has been concluded that no further environmental qualification requirements are needed for such equipment provided they fully satisfy all other applicable regulations, the Commission has determined that no additional requirements are necessary

with respect to electric equipment important to safety located in mild environments in order for licensees to satisfy, with respect to such equipment, existing license conditions or technical specifications calling for qualification of safety-related electric equipment in accordance with DOR Guidelines or NUREG–0588.

(4) Scope—Previous Qualification Efforts—Paragraph 50.49(b)

Issue: The rule does not recognize that plants have completed qualification of equipment to the DOR Guidelines or NUREG–0588. Without such recognition, industry efforts, manpower, and billions of dollars will go down the drain.

Response: The final rule has been expanded to alleviate this concern. See Paragraph 50.49(k).

(5) Humidity—Paragraph 50.49(e)(2)

Issue: The effects of time-dependent variations of relative humidity during normal operation cannot be considered for all equipment. There are no detailed standards for how this type of testing should be performed.

Response: The Commission agrees. Humidity variation during normal operation are difficult to predict. It has not been demonstrated that the time-dependent variation in humidity will produce any differences in degradation of electric equipment. The words "Time-dependent variation of relative" have been deleted from Paragraph 50.49(e)(2).

(6) Aging—Paragraph 50.49(e)(5)

Issue: The requirement that ongoing qualifications be done using "prototype equipment natually aged" is overly restrictive. Use of accelerated aging to define a qualified life is not technically feasible.

Response: Preconditioning by accelerated aging is technically feasible for simple electric equipment for plant life and for complex electric equipment for a shorter designated life. The Commission recognizes that state-of-art technology will be utilized in any aging program. Reference to qualified life has been deleted from paragraph 50.49(e)(5).

(7) Margins—Paragraph 50.49(e)(8)

Issue: The margins applied in addition to known conservatisms lead to excessive stress that could lead to failures of equipment in unrealistic qualification tests.

Response: The Commission agrees. This requirement could have caused excessive margins. The paragraph has been modified to recognize conservatisms that can be qualified.

(8) Analysis and partial test data—Paragraph 50.49(f)(4)

Issue: If partial type test data that adequately support the analytical assumptions and conclusions are available, their analysis should be allowed to extrapolate or interpolate these results for equipment, regardless of purchase date.

Response: The Commission agrees. Reference to "purchase date" has been deleted.

(9) Requirement for a central file—Paragraph 50.49(j)

Issue: The requirement for a central file should be deleted since it is not cost effective and has no safety benefit.

Response: The Commission agrees. This requirement has been subject to different interpretations. A record of qualification must be maintained in an "auditable form" but not necessarily in a central file for the entire period during which the covered item is installed in a nuclear power plant. Recordkeeping requirement of 10 CFR Part Appendix B must be met. Certain records can be kept at the vendor's shop.

(10) Justification of continued operation for operating plants.

Issue: The requirement to submit justification for the continued operation of operating plants should be deleted since this information has been previously submitted to NRC.

Response: This requirement has been satisfactorily met and Paragraph 50.49(j) of the proposed rule has been deleted in its entirety from the final rule.

In addition, Paragraph 50.49(g) of the proposed rule has been deleted from the final rule since it is too prescriptive. It will be included in Regulatory Guide 1.89.

Effective Date: This rule replaces the "interim rule" published in the **Federal Register** on June 30, 1982 (47 FR 28363). The "interim rule" suspended environmental qualification deadlines contained in license conditions or technical specifications of operating plants. On the effective date of this rule (see above), the "interim rule" is superseded and the schedule for environmental qualification contained in this rule takes effect for all plants.

Paperwork Reduction Act

The final rule contains information collection requirements that have been approved by the Office of Management and Budget; OMB approval number is 3150–0011.

Regulatory Flexibility Statement

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This final rule affects the method of qualification of electric equipment by utilities. Utilities do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. 632.

In addition, utilities are required by the Commission's Memorandum and Order CLI–80–21, dated May 23, 1980, to meet the requirements contained in the DOR "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors," (November 1979) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," which form the basis of this rule. Consequently, this rule codifies existing requirements and imposes no new costs or obligations on utilities.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, 10 CFR Part 50 is amended as follows:

PART 50—[AMENDED]

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.49 is revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

(a) Each holder of or each applicant for a license to operate a nuclear power plant shall establish a program for qualifying the electric equipment defined in paragraph (b) of this section.

(b) Electric equipment important to safety covered by this section is:

(1) Safety-related electric equipment:[3] This equipment is that relied upon to remain functional during and following design basis events to ensure (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, and (iii) the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the 10 CFR Part 100 guidelines. Design basis events are defined as conditions of normal operation, including anticipated operational occurrences, design basis accidents, external events, and natural phenomena for which the plant must be designed to ensure functions (i) through (iii) of this paragraph.

(2) Nonsafety-related electric equipment whose failure under postulated environmental conditions could prevent satisfactory accomplishment of safety functions specified in subparagraphs (i) through (iii) of paragraph (b)(1) of this section by the safety-related equipment.

(3) Certain post-accident monitoring equipment.[4]

(c) Requirements for (i) dynamic and seismic qualification of electric equipment important to safety, (ii) protection of electric equipment important to safety against other natural phenomena and external events, and (iii) environmental qualification of electric equipment important to safety located in a mild environment are not included within the scope of this section. A mild environment is an environment that would at no time be significantly more severe than the environment that would occur during normal plant operation, including anticipated operational occurrences.

(d) The applicant or licensee shall prepare a list of electric equipment important to safety covered by this section. In addition, the applicant or licensee shall include the following information for this electric equipment important to safety in a qualification file:

(1) The performance specifications under conditions existing during and following design basis accidents.

(2) The voltage, frequency, load, and other electrical characteristics for which the performance specified in accordance with paragraph (d)(1) of this section can be ensured.

(3) The environmental conditions, including temperature, pressure, humidity, radiation, chemicals, and submergence at the location where the equipment must perform as specified in accordance with paragraphs (d)(1) and (2) of this section.

(e) The electric equipment qualification program must include and be based on the following:

(1) *Temperature and Pressure.* The time-dependent temperature and pressure at the location of the electric equipment important to safety must be established for the most severe design basis accident during or following which this equipment is required to remain functional.

(2) *Humidity.* Humidity during design basis accidents must be considered.

(3) *Chemical Effects.* The composition of chemicals used must be at least as severe as that resulting from the most limiting mode of plant operation (e.g., containment spray, emergency core cooling, or recirculation from containment sump). If the composition of the chemical spray can be affected by equipment malfunctions, the most severe chemical spray environment that results from a single failure in the spray system must be assumed.

(4) *Radiation.* The radiation environment must be based on the type of radiation, the total dose expected during normal operation over the installed life of the equipment, and the radiation environment associated with the most severe design basis accident during or following which the equipment is required to remain functional, including the radiation resulting from recirculating fluids for equipment located near the recirculating lines and including dose-rate effects.

(5) *Aging.* Equipment qualified by test must be preconditioned by natural or artificial (accelerated) aging to its end-of-installed life condition. Consideration must be given to all significant types of degradation which can have an effect on the functional capability of the equipment. If preconditioning to an end-of-installed life condition is not practicable, the equipment may be preconditioned to a shorter designated life. The equipment must be replaced or refurbished at the end of this designated life unless ongoing qualification demonstrates that the item has additional life.

(6) *Submergence* (if subject to being submerged).

(7) *Synergistic Effects.* Synergistic effects must be considered when these effects are believed to have a significant effect on equipment performance.

(8) *Margins.* Margins must be applied to account for unquantified uncertainty, such as the effects of production variations and inaccuracies in test instruments. These margins are in addition to any conservatisms applied during the derivation of local environmental conditions of the equipment unless these conservatisms can be quantified and shown to contain appropriate margins.

(f) Each item of electric equipment important to safety must be qualified by one of the following methods:

(1) Testing an identical item of equipment under identical conditions or under similar conditions with a supporting analysis to show that the equipment to be qualified is acceptable.

(2) Testing a similar item of equipment with a supporting analysis to show that the equipment to be qualified is acceptable.

(3) Experience with identical or similar equipment under similar conditions with a supporting analysis to show that the equipment to be qualified is acceptable.

(4) Analysis in combination with partial type test data that supports the analytical assumptions and conclusions.

(g) Each holder of an operating license issued prior to February 22, 1983, shall, by May 20, 1983, identify the electric equipment important to safety within the scope of this section already qualified and submit a schedule for either the qualification to the provisions of this section or for the replacement of the remaining electric equipment important to safety within the scope of this section. This schedule must establish a goal of final environmental qualification of the electric equipment within the scope of this section by the end of the second refueling outage after March 31, 1982 or by March 31, 1985, whichever is earlier. The Director of the Office of Nuclear Reactor Regulatory may grant requests for extensions of this deadline to a date no later than November 30, 1985, for specific pieces of equipment if these requests are filed on

[3] Safety-related electric equipment is referred to as "Class 1E" equipment in IEEE 323–1974. Copies of this standard may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, NY 10017.

[4] Specific guidance concerning the types of variables to be monitored is provided in Revision 2 of Regulatory Guide 1.97, "Instrumentation for Light-Water Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Copies of the Regulatory Guide can be obtained from Nuclear Regulatory Commission, Document Management Branch, Washington, DC 20555.

a timely basis and demonstrate good cause for the extension, such as procurement lead time, test complications, and installation problems. In exceptional cases, the Commission itself may consider and grant extensions beyond November 30, 1985, for completion of environmental qualification.

(h) Each licensee shall notify the Commission of any significant equipment qualification problem that may require extension of the completion date provided in accordance with paragraph (g) of this section within 60 days of its discovery.

(i) Applicants for operating licenses that are to be granted on or after February 22, 1983, but prior to November 30, 1985, shall perform an analysis to ensure that the plant can be safely operated pending completion of equipment qualification required by this section. This analysis must be submitted to the Director of the Office of Nuclear Reactor Regulation for consideration prior to the granting of an operating license and must include, where appropriate, consideration of:

(1) Accomplishing the safety function by some designated alternative equipment if the principal equipment has not been demonstrated to be fully qualified.

(2) The validity of partial test data in support of the original qualification.

(3) Limited use of administrative controls over equipment that has not been demonstrated to be fully qualified.

(4) Completion of the safety function prior to exposure to the accident environment resulting from a design basis event and ensuring that the subsequent failure of the equipment does not degrade any safety function or mislead the operator.

(5) No significant degradation of any safety function or misleading information to the operator as a result of failure of equipment under the accident environment resulting from a design basis event.

(j) A record of the qualification, including documentation in paragraph (d) of this section, must be maintained in an auditable form for the entire period during which the covered item is installed in the nuclear power plant or is stored for future use to permit verification that each item of electric equipment important to safety covered by this section—

(1) Is qualified for its application; and

(2) Meets its specified performance requirements when it is subjected to the conditions predicted to be present when it must perform its safety function up to the end of its qualified life.

(k) Applicants for and holders of operating licenses are not required to requalify electric equipment important to safety in accordance with the provisions of this section if the Commission has previously required qualification of that equipment in accordance with "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors," November 1979 (DOR Guidelines), or NUREG–0588 (For Comment version), "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment."

(l) Replacement equipment must be qualified in accordance with the provisions of this section unless there are sound reasons to the contrary.

Dated at Washington, D.C. this 17th day of January, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-1722 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Headquarters Office and Western and Southwestern Regional Offices; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule amendments.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations in an attempt to clarify that both the physical location and the mailing address of the Commission's headquarters office are one and the same for all practical purposes. In addition, the Commission is amending its regulations to include new addresses for its recently relocated Western and Southwestern regional offices. The Western Regional office has been moved from San Francisco to Los Angeles, California. The Southwestern Regional office, located in Kansas City, Missouri, has moved to a different suite of offices in the same building.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254–7556.

SUPPLEMENTARY INFORMATION: Commission regulation § 140.1 currently provides a separate physical location and mailing address for the Commission's headquarters office. The Commission is amending regulation § 140.1 to clarify that there is no meaningful distinction between its physical location and mailing address. The sole address of the Commission's headquarters office as of January 18, 1983 will be 2033 K Street, N.W., Washington, D.C. 20581.

The Commission is amending regulation 140.2 to reflect the fact that the Western Regional office of the Commission has moved from San Francisco to 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024. The telephone number for general information is (213) 209–6783. In addition, regulation § 140.2 is being amended to note the Southwestern Regional office has moved from Room 208 to Suite 400 at 4901 Main Street, Kansas City, Missouri 64112. The telephone number for general information remains (816) 374–5425.

Certain other provisions of the Commission's regulations contain references to or addresses of the Commission's Western and Southwestern Regional offices. The appropriate changes have been made to reflect the new addresses in each of these provisions.

Based on the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends Parts 140 and 145 of the Code of Federal Regulations as follows:

PART 140—[AMENDED]

1. Section 140.1 is revised to read as follows:

§ 140.1 Headquarters Office.

(a) *General.* The headquarters office of the Commission is located at 2033 K Street, NW., Washington, D.C. 20581.

2. Section 140.2 is amended by revising paragraphs (c) and (d) to read as follows:

§ 140.2 Region offices—Regional directors.

* * * * *

(c) The Western Regional office is located at 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(d) The Southwestern Regional office is located at 4901 Main Street, Suite 400, Kansas City, Missouri 64112, and is responsible for enforcement of the Act

and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

PART 145—[AMENDED]

3. In § 145.6, paragraph (a) is revised to read as follows:

§145.6 Commission Offices To Contact for Assistance; Registration Records Available at Chicago Regional Office.

(a) Whenever this Part 145 directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, D.C., it shall be addressed or otherwise directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. The telephone number of the compliance staff is (202) 254–6314. Whenever this Part 145 permits an inquiry or request to be directed to a regional office of the Commission (see §§ 145.2, 145.6(b) (Chicago regional office only) and 145.7 (a), (b) and (c)), it may be directed to the FOI, Privacy and Sunshine Acts compliance staff for direct response or referral or to the appropriate regional office (or Minneapolis sub-office) of the Commission at the following locations and telephone numbers:

Division of Economics and Education, Commodity Futures Trading Commission, One World Trade Center, Suite 4747, New York, New York 10048, Telephone: (212) 466–2071.

Division of Trading and Markets, Commodity Futures Trading Commission, Sears Tower, Suite 4600, 233 South Wacker Drive, Chicago, Illinois 60606, Telephone: (312) 353–9499.

Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 725–2025.

Division of Trading and Markets, Commodity Futures Trading Commission, 4901 Main Street, Suite 400, Kansas City, Missouri 64112, Telephone: (816) 374–2994.

Division of Enforcement, Commodity Futures Trading Commission, 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024, Telephone: (213) 209–6783.

* * * * *

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, practice and procedure and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C. this 18th day of January, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-1589 Filed 1-20-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 102

[Docket No. 80N-0140]

Common or Usual Name for Nonstandardized Foods; Diluted Fruit or Vegetable Juice Beverages; Extension of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; extension of effective date.

SUMMARY: The Food and Drug Administration (FDA) is extending the period of time for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable beverages regulation for all affected products initially introduced or initially delivered for introduction into interstate commerce from July 1, 1982 to July 1, 1984.

EFFECTIVE DATE: July 1, 1984, for all affected products initially introduced or initially delivered for introduction into interstate commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–245–3092.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 1980 (45 FR 39247), FDA published a final regulation concerning label statements for diluted fruit or vegetable juice beverages (21 CFR 102.33). The effective date was deferred until July 1, 1982, by a document published in the **Federal Register** of December 5, 1980 (45 FR 80497). Subsequently, FDA published a proposal in the **Federal Register** of March 26, 1982 (47 FR 13003) to extend the effective date to July 1, 1984, for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable juice beverages regulation.

As required by the Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act of 1980, FDA is currently reviewing the regulations concerning diluted orange juice beverages (21 CFR 102.32) and noncarbonated beverage products containing no fruit or vegetable juice (21 CFR 102.30). Because of the similarity of §§ 102.30, 102.32, and 102.33, FDA has concluded that it would be appropriate to review them together. Consequently, to avoid substantial compliance cost that may be found unnecessary should the review process result in a decision to revoke or modify the regulation, FDA published the 1982 proposal to extend the effective date to allow sufficient time for this review.

Comments in response to the proposal were received from growers and processors of cranberry products, juice trade associations, juice processors (other than cranberry juice), a State government, and one consumer. The majority of the comments received were from the cranberry growers and processors favoring the granting of the extension to allow a review of the applicability of the final regulation to high acid juice products. These comments stated that since a review of all regulations is required by the Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act of 1980, the review of this diluted juice regulation would be more cost effective if it were conducted before the regulation became effective and labels had been modified.

The agency agrees and therefore is scheduling the review of this regulation to be accomplished within the extension period.

The other comments, submitted by a State government, one consumer, a trade association, and three manufacturers, expressed concern that extending the effective date of the regulation would be a dissservice to the manufacturers who had, in good faith, relabeled their products to meet the effective date. A State official stated that the continued extension of the effective date for this regulation undermines the efforts made by State and local food regulatory agencies to encourage industry compliance with new and existing regulations.

It is true that many of the manufacturers in the diluted juice industry have already brought their labels into compliance with the labeling regulations for diluted juice beverages. It is also true that primarily the high acid juice industry is concerned about revising their labeling before the required review of the regulation is complete. FDA is not unsympathetic to the positions in which each segment of the industry finds itself. Therefore, in light of the ongoing retrospective review, the agency believes that it has articulated in this document the most resonable course to follow: the granting

of the extension. In response to the comments of manufacturers who have relabeled their products, the agency feels that the public interest is served by the relabeling because the regulations were structured to aid the consumer. However, to force all manufacturers to comply with the regulation would create an unworkable conflict: The agency would have to actively promote a position while at the same time critically and objectively reevaluating it. The agency's conclusion to grant the extension is strengthened by the fact that the manufacturers who are currently in compliance with the regulations have submitted no evidence that being in compliance with the regulation places their products at a market disadvantage or results in consumer deception. Similarly, the State comment was not supported by any specific details, without which the agency cannot fully respond, much less alter its views of the propriety of this action.

List of Subjects in 21 CFR Part 102

Common or usual name, Food labeling.

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOOD

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the effective date for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable juice beverages regulation (21 CFR 102.33) is extended from July 1, 1982, to July 1, 1984, as follows: All affected diluted fruit or vegetable juice beverages initially introduced or initially delivered for introduction into interstate commerce after July 1, 1984, shall comply with 21 CFR 102.33 (45 FR 39247; June 10, 1980).

(Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))

Dated: January 4, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83-1650 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 133

[Docket No. 77N-0331]

Nine Natural Cheeses; Revision Based on International Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the "Definitions" section for all standardized cheeses and related cheese products, establishing a new "Methods of Analysis" section for all standardized cheeses and related cheese products, and revising and updating the standards of identity for nine cheeses and appropriate cross-referenced standards to bring the nine cheese standards into closer conformance with the recommended international Codex standards for these cheeses, thereby facilitating international trade.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date; voluntary compliance beginning March 22, 1983; objections by February 22, 1983. The incorporation by reference is effective March 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: A proposal was published in the **Federal Register** of September 19, 1978 (43 FR 42127), to revise the standards of identity for blue cheese (21 CFR 133.106), cheddar cheese (21 CFR 133.113), edam cheese (21 CFR 133.138), gouda cheese (21 CFR 133.142), gruyere cheese (21 CFR 133.149), limburger cheese (21 CFR 133.152), provolone cheese (21 CFR 133.181), samsoe cheese (21 CFR 133.185), swiss and emmentaler cheese (21 CFR 133.195), and, by cross-reference, cheddar cheese for manufacturing (21 CFR 133.114), low sodium cheddar cheese (21 CFR 133.116), and swiss cheese for manufacturing (21 CFR 133.196).

The purpose of the proposed revisions was to: (1) Provide for full ingredient declaration; (2) relax recipe requirements to permit the use of safe and suitable ingredients that do not change the basic identity of the food or adversely affect the physical or chemical characteristics; and (3) amend compositional requirements to be consistent with the "recommended international Codex standards" (Codex standards), where such consistency will promote honesty and fair dealing in the interest of consumers. The proposal would also amend the "Definitions" section and establish a new "Methods of Analysis" section.

A notice published in the **Federal Register** of December 19, 1978 (43 FR 59053) extended the comment period to March 19, 1979.

Twenty-six letters, each containing one or more comments, were received in response to the September 19, 1978, proposal. The issues raised in the comments and FDA's responses are as follows:

Definitions

1. One comment requested that the phrase "the milk may be clarified and may be adjusted by separating part of the fat therefrom" be added to the proposed definition of milk in § 133.3(a) (21 CFR 133.3(a)).

FDA agrees and the definition for "milk" is changed accordingly.

2. One comment requested that "dehydrated cream" be added to the list of products included in the definition for "cream" in § 133.3(c).

FDA advises that this addition is unnecessary because it considers dry and dehydrated to be the same, and dry cream is already provided for in the definition for cream.

3. One comment requested that a definition for "milkfat", which would include all the products in the proposed definition for cream as well as products like anhydrous milkfat, butter, and butteroil, be added to § 133.3 and that each of the standards provide for the use of milkfat as an optional dairy ingredient. The comment asserted that these products are all commonly known as milkfat and that by defining them as such they could be declared as "milkfat" in the ingredient statement.

FDA does not agree that butter, butteroil, and anhydrous milkfat are commonly known as milkfat. While milkfat is the starting material for all three ingredients, changes in the physical characteristics of milkfat occur during the manufacturing procedures (i.e., from a fat-in-water emulsion to a water-in-fat emulsion) which make these ingredients immiscible with the milk and other dairy ingredients that are combined to make cheese. Further, butter, butteroil, and anhydrous milkfat are not provided for in the standards of identity for cheeses and related cheese products and no petition has been

submitted to the agency to include such products in a definition of milkfat and amend each of the standards in 21 CFR Part 133 to provide for the use of "milkfat" as an optional dairy ingredient. Under these circumstances, to concur with the comment would have the effect of authorizing the use of ingredients which have not been shown to be suitable for the desired use. In addition, FDA points out that a definition of "milkfat" to facilitate declaration of listed ingredients as "milkfat" is unnecessary because the ingredient labeling provisions in the final regulations set forth below already state that the dairy ingredients may be declared, in descending order of predominance, by the terms "milkfat and nonfat milk" or "nonfat milk and milkfat" as appropriate. FDA, therefore, concludes that the changes requested by this comment are inappropriate and is not so providing in the regulations.

4. One comment requested that a definition for "microbial cultures" be included in § 133.3. This would permit label declaration of flavor- and acid-producing microbial cultures as "cultures" in the ingredient statement.

A definition of "microbial cultures" is not necessary. The current labeling regulations (21 CFR Part 101) permit bacterial cultures to be declared in the ingredient statement by use of the word "cultured" followed by the name of the substrate (e.g., "cultured milkfat and nonfat milk"). This method of declaring the use of bacterial cultures is consistent with the provisions of other cheese standards of identity. Furthermore, FDA is currently considering a petition to amend Part 101 to permit the term "cheese cultures" to be used on the label to encompass all of the types of microbial cultures (bacterium, yeast, mold) that might be used in the manufacture of cheese. Therfore, FDA s not establishing a definition for "microbial cultures" in § 133.3.

Methods of Analysis

5. One comment requested that a method of determining the milkfat content in the solids, or fat on a dry basis, be added to the proposed "Methods of Analysis" section (§ 133.5). The comment expressed the opinion that the traditional fat on a dry basis method is a better enforcement tool which will prevent manipulation of the product and which will afford greater protection to the consumer as well as greater stability to the industry. The comment suggested that the method for calculating milkfat content from dry matter, now in the current cheddar cheese standard (§ 133.113(c)), be added to the proposed "Methods of Analysis" section as § 133.5(d).

FDA agrees and is adding paragraph (d) to § 133.5 to provide for the requested method of calculating fat on a dry basis. FDA also advises that it is updating the "Methods of Analysis" section to reference the 13th edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC).

General Comments Related to All the Proposed Cheese Varieties

6. One comment suggested that the concept of "safe and suitable" apply only to functional ingredients such as enzymes, stabilizers, and antimicrobial agents. The comment stated that the "Dairy ingredients should not be classified in the same category as 'safe and suitable ingredients'." The comment asserted that inclusion of dairy ingredients under "safe and suitable" will lead to economic deception by allowing use of "nonstandardized undefined 'safe and suitable' milk-derived ingredients" and that the consumer will have no assurance that the standardized product contains basic dairy ingredients.

FDA considered changing its "safe and suitable" policy to apply only to categories of optional functional ingredients that are used at levels of less than 5 percent and do not alter the basic characteristics of the food. A notice requesting public comment on a tentative proposed revision was published in the **Federal Register** of December 21, 1979 (44 FR 75990). Upon review and evaluation of the comments received in response to the tentative proposed revision, FDA has determined that, at this time, it would be in the best interest of consumers and regulated industry to retain the current policy for use of safe and suitable optional ingredients in standardized foods. Elsewhere in this issue of the **Federal Register** FDA is announcing this decision. The regulation set forth below provides for the use of "safe and suitable" ingredients consistent with this policy. In addition, FDA advises that the dairy ingredients that may be used in the cheeses included in the proposal are specifically listed in the individual standards. Milk-derived ingredients are not among the optional dairy ingredients listed and may not be used in these cheeses.

7. One comment opposed permitting the use of caseinates as safe and suitable dairy ingredients.

Caseinates were not among the dairy ingredients proposed for use nor are they provided for in the final regulation.

8. One comment requested that the provision allowing the use of lactic acid-producing bacteria naturally present in milk be retained in all the appropriate standards. The comment contended that these naturally occurring bacteria would have to be destroyed before the culture is added if the naturally occurring bacteria are not specifically permitted for use.

The proposed standards provided that the dairy ingredients used are "subjected to the action of a lactic acid-producing bacterial culture" without specifying whether the source of the culture was added to the milk or natural to the milk (see § 133.106(a)(3); proposed as § 133.106(a)(4)). Therefore, FDA does not believe that it is necessary to specifically provide for naturally occurring bacteria that are desirable to the cheese-making process and is not making the requested change in the final regulation. FDA advises that naturally occurring harmless lactic acid-producing bacteria in milk are permitted for use in these cheeses.

9. One comment pointed out that the method of declaring ingredients on the label of cheeses is deceptive because neither salt nor color need be declared. The comment stated that this situation could be remedied by requiring manufacturers to title the ingredient statement "partial list of ingredients" or "incomplete list of ingredients".

FDA does not have the authority under section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341) to require the label declaration of mandatory ingredients in standardized foods (e.g., salt in several types of cheese). Color in butter, cheese, and ice cream is exempted from label declaration by section 403(k) of the act (21 U.S.C. 343(k)) (§§ 74.1705 and 101.22 require that FD&C Yellow No. 5, when used in butter, cheese, or ice cream, be declared on the label). FDA urges manufacturers to declare, voluntarily, the presence of these exempted ingredients, when used, on the label of the cheese. FDA is not requiring that manufacturers who do not choose to declare the presence of these ingredients title the ingredient statement on their foods "partial list of ingredients" or "incomplete list of ingredients" because such a title may be confusing to consumers.

10. One comment expressed the opinion that a better method of label declaration of ingredients would be by specific ingredient rather than by general terms such as "milkfat and nonfat milk", "nonfat milk and milkfat", or "milk". This change would prevent potential consumer confusion when the

use of reconstituted or concentrated milk is declared simply as "milk".

FDA does not agree with this comment. This method of ingredient declaration is not deceptive because differences in the form of the dairy ingredients used (i.e., liquid, concentrated, or dried) have no perceptible effect on the final product.

FDA notes that dairy ingredients used in cheese may be declared as "milkfat and nonfat milk", "nonfat milk and milkfat", or in accordance with Part 101 (21 CFR Part 101) labeling regulations which, in § 101.4(b)(4), provide that milk, concentrated milk, reconstituted milk, and dry whole milk may be declared as "milk" in the ingredient statement. Therefore, the requested change is not being made in the final regulation.

11. One comment stated that FDA apparently misinterpreted the intention of the Codex standards committee in providing for multiple milkfat and moisture levels in blue, limburger, and samsoe cheeses, and in expanding this Codex concept to cheddar and swiss and emmentaler cheeses. The comment maintained that the Codex committee provided for variable milkfat levels in the former three cheeses in recognition of differing fat levels traditional for those varieties in certain member countries and to encourage those countries to accept the proposed Codex standards. The comment asserted that the intent of the Committee was that a country would adopt only the minimum milkfat and maximum moisture level combination traditional in that country. Several comments were against multiple milkfat and moisture levels in cheese standards because they work to destroy the integrity of the standards and of the cheeses. Others asserted that the cheese standards establish a definite identity, name, and minimum level of composition for these foods, which would be destroyed with the inclusion of variable milkfat and moisture levels. Several of those commenting thought that allowing cheeses of various milkfat and moisture levels to be marketed under the same name would be confusing to the consumer and would result in destruction of consumer trust in traditional products. Some comments, while recognizing the value of lower fat cheeses, suggested that lower fat types of standardized cheeses should not be identified with traditional names. It was suggested that separate standards with new names be established.

FDA advises that, while there may have been the understanding that some countries would not accept multiple composition requirements, as provided for in the recommended Codex standards, these provisions are, in fact, part of the Codex standards and were considered in accordance with 21 CFR 130.6. Because compositional variations of several cheese varieties that are covered by U.S. standards of identity were appearing in the marketplace, FDA extended the multiple composition concept to cheddar and swiss cheeses. However, FDA has been persuaded by the comments received that consumers may be confused if multiple milkfat and moisture levels are provided for in U.S. varietal cheese standards of identity under the same varietal name and that the physical attributes of a specific cheese variety could be altered. Therefore, FDA is not providing for multiple fat and moisture level requirements, but is retaining the minimum fat and maximum moisture requirement as now set forth in paragraph (a) of §§ 133.106, 133.113, 133.152, 133.185, and 133.195 of the standards of identity for blue, cheddar, limburger, samsoe, and swiss and emmentaler cheeses.

12. Most of the comments opposed, for various reasons, the declaration of the percent fat as part of the name of the cheese.

FDA is not establishing variable milkfat and moisture levels in any of the natural cheese standards. Therefore, a percent fat declaration as part of the name of the cheese is no longer necessary and is not provided for in the final regulation.

FDA advises that it is retaining the current method of expressing fat content (i.e., on a dry weight or solids basis) in §§ 133.106, 133.113, 133.138, 133.142, 133.149, 133.152, 133.181, 133.185, and 133.195. This method of expressing fat content is consistent with that in the Codex standards as well as in other U.S. standards of identity for cheeses.

13. Several comments were received in response to FDA's request for information about the use of the hydrogen peroxide/catalase treatment of milk to be used for cheese manufacturing. Two comments requested that the use of this treatment be retained in the standards of identity for cheddar cheese (§ 133.113) and swiss and emmentaler cheese (§ 133.195) because it destroys harmful bacteria without destroying beneficial enzymes. The comments asserted that the treatment also produces a more consistent flavor in the cheeses. One comment, by a large producer of cheese, stated that it regularly uses a process relying on this method of milk treatment. Another comment maintained that the hydrogen peroxide/catalase method should be retained even if it isn't widely used because it could prove to be a low-energy alternative to pasterization and of increasing value in the future.

FDA proposed to eliminate provisions for the use of the hydrogen peroxide/catalase treatment of milk from the standards for cheddar cheese and swiss and emmentaler cheese and cross-referenced standards because it was not aware that any manufacturers were using the process. In view of the fact that some manufacturers are still using this method of reducing the bacterial population of cheese milk, provisions for the use of the hydrogen peroxide/catalase treatment of milk are being retained in §§ 133.113 (a)(3) and (b)(3)(v) and 133.195 (a)(3) and (b)(3)(vi) (cheddar and swiss and emmentaler cheese, respectively).

14. One comment requested that whey proteins be permitted as optional ingredients in natural cheeses. The comment asserted that allowing the direct incorporation of such proteins would recognize the desirability of retaining as many of the nutrients of the milk source as possible in the final cheese product.

FDA is not making the requested change because whey proteins might adversely affect the physical quality of the cheese (e.g, slow rennetting, poor matting, and short texture) and because it has no information to substantiate the possible nutritional benefits arising from the use of whey proteins. FDA invites any interested person to submit a petition, with supporting data, consistent with the requirements of 21 CFR 10.30, proposing to amend specific cheese standards of identity to permit the use of whey proteins.

15. One comment requested permitting only *beta*-carotene as coloring in the proposed cheese standards because it has vitamin A activity and all the cheeses are yellow. The comment expressed the opinion that the U.S. standards are too broad because they allow the use of artificial color, whereas Codex standards allow only *beta*-carotene to be used.

FDA believes that the request is inappropriate. FDA is aware of the vitamin A activity of *beta*-carotene, but emphasizes that the purpose of permitting the use of *beta*-carotene in the standard is as a coloring agent, and not as a nutrient. Further, the comment incorrectly characterized the Codex standard. That standard permits the use of annatto, as well as *beta*-carotene, to impart a yellow color to those cheeses where a yellow color is desired. Finally, the comment is incorrect in asserting that all cheeses are yellow. Certain cheeses, such as provolone cheese and blue cheese, are made from types of

milk (animal source and season) which result in a relatively white cheese. When the cheese curd used in formulating these cheeses is made from milk relatively high in yellow pigments, as is true at certain times of the year, a blue or green color is used to mask the yellow color and thus to produce the near-white color which is characteristic of such cheeses. FDA, therefore, is not making the requested changes.

16. One comment requested that the minimum age requirement for blue (§ 133.106), gruyere (§ 133.149), and swiss and emmentaler (§ 133.195) cheeses be moved from the description paragraph to the paragraph delineating the manufacturing procedure so that manufacturers may use alternate procedures using shorter curing times with the provision that the resulting cheese is chemically and physically identical to the cheese produced by the prescribed manufacturing procedure. No data were submitted in support of this comment.

FDA is not making the requested changes because it has no data which indicate that the organoleptic and physical qualities characteristic of these cheeses can be developed using shorter curing times. FDA notes that the proposed curing times for these cheeses are the same as those now required for these three cheeses and are consistent with the Codex requirements.

17. One comment requested that proposed paragraph (b)(3)(iv) of § 133.113 (cheddar cheese), § 133.138 (edam cheese), § 133.181 (provolone cheese), § 133.185 (samsoe cheese), and § 133.195 (swiss and emmentaler cheese), proposed paragraph (b)(3)(iii) of § 133.149 (gruyere cheese) which limits use of antimycotics to the surface of cuts and slices in consumer-sized packages, and proposed paragraph (b)(3)(iv) of § 133.106 (blue cheese) which permits the use of antimycotics on the surface of the blue cheese be expended to read "Antimycotic agents, applied to the surface of the cheese." The comment also requested that the cross-referenced standards for cheddar cheese for manufacturing (§ 133.114) and swiss cheese for manufacturing (§ 133.196) permit the use of antimycotic agents. The comment maintained that this requested extension of the use of antimycotics is necessary to improve the quality of the product and protect consumers. No supporting data were submitted with the comments.

FDA concludes that it is inappropriate to make the requested changes at this time because such changes should be subject to the proposed rulemaking proceedings whereby interested persons have an opportunity to comment. FDA invites interested persons to submit a petition supported by adequate data demonstrating that extending the use of antimycotics will not lead to these cheeses being prepared, packed, or held under unsanitary conditions whereby they may become contaminated with filth or otherwise be rendered injurious to the health of the consumer. One comment, which supported restricting the use of antimycotics, pointed out that the requested extended use of antimycotics would result in companies that cut and pack cheese in consumer-sized packages incurring additional costs for either testing to determine the quantity of antimycotics already in the cheese or for trimming the whole cheese in an effort to remove antimycotics from the surface. Both of these procedures result in added costs to the company which would be passed on to consumers.

Comments Related to the Proposed Amendments to Specific Cheese Varieties

Blue Cheese

18. One comment stated that the 60-day curing period required in paragraph (a) of § 133.106 (blue cheese) is no longer technologically necessary if the cheese meets the mold development requirement specified in proposed paragraph (a)(1) (i.e., "It is characterized by the presence of bluish-green mold throughout the cheese"). The comment suggested that the 60-day holding period requirement for all blue cheese be replaced with the standard requirement that blue cheese made from unpasteurized dairy ingredients be held at not less than 35° F for a minimum of 60 days. No data were submitted in support of this comment.

FDA is not making the requested change in the final regulation because it has no data which demonstrate that the 60-day holding period requirement for blue cheese is no longer necessary to ensure that the enzymes produced by the *Penicillium roquefortii* have had an opportunity to break down fats and proteins in the curd to produce flavor components characteristic of blue cheese. The mere presence of blue-green mold is not a guarantee that these flavor components are present.

19. One comment stated that the requirement that *Penicillium roquefortii* spores be added to the curd is out of date. The standard for blue cheese would be more technically correct if proposed § 133.106(a)(4) were changed to permit the addition of spores to the dairy ingredients rather than only to the curd.

FDA concludes that this change is not necessary because the procedure described in proposed § 133.106(a)(4) may be modified as provided for in § 133.106(a)(1) which states that any other procedure may be used which produces a finished cheese having the same physical and chemical properties.

20. One comment requested that FDA continue to allow the use of vegetable fat or oil as a coating on the rind of the cheese because such coating limits the oxygen available to microorganisms that may grow on the surface, thereby having a preservative effect.

FDA agrees and is providing for the optional use of vegetable fat or oil as a coating on the rind in § 133.106(b)(3)(vi). FDA notes that the word "homogenized" was omitted from § 133.106(a)(3) of the proposal. Currently, § 133.106(b) provides for homogenization of the dairy ingredient used in the manufacture of blue cheese. Obviously the omission was inadvertent. FDA has corrected the omission by inserting the word "homogenized" in the final regulation.

Cheddar Cheese

21. One comment favored retaining the word "cheese" as an alternative name for "cheddar cheese" (§ 133.113) because the word "cheese" is erroneously used generically, and this usage could confuse or mislead consumers.

FDA does not agree with this comment. The word "cheese", as pointed out by another comment, is understood by consumers as a generic term describing a universe of cheese varieties, not as a specific reference to "cheddar cheese". Consequently, FDA believes that retention of the word "cheese" as an alternative name will create more confusion. Therefore, FDA is not retaining the word "cheese" as an alternative name for "cheddar cheese".

22. One comment requested that cultured milk, cultured nonfat milk, and cultured cream be added to the list of optional dairy ingredients that may be used in the manufacture of cheddar cheese because, technologically, they can be used to produce the same cheddar cheese produced using traditional, noncultured forms of these dairy ingredients. No data or grounds to support this change were submitted.

FDA is not convinced, nor are there data to support the contention, that cultured forms of dairy ingredients, used as basic ingredients, will produce the same cheese as produced from the traditional, noncultured dairy ingredients. FDA also has no information about whether the microorganisms used in the cultured

dairy ingredients might interfere with the microorganisms necessary to the production of the cheese. Therefore, the requested change is not being made in the final regulation.

Cheddar Cheese for Manufacturing

23. One comment requested that the proposed amendment of the standard for cheddar cheese for manufacturing (§ 133.114) be changed to require pasteurization of the diary ingredients used. The comment asserted that the lack of this requirement in the proposed standard "ignores the potential public health hazard and does not help ensure safety of the product." The comment further asserted that this requested change would be consistent with proposed amendments to the standard for skim milk cheese for manufacturing (21 CFR 133.189), published in the **Federal Register** of October 4, 1977 (42 FR 53979).

Requiring pasteurization for cheddar cheese for manufacturing is not necessary because the cheese is to be used in the manufacture of cheese products, such as pasteurized process cheese and other foods, and not for direct human consumption. The manufacturing process for these foods (e.g., pasteurized process cheese products) includes a pasteurization heat treatment that is sufficient to destroy pathogenic bacteria that may have been present in the original cheese ingredients. Therefore, FDA is not making the requested change. FDA notes that the purpose of the proposed amendments to the standard for skim milk cheese for manufacturing (reproposed Docket No. 77P-0071, November 30, 1982 (47 FR 53914)) was to provide a cheese for direct human consumption as well as for manufacturing purposes.

Low Sodium Cheddar Cheese

24. One comment pointed out that salt need not be excluded from the standard for low sodium cheddar cheese (§ 133.116) since a maximum level of sodium is set by the standard. The comment stated that even a small quantity of salt is technologically important as an aid in removing moisture from the curd and producing a more palatable product.

FDA agrees and in the final rule is deleting paragraph (a) of § 133.116 and is redesignating proposed paragraphs (b), (c), (d), and (e), of § 133.116 as (a), (b), (c), and (d), respectively.

Gouda Cheese

25. One comment asked that the proposed milkfat minimum for gouda cheese (§ 133.142) be raised to 28 percent, by weight, which is comparable to 48 percent on a dry basis, the minimum set by the Codex standard.

FDA does not believe that it is necessary to raise the minimum milkfat level of gouda cheese to 48 percent, on a dry basis, to be consistent with the Codex standard. The minimum milkfat content, on a dry basis, in the current U.S. standard for gouda cheese is 46 percent. This 46 percent minimum is not in conflict with the Codex standard because, as a minimum, it does not impede either the production of a higher fat gouda cheese in this country or the importation of a higher fat gouda cheese from another country into this country. Therefore, this requested change is not being made in the final regulation.

Provolone Cheese

26. Several comments objected to inclusion of the word "smoked", being proposed in § 133.181(c)(2)(ii), in the name of the food when provolone cheese is smoked because this term may be deceptive and potentially confusing to consumers who expect provolone cheese to have a smoked flavor. Therefore, the comments requested that the requirement for the label declaration of the term "smoked" for the smoked product be replaced with the label declaration of "not smoked" for the product that is not smoked, as in the current standard.

FDA agrees that the potential for consumer confusion exists in requiring the word "smoked" as part of the name of the food, so it is also providing for use of the term "not smoked", when appropriate. Therefore, the standard for provolone cheese has been changed accordingly in § 133.181(c)(2)(i) and (ii).

27. Several comments objected to the ingredient declaration requirement for provolone cheese because such a declaration would imply to the consumer that provolone is not a standardized cheese. The declaration would further imply that the manufacturer, rather than FDA, has control over the selection of the various ingredients that can be used to produce provolone cheese. The comments requested that the required ingredient declaration be dropped.

FDA does not agree with this comment. The ingredient declaration is required because cheese manufacturers have many choices of ingredients within specified classes of ingredients. Furthermore, consumers have expressed the desire to know what ingredients are in the foods they consume. Therefore, FDA is not making the requested change.

28. One comment wanted to retain the alternative name "pasta filata" in the provolone cheese standard because the name provides a basis for the designation of different shapes and sizes with which the consumer is familiar (e.g., "salami pasta filata").

The term "pasta filata" more correctly refers to a family of cheeses, each of which have a pasta filata (curd kneading and stretching) step in their manufacturing procedure. Examples of pasta filata-type cheeses are mozzarella, caciocavallo siciliano, and provolone. Furthermore, FDA believes that the name "provolone" is more commonly associated with shape or size designations such as "salami" or "bacchini" than is the term "pasta filata". Therefore, FDA is not retaining "pasta filata" as an alternative name for provolone cheese.

29. Several comments pointed out an apparent error in proposed § 133.181(a)(1) of the standard for provolone cheese. The last sentence of the paragraph reads "If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of 35° F for at least 60 days." The comments pointed out that the words "not less than" should precede "35° F".

FDA agrees and the final regulation is changed accordingly.

30. One comment suggested that language be added to the proposed amendment of the provolone standard that would allow the use of rope or twine to encase the cheese before drying, the addition of smoke flavor, and the use of paraffin and similar coatings. The comment maintained that the addition of this language will protect the integrity of the standard and the traditional characteristics of provolone cheese.

FDA doe not believe that either the integrity of the standard or the traditional characteristics of the cheese would be adversely affected if the suggested language is not added to the proposed standard for provolone cheese. There is no need to specifically provide for the use of rope, twine, or paraffin or other coatings. It should be noted that the standard does not prevent their usage as packaging materials. Provision for the addition of smoke flavor, which is in the current standard, was removed from the proposed standard because the smoke-flavored cheese is covered by the standard of identity for spiced, flavored standardized cheeses (§ 133.193). Therefore, the requested language is not being added to the standard for provolone cheese.

31. Several comments objected to listing "clotting enzymes" and "milk" as optional ingredients in the proposed amendment of the standard for

provolone cheese. The comments said that some form of milk is absolutely essential to cheese production and that clotting enzymes are intrinsic to the cheesemaking process. Therefore, there is no need for confusing and mandatory listing of these ingredients on the label. One of the comments noted that the Codex standard lists "necessary additions" such as starter, rennet, and salt, and "optional additions" such as smoke and calcium chloride. Another of the comments asserted that the listing of "milk" and "clotting enzymes" as optional ingredients is contrary to section 401 of the act (21 U.S.C. 341).

These comments apparently misunderstood FDA's purpose in providing for ingredients by class, rather than by specific name, in the proposed standard. As explained in the preamble to the proposal, FDA believes that it is technologically feasible to use many dairy ingredients other than fluid milk to produce cheese. Therefore, classes of dairy ingredients were defined and included under the designation "Optional Dairy Ingredients". Because manufacturers would have many options within the group of permitted dairy ingredients, FDA is requiring that the dairy ingredients used be declared in a label statement of ingredients by either of the options offered in paragraph (d)(2) of the proposed standard. This requirement is in keeping with FDA's policy, developed under section 401 of the act and stated in 21 CFR 101.6 to provide consumers with more complete information about the food they eat. FDA does not believe that this method of providing for forms of dairy ingredients other than fluid milk implies that dairy ingredients are not necessary to the manufacture of cheese, nor does FDA believe that listing the ingredients used in a food on the label of that food is confusing to consumers. The same holds true for optional clotting enzymes. It is not FDA's intention to adopt the Codex method of designating permitted ingredients because it is too restrictive and contrary to FDA's policy of permitting manufacturers the flexibility, within reason, to choose ingredients according to their availability in the marketplace and, thus, reduce consumer costs. Therefore, no change is made in the final regulation.

Samsoe Cheese

32. One comment requested that the maximum moisture level in the Codex standard for samsoe cheese be adopted. The maximum moisture level in the current U.S. standard (§ 133.185) is 41 percent; the maximum in the Codex standard is 44 percent. The comment pointed out that most of the samsoe cheese sold in the United States is produced in Denmark, a country that has accepted the Codex standard. Another comment from a national cheese producers' trade association stated that it is unaware of any of its members manufacturing samsoe cheese in this country.

FDA believes that raising the maximum moisture level by 3 percent would have a negative effect on the nutritional value of samsoe cheese. Because the milkfat minimum is to remain unchanged, a raise in the moisture maximum level would result in the milk solids content being proportionately reduced. Among the more important nutrients that would be reduced in quantity are protein and its associated minerals, calcium and phosphorus. Therefore, FDA is not raising the maximum moisture level to 44 percent, as requested.

Swiss and Emmentaler Cheese

33. Two comments were in favor of raising the minimum milkfat level in the proposed swiss and emmentaler cheese standard (§ 133.195) to conform to the minimum of 45 percent specified in the Codex standard. (The minimum milkfat requirement in the current U.S. standard is 43 percent. Both minima are calculated on a dry basis.) One other comment requested that the milkfat minimum level not be changed because the best quality swiss cheese has a milkfat content between 44 and 45.5 percent, on a dry basis, and that a milkfat content of 46 percent or more leads to poor eye formation and generally poor quality cheese. The latter comment did not want the minimum raised to 45 percent because, to assure that cheese meets this minimum, some would contain 46 percent or more milkfat and thus be of poorer quality.

FDA does not believe that the 43-percent minimum milkfat level for swiss cheese is in conflict with the Codex standard because it neither prevents manufacturers from producing swiss cheese with the higher milkfat content nor prevents other countries from exporting higher fat swiss and emmentaler cheese to the United States. Also, FDA has no technological data, nor were any supplied in the comments, to show that a 46-percent fat swiss cheese would be of poorer quality than a 43-percent or a 45-percent fat swiss cheese. Therefore, FDA is not raising the minimum milkfat level to conform to the Codex standard for swiss and emmentaler cheese.

Swiss Cheese for Manufacturing

34. One comment requested that the phrase "curing is not required" be added to the proposed standard for swiss cheese for manufacturing (§ 133.196) because the safety and esthetic reasons for curing the cheese are not applicable because it would undergo further processing.

FDA recognizes that curing of the cheese in lieu of pasteurization of the milk from which the cheese is made is not applicable to cheeses for manufacturing, but, in this case, curing is necessary to ensure that the flavor characteristics normally associated with swiss cheese are developed. Since swiss cheese for manufacturing must have the flavor of swiss cheese, and a curing period of at least 60 days is necessary for the characteristic flavor to develop, the curing requirement is being retained in the standard.

Monterey Cheese for Manufacturing

35. One comment requested that a standard for monterey cheese for manufacturing be established. The comment stated that monterey cheese is the only American-type cheese that does not have a manufacturing standard.

It is not appropriate for FDA to establish a standard of identity for monterey cheese for manufacturing at this point in the rulemaking proceedings. FDA invites any interested person who believes that a standard of identity for this food should be established to submit a petition presenting reasonable grounds in support of such action.

After considering the comments received, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to revise the standards of identity for nine natural cheeses and appropriate cross-referenced standards.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

List of Subjects in 21 CFR Part 133

Cheese; Food standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. By revising § 133.3 to read as follows:

§ 133.3 Definitions.

(a) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which may be clarified and may be adjusted by separating part of the fat therefrom; concentrated milk, reconstituted milk, and dry whole milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(b) "Nonfat milk" means skim milk, concentrated skim milk, reconstituted skim milk, and nonfat dry milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(c) "Cream" means cream, reconstituted cream, dry cream, and plastic cream. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(d) "Pasteurized" when used to describe a dairy ingredient means that every particle of such ingredient shall have been heated in properly operated equipment to one of the temperatures specified in the table of this paragraph and held continuously at or above that temperature for the specified time (or other time/temperature relationship which has been demonstrated to be equivalent thereto in microbial destruction):

Temperature	Time
145° F[1]	90 min.
161° F[1]	15 s.
191° F	1 s.
204° F	0.05 s.
212° F	0.01 s.

[1] If the dairy ingredient has a fat content of 10 percent or more, the specified temperature shall be increased by 6° F.

(e) "Ultrapasteurized" when used to describe a dairy ingredient means that such ingredient shall have been thermally processed at or above 280° F for at least 2 seconds.

2. By adding new § 133.5, to read as follows:

§ 133.5 Methods of analysis.

Moisture, milkfat, and phosphatase levels in cheeses will be determined by the following methods of analysis from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th ed., 1980, which is incorporated by reference (copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408):

(a) Moisture content—section 16.233 "Method I (52)—Official Final Action", under the heading "Moisture".

(b) Milk fat content—section 16.255 "Fat (60)—Official Final Action".

(c) Phenol equivalent value—section 16.275 "Reagents", section 16.276 "Sampling", and section 16.277 "Determination", under the heading "Residual Phosphatase (27) Official Final Action".

(d) Milkfat in solids (fat on a dry basis)—Subtract the percent of moisture found from 100; divide the remainder into the percent milkfat found. The quotient, multiplied by 100, shall be considered to be the percent of milkfat contained in the solids.

3. By revising § 133.106, to read as follows:

§ 133.106 Blue cheese.

(a) *Description.* (1) Blue cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It is characterized by the presence of bluish-green mold, *Penicillium roquefortii,* throughout the cheese. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 46 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Blue cheese is at least 60 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of blue cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be homogenized, bleached, warmed, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage. While the curd is being placed in forms, spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F. at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. Antimycotics may be applied to the surface of the whole cheese. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages or to the surface of the bulk cheese during curing.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(vi) Vegetable fats or oils, which may be hydrogenated, used as a coating for the rind.

(c) *Nomenclature.* The name of the food is "blue cheese."

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

4. By revising §133.113, to read as follows:

§ 133.113 Cheddar cheese.

(a) *Description.* (1) Cheddar cheese is the food prepared by the procedure set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 31 percent by weight of the solids, and the maximum moisture content is 39 percent by weight, as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of cheddar cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed, treated with hydrogen peroxide/catalase, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. The mass is cut into slabs, which are so piled and handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, which may be rinsed by sprinkling or pouring water over them, with free and continuous drainage; but the duration of such rinsing is so limited that only the whey on the surface of such pieces is removed. The curd is salted, stirred, further drained, and pressed into forms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in §133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial orgin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(v) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the milk and the weight of the catalase shall not exceed 20 parts per million of the weight of the milk treated.

(c) *Nomenclature.* The name of the food is "cheddar cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order or predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

5. By revising § 133.114, to read as follows:

§ 133.114 Cheddar cheese for manufacturing.

Cheddar cheese for manufacturing conforms to the definition and standard of identity prescribed for cheddar cheese by § 133.113, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (b)(3)(iv) of that section do not apply.

6. By revising § 133.116, to read as follows:

§ 133.116 Low sodium cheddar cheese.

Low sodium cheddar cheese is the food prepared from the same ingredients and in the same manner prescribed in § 133.113 for cheddar cheese and complies with all the provisions of § 133.113, including the requirements for label statement of ingredients, except that:

(a) It contains not more than 96 milligrams of sodium per pound of finished food.

(b) The name of the food is "low sodium cheddar cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "cheddar cheese", wherever such words appear on the label.

(c) If a salt substitute is used, the label shall bear the statement "———— added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(d) Low sodium cheddar cheese is subject to § 105.69 of this chapter.

7. By revising § 133.138, to read as follows:

§ 133.138 Edam cheese.

(a) *Description.* (1) Edam cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 40 percent by weight of the solids, as determined by the methods described in § 133.5, and the maximum moisture content is 45 percent by weight. If the dairy ingredients used are not pasturized, the cheese is cured at a temperature of not less than than 35° for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of edam cheese is not more than 3 micrograms, as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths-inch long. The mass is stirred and heated to about 90° F. and so handled by further stirring, heating, dilution with water or salt brine, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage the curd is pressed and turned. After drainage the curd is removed from the forms and is salted and cured. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedures.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is "edam cheese."

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat," as appropriate.

8. By revising § 133.142, to read as follows:

§ 133.142 Gouda cheese.

Gouda cheese conforms to the definition and standard of identity and complies with the requirements for label declaration of ingredients prescribed for edam cheese by § 133.138, except that the minimum milkfat content is 46 percent by weight of the solids, as determined by the methods described in § 133.5 and the maximum moisture content is 45 percent by weight.

9. By revising § 133.149, to read as follows:

§ 133.149 Gruyere cheese.

(a) *Description.* (1) Gruyere cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It contains small holes or eyes. It has a mild flavor, due in part to the growth of surface-curing agents. The minimum milkfat content is 45 percent by weight of the solids, as determined by methods described in § 133.5. The dairy ingredients used may be pasteurized. The cheese is at least 90 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of gruyere cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of lactic acid-producing and propionic acid-producing bacterial cultures. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The curd is transferred to hoops or forms, and pressed until the desired shape and firmness are obtained. The cheese is surface-salted while held at a temperature of 48° to 54° F for a few days. It is soaked for 1 day in a saturated salt solution. It is then held for 3 weeks in a salting cellar and wiped every 2 days with brine cloth to insure growth of biological curing agents on the rind. It is then removed to a heating room and held at progressively higher temperatures, finally reaching 65° F with a relative humidity of 85 to 90 percent, for several weeks, during which time small holes, or so-called eyes, form. The cheese is then stored at a lower temperature for further curing. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Calcium chloride in an amount not more than 0.002 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(ii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iii) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is "gruyere cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

10. By revising § 133.152, to read as follows:

§ 133.152 Limburger cheese.

(a) *Description.* (1) Limburger cheese is the food prepared by one of the procedures set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 50 percent by weight, as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of limburger cheese is not more than 4 micrograms as determined by the method described in § 133.5.

(3) One of the following procedures may be followed for producing limburger cheese:

(i) One or more of the dairy ingredients, unpasteurized, specified in paragraph (b)(1) of this section is warmed to about 92° F and subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into cubes with sides approximately one-half inch long. After a few minutes the mass is stirred and heated, gradually raising the temperature to 96° to 98° F. The curd is then allowed to settle, most of the whey is drained off, and the remaining curd and whey dipped into molds. During drainage the curd may be pressed. It is turned at regular intervals. After drainage the curd is cut into pieces of desired size and dry-salted at intervals for 24 to 48 hours. The cheese is then cured with frequent applications of a weak brine solution to the surface, until the proper growth of surface-curing organisms is obtained. It is then wrapped and held in storage for development of as much additional flavor as is desired. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(ii) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is pasteurized, brought to a temperature of 89° to 90° F. after pasteurization, and is subjected to the

action of a lactic acid-producing bacterial culture. The procedure is then the same as in paragraph (a)(3)(i) of this section, except that heating is to 94° F. After most of the whey is drained off, salt brine at a temperature of 66° to 70° F is added, so that the pH of the curd is about 4.8. The mixed curd, whey, and brine is dipped into molds, and the remaining procedure specified in paragraph (a)(3)(i) of this section is followed.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(c) *Nomenclature.* The name of the food is "limburger cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

11. By revising § 133.181, to read as follows:

§ 133.181 Provolone cheese.

(a) *Description.* (1) Provolone, a pasta filata or stretched curd-type cheese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other method which produces a finished cheese having the same physical and chemical properties. It has a stringy texture. The minimum milkfat content is 45 percent by weight of the solids, as determined by the methods described in § 133.5 and the maximum moisture content is 45 percent by weight. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of provolone cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut, stirred, and heated so as to promote and regulate the separation of whey from the curd. The whey is drained off, and the curd is matted and cut, immersed in hot water, and kneaded and stretched until it is smooth and free from lumps. Antimycotics may be added to the curd during the kneading and stretching process. Then it is cut and molded. During the molding the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is then firmed by immersion in cold water, salted in brine, and dried. It is given some additional curing. Provolone cheese may be smoked, and one or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages or added to the curd during the kneading and stretching process.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(c) *Nomenclature.* (1) The name of the food is "provolone cheese". The name of the food may include the common name of the shape of the cheese, such as "salami provolone".

(2) One of the following terms, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels:

(i) "Smoked" if the food has been smoked.

(ii) "Not smoked" if the food has not been smoked.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

12. By revising § 133.185, to read as follows:

§ 133.185 Samsoe cheese.

(a) *Description.* (1) Samsoe cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It has a small amount of eye formation of approximately uniform size of about five-sixteenths inch (8 millimeters). The minimum milkfat content is 45 percent by weight of the solids and the maximum moisture content is 41 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Samsoe is cured at not less than 35°F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of samsoe cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added

to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths inch (1 centimeter). The mass is stirred and heated to about 102° F, and so handled by further stirring, heating, dilution with water, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage, the curd is pressed. After drainage, the curd is removed from the forms and is further salted by immersing in a concentrated salt solution for about 3 days. The curd is then cured at a temperature of from 60° to 70° F for 3 to 5 weeks to obtain the desired eye formation. Further curing is conducted at a lower temperature. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is "samsoe cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

13. By revising § 133.195, to read as follows:

§ 133.195 Swiss and emmentaler cheese.

(a) *Description.* (1) Swiss cheese, emmentaler cheese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It has holes or eyes developed throughout the cheese. The minimum milkfat content is 43 percent by weight of the solids and the maximum moisture content is 41 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Swiss cheese is at least 60 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of swiss cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, or treated with hydrogen peroxide/catalase, and is subjected to the action of lactic acid-producing and propionic acid-producing bacterial cultures. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The acidity of the whey at this point, calculated as lactic acid, does not exceed 0.13 percent. The curd is transferred to hoops or forms and pressed until the desired shape and firmness are obtained. The cheese is then salted by immersing it in a saturated salt solution for about 3 days. It is then held at a temperature of about 50° to 60° F. for a period of 5 to 10 days, after which it is held at a temperature of about 75° F. until it is approximately 30 days old, or until the so-called eyes form. Salt, or a solution of salt in water, is added to the surface of the cheese at some time during the curing process. The cheese is then stored at a lower temperature for further curing. One or more of the optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(vi) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the milk and the weight of the catalase shall not exceed 20 parts per million of the weight of the milk treated.

(c) *Nomenclature.* The name of the food is "swiss cheese", or alternatively, "emmentaler cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

14. By revising § 133.196, to read as follows:

§ 133.196 Swiss cheese for manufacturing.

Swiss cheese for manufacturing conforms to the definition and standard of identity prescribed for swiss cheese by § 133.195, except that the holes, or eyes, have not developed throughout the entire cheese, and the provisions of paragraph (b)(3)(iv) of that section do not apply; however, the labeling requirements of paragraph (d) of that section do apply.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin March 22, 1983, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985 shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

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

Dated: January 17, 1983.

William F. Randolph,

Acting Assistant Commissioner for Regulatory Affairs.

[FR Doc. 83-1842 Filed 1-20-83; 8:45 am]

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21 CFR Part 145

[Docket No. 79N-0231]

Canned Berries; Standard of Identity; Confirmation of Effective Date and Further Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date and further amendment.

SUMMARY: The Food and Drug Administration (FDA) confirms the effective date for compliance with the provisions of the amended standard of identity for canned berries and further amends the standard to provide for the use of safe and suitable nutritive carbohydrate sweeteners as optional ingredients.

DATES: Compliance with the provision being revised herein may begin March 22, 1983. Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Objections to the provision being revised herein by February 22, 1983.

Compliance with the provisions amended in the **Federal Register** of January 9, 1981 (46 FR 2339) may have begun February 10 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

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

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 9, 1981 (46 FR 2339), FDA issued a final rule amending the U.S. standard of identity for canned berries (21 CFR 145.120(a)) in consideration of the identity provisions of the Recommended International Standard for Canned Raspberries and the Recommended International Standard for Canned Strawberries developed by the Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations and of the World Health Organization (FAO/WHO). The final rule was based on a proposal published in the **Federal Register** of September 25, 1979 (44 FR 55191). Any person who would be adversely affected by the final rule could have, at any time on or before February 9, 1981, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections.

The Whey Products Institute (WPI) objected to and requested a hearing on the limitation of the use of optional sweeteners to those named in the final rule (21 CFR 145.120 (a) (4) (iv)) because lactose was not included. WPI said that failure to allow the use of any safe and suitable nutritive carbohydrate sweetener, such as lactose, as an optional ingredient in canned berries is inconsistent with the generic permission given to the use of optional flavors, organic acids, and fruit juices as found in this rule. It pointed out that lactose, obtained from whey, is considered a safe and suitable optional nutritive carbohydrate sweetener and referred to the standard of identity for lactose in 21 CFR 168.122. WPI also asserted that appropriate sweeteners cannot be excluded solely because FDA is not aware of their use in canned berries.

The September 25, 1979, proposal to amend the standard of identity for canned berries provided for the use of safe and suitable nutritive carbohydrate sweeteners. Subsequent to the proposal, FDA, the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announced in the **Federal Register** of December 21, 1979 (44 FR 75990) their tentative positions on a variety of food-related issues. A revision in FDA's policy with regard to safe and suitable ingredients in standardized foods was considered. The January 9, 1981, final rule reflected FDA's December 21, 1979, tentative policy by specifically listing those safe and suitable nutritive carbohydrate sweeteners allowed in canned berries.

Upon review and evaluation of the comments received in response to the December 21, 1979, tentative position, however, FDA has determined that, at this time, it would be in the best interest of the consumers and the regulated industry to retain its established policy for use of safe and suitable optional ingredients in standardized foods. Elsewhere in this issue of the **Federal Register** FDA is announcing this decision. This decision has the effect of acceeding to WPI's objection that all safe and suitable nutritive carbohydrate sweeteners should be optional ingredients.

Therefore, FDA is removing § 145.120(a)(4)(iv) that would have listed permitted nutritive carbohydrate sweeteners as optional ingredients and is revising § 145.120(a)(3)(i) to allow the use of safe and suitable nutritive carbohydrate sweeteners in canned berries as proposed.

List of Subjects in 21 CFR Part 145

Canned fruit, Food standards, Fruits.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the

standard of identity for canned berries (21 CFR 145.120(a)) as amended in the **Federal Register** of January 9, 1981 (46 FR 2339) will become effective July 1, 1983, except § 145.120(a)(4)(iv) which is removed, and § 145.120(a)(3)(i) which is revised to read as follows:

PART 145—CANNED FRUITS

§ 145.120 Canned berries.

(a) * * *

(3) *Packing media.* (i) the optional packing media referred to in paragraph (a)(1) of this section as defined in § 145.3 are:

(*a*) Water.

(*b*) Fruit juice(s) and water.

(*c*) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweeteners may be added. Sweeteners listed in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

* * * * *

Any person who will be adversely affected by the foregoing amendment to the final regulation to provide for the use of safe and suitable nutritive carbohydrate sweeteners as optional ingredients may at any time on or before February 22, 1983, submit to the Dockets Management Branch (HFA–305) (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to the amendment that may be stayed by the filing of proper objections, compliance with this amendment to the final regulation may begin March 22, 1983. The mandatory compliance date for this amendment shall be July 1, 1985. Notice of the filing of objections or lack thereof will be published in the **Federal Register**. Accordingly, except as to the provisions herein amended, the effective date of § 145.120(a) as published in the **Federal Register** of January 9, 1981 (46 FR 2339) is confirmed as follows: Compliance with this regulation, including any required labeling changes, may have begun on February 10, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

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

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1682 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 173

[Docket No. 76G-0117]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Esterase-Lipase Enzyme Derived From Mucor Miehei; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the regulation that provides for the use of esterase-lipase enzyme derived from *Mucor miehei* as a food additive.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–355), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–17501 at page 28089 in the issue for Tuesday, June 29, 1982, FDA added new § 173.140 *Esterase-lipase derived from Mucor miehei* (21 CFR 173.140).

In the introductory paragraph of the added section, FDA inadvertently omitted two words, "maltodextrin or", although the agency stated in the preamble of the document that maltodextrin could be used as a carrier. The agency is now correcting this omission.

Therefore, the introductory paragraph of § 173.140 is corrected to read as follows:

§ 173.140 Esterase-lipase derived from Mucor miehei.

Esterase-lipase enzyme, consisting of enzyme derived from Mucor *miehei* var. *Cooney et Emerson* by a pure culture fermentation process, with maltodextrin or sweet whey as a carrier, may be safely used in food in accordance with the following conditions:

* * * * *

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1518 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 176

[Docket No. 81F-0403]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of soluble anthraquinones, 1,4,4a,9a-tetrahydro-9,10-anthracenedione and the disodium salt of 1,4-dihydro-9,10-dihydroxyanthracene, as catalysts in the production of paper and paperboard for contact with aqueous and fatty foods. This action is in response to a petition filed by Kawasaki Kasei Chemicals, Ltd.

DATES: Effective January 21, 1983; objections by February 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 15, 1982 (47 FR 2407), FDA announced that a petition (FAP 1B3585) had been filed by Kawasaki Kasei Chemicals, Ltd., Tokyo, Japan, proposing that § 176.170 (21 CFR 176.170) be amended to provide for the safe use of soluble anthraquinones, 1,4,4a,9a-tetrahydro-9,10-anthracenedione and the

disodium salt of 1,4-dihydro-9,10-dihydroxyanthracene, as components of paper and paperboard in contact with aqueous and fatty foods.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that § 176.170 should be amended as set forth below.

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

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

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting two new items in the list of substances to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * *	* * *
Disodium salt of 1,4-dihydro-9,10-dihydroxyanthracene (CAS Reg. No. 73347-60-5).	For use only as a catalyst in the alkaline pulping of lignocellulosic materials at levels not to exceed 0.1 percent by weight of the raw lignocellulosic materials.
1,4,4a,9a-Tetrahydro-9, 10-anthracenedione (CAS Reg. No. 56136-14-2).	For use only as a catalyst in the alkaline pulping of lignocellulosic materials at levels not to exceed 0.1 percent by weight of the raw lignocellulosic materials.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 21, 1983.

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

Dated: January 13, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1520 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 176

[Docket No. 82F-0215]

Indirect Food Additives; Paper and Paperboard Components; Styrene-Butadiene-Vinylidene Chloride and Styrene-Vinylidene Chloride Copolymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of styrene-butadiene-vinylidene chloride copolymers and styrene-vinylidene chloride copolymers, with minor monomers, as components of paper and paperboard in contact with aqueous and fatty foods. This action responds to a petition filed by Dow Chemical Co.

DATES: Effective January 21, 1983; objections by February 22, 1983.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 3, 1982 (47 FR 38988), FDA announced that a petition (FAP 2B3630) had been filed by Dow Chemical Co., 1803 Building, Midland, MI 48640, proposing that Part 176 (21 CFR Part 176) of the food additive regulations be amended to provide for the safe use of styrene-butadiene-vinylidene chloride copolymers, with one or more of the minor monomers acrylic acid, fumaric acid, 2-hydroxyethyl acrylate, itaconic acid, and methacrylic acid, and styrene-vinylidene chloride copolymers, with one or more of the minor monomers acrylic acid, fumaric acid, itaconic acid, and methacrylic acid, as components of paper and paperboard in contact with food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that § 176.170(b)(2) of the food additive regulations should be amended as set forth below. The agency believes, however, that the regulated substance can be more precisely identified by the description set forth in the regulation below.

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

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register.** No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(b)(2) by alphabetically inserting two new items in the list of substances, to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
Styrene-butadiene-vinylidene chloride copolymers containing not more than 40 weight percent of vinylidene chloride in the finished copolymers. The finished copolymers may contain not more than 10 weight percent of total polymer units derived from acrylic acid, fumaric acid, 2-hydroxyethyl acrylate, itaconic acid, and/or methacrylic acid.	For use only as coatings or components of coatings.
* * * * *	
Styrene-vinylidene chloride copolymers containing not more than 40 weight percent of vinylidene chloride in the finished copolymers. The finished copolymers may contain not more than 5 weight percent of total polymer units derived from acrylic acid, fumaric acid, itaconic acid, and/or methacrylic acid.	For use only as coatings or components of coatings.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 21, 1983.

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

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1517 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 80F-0445]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Lubricants With Incidental Food Contact

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an ethoxylated resin phosphate ester mixture consisting of specified proportions of dihydrogen phosphate and monohydrogen phosphate esters of poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene), poly(methylene-*p*-nonylphenoxy)poly(oxyethylene), and *n*-tridecyl alcohol. The mixture is used as a surfactant in lubricating fluids with incidental food contact. This action is in response to a petition filed by the Witco Chemical Corp.

DATES: Effective January 21, 1983; objections by February 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 5, 1980 (45 FR 80593), FDA announced that a petition (FAP OB3526) had been filed by the Witco Chemical Corp., 3230 Brookfield St., Houston, TX 77045, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the safe use of poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene), poly(methylene-*p*-nonylphenoxy) poly(oxyethylene), and α-tridecylhydroxy, mixture of dihydrogen phosphate and monohydrogen phosphate esters. The agency believes that the substance can be more precisely identified as ethoxylated resin phosphate ester mixture consisting of specified proportions of dihydrogen phosphate and monohydrogen phosphate esters of the following chemicals: poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene), poly(methylene-*p*-nonylphenoxy)poly(oxyethylene), and *n*-tridecyl alcohol. The agency has used this nonmenclature in the regulation set forth below. The ethoxylated resin phosphate ester mixture is used as a lubricant with incidental food contact.

Having evaluated data in the petition and other relevant material, FDA concludes that the proposed food additive use is safe and that § 178.3570 should be amended as set forth below.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch

(address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3570(a)(3) by alphabetically inserting a new item in the list of substances, to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	Limitations
* * *	* *
Ethoxylated resin phosphate ester mixture consisting of the following compounds: 1. Poly(methylene-*p*-*tert*-butylphenoxy)poly-(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters (0 to 40 percent of the mixture). The resin is formed by condensation of 1 mole of *p*-*tert*-butylphenol with 2 to 4 moles of formaldehyde and subsequent ethoxylation with 4 to 12 moles of ethylene oxide; 2. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters (0 to 40 percent of the mixture). The resin is formed by condensation of 1 mole of *p*-nonylphenol with 2 to 4 moles of formaldehyde and subsequent ethoxylation with 4 to 12 moles of ethylene oxide; and 3. *n*-Tridecyl alcohol mixture of dihydrogen phosphate and monohydrogen phosphate esters (40 to 80 percent of the mixture; CAS Reg. No. 56831-62-0).	For use only as a surfactant to improve lubricity in lubricating fluids complying with this section at a level not to exceed 5 percent by weight of the lubricating fluid.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall consitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 21, 1983.

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

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1681 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 310 and 314

[Docket No. 78N-0093]

Abbreviated New Drug Applications; Related Drug Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new drug regulations to clarify FDA's policy on abbreviated new drug application (ANDA) acceptability. The rule states that when FDA finds that the abbreviated form of a new drug application is suitable for a drug product, the finding will apply only to drug products identical to the product that was the subject of the finding. The rule also establishes a petition procedure whereby prospective applicants may ask FDA to determine whether an abbreviated new drug application is suitable for similar or related products. This action is taken because abbreviated applications are frequently submitted, improperly, for products that are clearly not subject to such a finding. These changes clarify when FDA will accept an ANDA for a duplicate version of a pre–1962 approved drug product and provide a more effective process for making an earlier determination about ANDA suitability for similar or related products thus permitting applicants to submit the appropriate form of an application earlier. The agency also will make publicly available a list of specific drug products for which FDA has made a finding that an ANDA is suitable. Such a list will benefit prospective applicants who are not necessarily aware of all products that have been found suitable for ANDA's.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 1, 1978 (43 FR 39126), FDA proposed to amend the new drug regulations as they pertain to abbreviated new drug applications (ANDA's). Under the proposed rule, a Drug Efficacy Study Implementation (DESI) notice announcing that an ANDA may be submitted instead of a full new drug application (NDA) for a drug product would authorize ANDA's only for products identical to the specific DESI drug product. The proposed rule also would establish the petition procedure (21 CFR 10.30) as the mechanism by which prospective applicants could seek a determination of ANDA suitability for similar or related products. This procedure is a more appropriate and effective process for making this determination than the variety of procedures now used, e.g., letters of inquiry, telephone calls, and the filing-over-protest procedure, because it is designed to focus specifically on those issues necessary to make a determination on a requested type of action; in this case, whether and the degree to which the safety and effectiveness of one product can be extended to another. Further, if an application is submitted in the form of an ANDA for a related product that is not subject to the finding that an ANDA is suitable, it would not be regarded as an ANDA but as a petition, and would be processed as such under § 10.30. It could not be filed over protest (21 CFR 314.110(d)), nor would it be entitled to procedural rights afforded NDA's under section 505(d) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(d)).

Six drug companies commented on the proposal. A summary of the comments and the agency's conclusions are discussed below. Minor editorial changes have been made in the regulations.

1. Several comments stated that the proposal failed to establish any factual basis (or at most only an insubstantial basis) for the proposed changes and that a factual basis is necessary for these regulations to be sustained. One comment assumed that additional personnel and a larger agency payroll would be required to implement the changes.

FDA disagrees with these comments, both in terms of relevant law and practical effect. The preamble to the proposed regulation described specifically an existing problem in implementing current FDA regulations: that in "a number of instances, firms have submitted ANDA's for drug products that vary in some aspect from the DESI product" and in many situations, two examples of which were described and numerous other examples of which were alluded to, "ANDA's [are] submitted for drug products [that are] clearly not within the scope of a finding that an ANDA is sufficient." The agency believes that these statements set forth a substantial factual basis for the proposed change.

FDA is not required to identify by name each ANDA that has been submitted to the agency that did not qualify for an ANDA in order to justify the proposal. The agency is generally constrained by its current regulations, which implement various Federal statutes protecting trade secrets and confidential commercial information, from disclosing the existence of pending NDA's or ANDA's (21 CFR 314.14(b)). Nonetheless, a reliable indication of the scope of the problem can be found in the number of requests by firms that abbreviated applications be "filed over protest," in which case FDA must either approve the application or publish in the **Federal Register** a notice of opportunity for hearing on the application (21 CFR 314.110(e) and 314.200(a)(2)). Since 1977, FDA has received requests to file over protest 43 ANDA's in which the critical question was whether an ANDA or an NDA was the authorized form of new drug application. Additional cases exist in which FDA refused to file an ANDA and the applicant did not request that the application be filed over protest. In many cases in which a filing over protest has occurred, the subsequent notice of opportunity for hearing has been published and is part of the public record. (See e.g., notices published in the **Federal Register** of April 29, 1977 (42 FR 21847), June 10, 1977 (42 FR 30002), August 9, 1977 (42 FR 40248), and September 16, 1977 (42 FR 46592).)

The amount of agency resources needed to address individual ANDA submissions is significant. Often, FDA reviewers must make extensive literature searches to determine whether there is a reasonable basis for extending the ANDA finding to the related or similar drug product. The proposed change in the current regulations would reduce the need for FDA to conduct this literature review. Moreover, the agency's resource investment is generally far greater when it must resolve an applicant's filing over protest, with the attendant possibility of a hearing, than it is when it need only respond to a citizen's petition. Thus, contrary to the comment that the proposal would lead to increased agency personnel and budgets, FDA believes that it will likely decrease the need for additional resources, as it will decrease the need to divert current personnel from their principal duties to resolving "filing over protest" actions.

2. Some comments stated that the proposed revisions would deny applicants the right to a hearing that section 505(d) of the act affords them to resolve disputes with FDA. Moreover, one comment suggested that various legal procedural rights provided by section 505 of the act to applicants would be abridged or compromised by the changes. The comment argued that in a section 505 hearing the burden of proof rests with FDA, as opposed to the applicant, and that the agency's conclusions must be supported by substantial evidence in the record. The proposed petition procedure, the comment believed, shifted this burden of proof and lowered the standard for judicial review to "arbitrary and capricious." Several comments also stated that a proper issue in a section 505(d) hearing is whether the proposed product is related to the DESI drug product; this issue is one of fact and requires a full hearing.

FDA disagrees with this analysis. The agency does not view the requirement of section 505(d) of the act, that applicants be given a notice of opportunity for hearing when an application is not to be approved, to apply to the question of whether an abbreviated application is suitable for obtaining approval of a similar or related product. Section 505(c) of the act provides for an opportunity for hearing only on whether an application may be approved on the basis of the information submitted under section 505(b) of the act; that is, whether the application contains the requisite information, and whether that information justifies approval. The issue for ANDA applicants, however, and that which was addressed by the proposal, is whether products purportedly related to those subject specifically to DESI notices may rely on DESI conclusions, and thus avail themselves of abbreviated applications in seeking approval. The question of whether and the degree to which one product is related to another does not depend on information that is required to be submitted in a new drug application under section 505(b) of the act, nor is it characteristically submitted by pioneer manufacturers or ANDA applicants as part of applications. Thus, there is no legal requirement that the hearing opportunity provided by section 505(c) be made available to ANDA applicants who disagree with an adverse agency decision on whether their products may rely on DESI conclusions. Appropriate review of such decisions may be had, assuming compliance with the petition procedures set forth in the regulation, under the applicable standard—that applicable to administrative decisionmaking generally—which is whether the agency's decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law (5 U.S.C. 706(2)(A)). The comment is incorrect, moreover, in asserting that the burden of proof lies with FDA in a section 505 hearing. The burden of establishing safety or efficacy of a new drug in such a hearing lies with the applicant.

FDA is fully authorized to alter the rules governing the extent to which related and similar products may rely on DESI conclusions. The use of abbreviated applications is based on agency-promulgated regulations, and the agency is free to amend those regulations, with appropriate justification, to modify the conditions of ANDA suitability. Thus, although under the former FDA regulation the agency permitted applicants to raise the question of whether their products were subject to DESI announcements in a section 505(d) hearing, FDA believes it important to change that procedure in order to eliminate documented abuses, even if the changes will eliminate the use of hearings to interpret the scope of the DESI notice as to ANDA suitability. A related use of general rulemaking authority to establish threshold tests before the use of new drug approval hearing procedures, and thereby eliminate the need for a hearing in certain disputes, in lieu of case-by-case administrative adjudication of those disputes, has previously been upheld under section 505 of the act. *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973). Consequently, the changes in §§ 310.6 and 314.1 (21 CFR 310.6 and 314.1) and the adoption of

§ 314.2 (21 CFR 314.2) (proposed as § 314.3) deprive applicants of no rights they are otherwise entitled to under section 505 of the act.

3. One comment attempted to show that the proposed amendments are not valid by describing how the related-drug policy developed. The comment stated that in publishing § 310.6, FDA declared that all DESI announcements would apply not only to drugs named in them, but also to all related drugs and, further, that a statement in the preamble to that regulation demonstrated the agency's intent to apply the regulation equally to effective drugs and ineffective drugs. Thus, the comment contends, as far back as 1972 it has been FDA's position that when the DESI review finds a drug effective, that determination should, as a scientifically justifiable fact, apply to all drugs pharmacologically related to the DESI drug.

The comment's position is erroneous. The specific language to which the comment refers was far more limited. It stated: "The Commissioner agrees that efficacy notices *may* be applied to a similar or related drug product *provided that* experts would conclude that the drug in question is sufficiently similar * * * to justify a reasonable application of the efficacy conclusions * * *. It is possible that, *with limited confirmatory testing*, a related drug product may also be evaluated as safe and effective for its indications. Efficacy ratings do apply to *identical* drugs * * * *except* that where questions of bioavailability between different formulations are present, evidence to establish bioavailability may be necessary." (Emphasis added.) In short, the preamble obligated FDA only to consider whether DESI findings apply to similar or related drugs in individual cases, and did not impose the blanket rule the comment suggests.

Additionally, in discussing the applicability of an effectiveness finding to a related drug, the preamble to the final rule, § 310.6, stated, "There will be * * * areas where the judgments of experts must determine the applicability of the efficacy findings. The determination will be based on the chemical structure of the drug, recommended use, route of administration, its pharmacological properties and any other information available on the action or properties of the drug." Drugs that are pharmacologically related cannot, solely by reason of that relationship, be presumed to be equivalent in efficacy, and FDA's original policy was not based on any such conclusion.

4. One comment suggested that the regulation identify certain variations in products that allow a similar product to be considered identical for purposes of ANDA suitability. The comment interpreted the proposal as equating a tablet dosage form with a capsule dosage form to the extent that the finding of ANDA suitability for one would apply to the other. The comment went on to suggest other variations: a higher strength tablet if the dosage is within the recommended dosage for the lower strength DESI product and if the tablet can be scored; a liquid form when a DESI drug is a tablet; timed-release products employing a release mechanism that is different from that of a DESI drug; and a drug product identical to a post-1962 approved product which in itself is related to a DESI drug product.

Although the preamble to the proposed rule discussed the likelihood of a capsule being considered appropriate for an ANDA when its equivalent in tablet form has been found suitable, it was not intended to reflect the conclusion that an ANDA is always acceptable for one of these dosage forms when the DESI product is the other dosage form. FDA anticipates that ANDA's would usually be acceptable for different solid dosage forms; it is not FDA's intent to restrict ANDA submissions unreasonably but rather to encourage ANDA's after FDA has determined that an ANDA is suitable. There are, however, drugs whose abuse potential depends, in part, on the dosage form. Thus, neither the proposal nor the final rule as adopted here considers these dosage forms to be identical. Similarly, FDA has not adopted the specific examples of dosage form variance suggested in the comment for a "blanket" finding of ANDA suitability. If an applicant follows the petition procedure, and presents persuasive evidence that supports a finding of ANDA suitability for a related product, FDA will accept an ANDA for it.

This final rule does not apply to a post-1962 approved drug, whether or not the post-1962 drug product is related to a DESI or pre-1962 drug. The regulation on similar and related drugs (21 CFR 310.6) was intended to show the relationship between drug products approved before October 10, 1962, and subsequently evaluated for effectiveness in the DESI program, and identical, similar, or related products on the market without having been approved though the new drug procedures. Ordinarily, if a drug product was approved after 1962 it is outside the scope of consideration for ANDA suitability as a related drug. Duplicates of that product remain subject to the full NDA requirements. The requirement for safety and effectiveness data, however, may be satisfied by reports of studies that appear in the published literature. Or, if the drug product is closely related to a DESI drug for which ANDA's have been determined to be suitable, it may suffice to include only limited evidence to show that the characteristics that make the product different from the DESI drug do not alter the safety and effectiveness. Policy regarding the suitability of ANDA-type procedures for post-1962 drugs is currently under review, and the Department would plan to propose any changes found appropriate in a future **Federal Register** notice.

5. One comment argued that the rule, if adopted, should not be applied retroactively to products which are already the subject of ongoing proceedings under provisions of the regulations before the amendment.

FDA agrees with the comment. The new regulations apply only to ANDA's submitted after the effective date. Matters concerning ANDA's that are the subject of ongoing administrative proceedings will be resolved on a case-by-case basis by appropriate administrative processes.

The agency advises that many notices implementing the Drug Efficacy Study have in previous years included language that permitted an ANDA to be submitted for a related drug product before FDA had the opportunity to consider its differing characteristics. Because "related" is an imprecise term and because FDA continues to receive ANDA's for drugs not sufficiently related to be encompassed by a finding of ANDA suitability, all previous DESI notices containing a finding of ANDA suitability for a drug product are amended as of the effective date of this rule to limit that finding to drug products that are identical to the product that was the subject of the finding. As used here, "identical" means a product that is the same in dosage form, strength, and route of administration, contains the same active ingredient, and is recommended for use under the same conditions of use. Related drug products may be suitable for ANDA's only if FDA has made a separate finding of ANDA suitability.

6. One comment on § 310.6(b) argued that, as proposed, the section "does not provide logical rationale for decision making on the part of FDA, but rather permits decisions to be made arbitrarily on a personnel (sic) basis." The comment specifically suggested deletion of the wording "Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs * * *. A combination drug product * * * is safe or effective." In

place of the deleted language, the comment suggested inserting the statement "An identical, related or similar drug does not include drugs with more or different active ingredients than stipulated as determined by the Commissioner of Food and Drugs."

The agency does not agree with the comment and rejects the suggested wording change. The agency believes that it is scientifically sound, equitable, and in the public interest for conclusions of the Drug Efficacy Study to be applied to all identical drug products, and to appropriately related and similar drug products. The finding that a DESI product is both safe and effective is clearly applicable to other brands of that product, if the other brands are appropriately formulated, manufactured, tested, and labeled, and are bioequivalent. Similarly, a finding of lack of safety or effectiveness is clearly applicable to other brands when no contrary data in support of the other brands exist. With similar or related drugs, however, such findings may not be clearly applicable. This is particularly true when the question is one of applying findings of effectiveness (as opposed to lack of effectiveness) to other products. In these cases, the agency believes that it is logical to use, as the test of applicability, the determination that would be made by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs. In the absence of safety or effectiveness studies using the similar or related drug product, this determination will be based on the chemical structure of the drug, recommend use, route of administration, its pharmacological properties, and any other information available on the action or properties of the drug. Where a similar or related drug does in fact have different actions or effects, it is incumbent on the sponsor of the drug to have data showing this difference. In the absence of such data, it is reasonable to conclude that a finding of lack of safety or effectiveness for a DESI drug product can be extrapolated to the related drug product. Both § 310.6 and DESI notices invite inquiries and consultations regarding the applicability of a DESI notice to a related product. The ultimate decision, based on scientific judgment, on whether a DESI notice applies to a related product rests with FDA.

7. Several comments addressed the statement in the preamble that expressed an intent to extend ANDA acceptability, at a later time, to drug products approved after 1962.

The agency will not respond to these comments in this document but will consider them as it reviews its policy on post-1962 approved drugs.

On its own initiative, the agency has revised § 310.6 by changing the section title to read "Applicability of 'new drug' or safety or effectiveness findings in drug efficacy study implementation notices and notices of opportunity for hearing to identical, related, and similar drug products." FDA believes this revised title more accurately reflects the scope of the section. Additionally, the agency has revised § 310.6(b) by omitting the proposed sentence "However, a finding that a single active entity drug * * * as described in § 300.50 of this chapter." The sentence has been restated and appears as § 314.2(b)(4).

The agency is redesignating § 314.1(f) as § 314.2 rather than § 314.3 as proposed.

The agency has restated the contents of proposed § 314.3(b) for clarification. The requirements appear as § 314.2(b)(1), (2), and (3).

Although the ANDA procedure permits a manufacturer of a product that duplicates the product specifically named in a DESI notice to rely on the DESI evaluation of safety and effectiveness in obtaining approval of an ANDA, the agency is concerned that some manufacturers may erroneously believe the procedure automatically confers approval of the duplicate product upon submission of ANDA. Thus, to clarify this point, the agency has included in § 314.2(b)(2) the statement that FDA's acceptance of an ANDA for a drug product does not signify that the product is safe and effective until the application is approved. The agency emphasizes that each ANDA must include information on the applicant's ability to manufacture a product of acceptable quality. An ANDA must contain information on the drug product's formulation, its manufacture, quality control, and labeling, and, if necessary, data to show that the product is bioavailable.

List of Products for Which a Finding of ANDA Suitability Has Been Made

This final rule provides for ANDA's to be accepted for drug products identical to a DESI drug that has been the subject of a finding that an ANDA is suitable and for drug products identical to a product which is similar or related to a DESI drug that has been found to be suitable for an ANDA. Because prospective applicants are not necessarily aware of all products that have been found suitable for ANDA's, the agency will make available a list of these products. A notice of the availability of the list will be published in the **Federal Register.**

Prior DESI Notices and Proposals for ANDA's

The agency advises that all prior DESI notices that contain a finding of ANDA suitability are amended as of the effective date of this rule to conform to the rule. The amendment limits findings of ANDA suitability in those notices specifically to drug products that are (1) identical to the DESI product that was the subject of that finding, (2) identical to similar or related products specifically described in the notice as suitable for ANDA's, or (3) identical to other similar or related products for which FDA has already accepted an ANDA.

It was anticipated at the time the proposal was published, and the preamble so stated, that FDA would publish a regulation simultaneously with this final rule to finalize the proposal of June 20, 1975 (40 FR 26156) that would revise the requirements for information in ANDA's. The agency now plans to withdraw that proposal. FDA is reconsidering the information that is needed in an ANDA as part of its comprehensive reevaluation and rewrite of its new drug regulations.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

In accordance with Executive Order 12291, FDA has determined that this final rule does not warrant designation as a "major rule" under any of the criteria specified under section 1(b) of the Order. The assessment that led to the determination that this is not a major rule has been placed on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 310

Administrative practice and procedure, Drugs, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 314

Administrative practice and procedure, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and

under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 310 and 314 are amended as follows:

PART 310—NEW DRUGS

1. Part 310 is amended in § 310.6 by revising the section heading, the seventh sentence of paragraph (a), and paragraphs (b) and (c), to read as follows:

§ 310.6 Applicability of "new drug" or safety or effectiveness findings in drug efficacy study implementation notices and notices of opportunity for hearing to identical, related, and similar drug products.

(a) * * * However, it is essential that the findings and conclusions that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective be applied to all identical, related, and similar drug products to which they are reasonably applicable. * * *

(b)(1) An identical, related, or similar drug includes other brands, potencies, dosage forms, salts, and esters of the same drug moiety as well as of any drug moiety related in chemical structure or known pharmacological properties.

(2) Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings and conclusions, stated in a drug efficacy notice or notice of opportunity for hearing, that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective are applicable to an identical, related, or similar drug product, such product is affected by the notice. A combination drug product containing a drug that is identical, related, or similar to a drug named in a notice may also be subject to the findings and conclusions in a notice that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective.

(3) Any person may request an opinion on the applicability of such a notice to a specific product by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(c) Manufacturers and distributors of drugs should review their products as drug efficacy notices are published and assure that identical, related, or similar products comply with all applicable provisions of the notices.

* * * * *

PART 314—NEW DRUG APPLICATIONS

2. Part 314 is amended:

a. In § 314.1 by removing paragraph (f) and by revising the first sentence of paragraph (a)(1), to read as follows:

§ 314.1 Applications.

(a)(1) Applications to be filed under section 505(b) of the act shall be submitted in the form described in paragraph (c) of this section or optionally in the form described in paragraph (d) of this section and assembled as required by paragraph (e) of this section; if the drug product is one for which an abbreviated new drug application has been found by the Food and Drug Administration to be sufficient, the application may be limited to the information described in § 314.2 unless otherwise specified in such finding.

* * * * *

b. By adding new § 314.2, to read as follows:

§ 314.2 Abbreviated new drug applications.

(a) The Food and Drug Administration has determined that many drug products covered by the drug efficacy study may be approved for marketing without the submission of additional evidence of preclinical and clinical studies (other than in vivo bioavailability studies) to show safety and effectiveness. When such a finding has been made for a drug product, an abbreviated form of a new drug application is sufficient for that product.

(b)(1) The Food and Drug Administration will accept an abbreviated new drug application only if it has made a finding that an abbreviated application is suitable for the drug product.

(2) A finding by the Food and Drug Administration that an abbreviated new drug application is suitable for a drug product applies only to a product that is the same in active ingredient, dosage form and strength, route of administration, and conditions of use as the drug product that was the subject of the finding. For a drug product that is similar but different in one or more of these characteristics, an abbreviated new drug application will be accepted only if the Food and Drug Administration has made a separate finding of suitability. However, acceptance of an abbreviated new drug application for a drug product does not signify that the product is safe and effective until the application is approved.

(3) A finding that a drug product is a "new drug," because it is similar to a product that is a "new drug," and, therefore, is subject to either a full or abbreviated new drug application does not include a finding that an abbreviated application is suitable for the similar product.

(4) A finding that a single-active-entity drug product is safe and effective and that an abbreviated new drug application is suitable is not a basis for determining that a combination drug product containing that entity as one of its ingredients is either safe or effective or that an abbreviated new drug application is suitable. The finding also is not a basis for determining that the combination drug product meets all of the requirements for combination drugs as described in § 300.50 of this chapter.

(c) A prospective applicant may seek a determination of the suitability of an abbreviated new drug application for a product that the applicant believes similar or related to a drug product that has been declared to be suitable for an abbreviated new drug application. Extension of the finding that a drug product is safe and effective to another product will ordinarily be limited to other dosage forms for the same route of administration or to closely related ingredients. If preclinical or clinical evidence is needed to support the safety, or if clinical evidence is needed to support the effectiveness, of the proposed product, then an abbreviated new drug application is not suitable for the similar or related drug product.

(d) A person seeking a determination that an abbreviated new drug application is suitable for a similar or related drug product shall use the procedures established in § 10.30 of this chapter. The petitioner shall set forth the reasons that justify extending the finding that an abbreviated new drug application is suitable for one product to the similar or related product proposed to be marketed.

(e) A new drug application submitted in the form of an abbreviated new drug application for a drug product that has not been the subject of a finding that allows an abbreviated application for the product will be considered to be a petition under § 10.30 of this chapter and will be processed as such.

(f) Each abbreviated new drug application is required to contain a reference to the finding of the Food and Drug Administration that an abbreviated application is suitable for the specific product that is the subject of the application. Each abbreviated new drug application shall also contain:

(1) Satisfactory information of the kinds described in items 1 (table of contents), 4 (label and all other labeling), 5 (R_x or OTC statement), and 6 (components) of the new drug application Form FD–356H (OMB approval number 0910–0001), and in lieu of full information described under items 7 and 8 (composition and methods, facilities and controls), brief statements that:

(i) Include the composition of the drug, stating the name and amount of each ingredient whether active or not, contained in a stated quantity of the drug in the form in which it is to be distributed.

(ii) Identify the place where the drug will be manufactured, processed, packaged, and labeled and the name of the supplier of the active ingredient(s).

(iii) Identify any person other than the applicant who performs a part of those operations and designate the part.

(iv) Include certifications from the applicant and from any person identified in paragraph (f)(1)(iii) of this section that the methods used in, and the facilities and controls used for, the manufacture, processing, packing, and holding of the drug are in conformity with current good manufacturing practice in accord with Parts 210 and 211 of this chapter.

(v) Assure that the drug dosage form and components will comply with the specifications and tests described in an official compendium, if such article is recognized therein, or, if not listed or if the article differs from the compendium drug, that the specifications and tests applied to the drug and its components are adequate to assure their identity, strength, quality, and purity.

(vi) Outline the methods used in, and the facilities and controls used for, the manufacture, processing, and packaging of the drug.

(2) Labeling that is in accord with the labeling conditions described in the finding that an abbreviated new drug application is sufficient.

(3) If the drug finding so specifies for the formulation intended for marketing, data adequate to assure the biological availability of the drug. For preparations claiming sustained action, timed-release, or other delayed or prolonged effect, such data should show that the drug is available at a rate of release that will be safe and effective.

(4) Any information available to the applicant, including preclinical or clinical data developed by the applicant or by other persons on behalf of the applicant, on adverse effects of the drug that is not reflected in the labeling.

(5) Additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

(6) An environmental impact analysis report analyzing the environmental impact of the manufacturing process and ultimate use or consumption of the drug pursuant to § 25.1 of this chapter.

(7) Statements contained in the application regarding each clinical investigation involving human subjects, that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter, or was not subject to such requirements in accordance with § 56.104 or § 56.105, and that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

(8) With respect to each nonclinical laboratory study contained in the application, either a statement that the study was conducted in compliance with good laboratory practice regulations set forth in Part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations.

(9) The signature of the applicant or responsible official or agent on a completed Form FD–356H.

c. In § 314.110 by adding new paragraph (f), to read as follows:

§ 314.110 Reasons for refusing to file applications.

* * * * *

(f) An application submitted in the form of an abbreviated new drug application in the absence of a prior finding that the abbreviated form of a new drug application is suitable for the drug product, as required by § 314.2, will not be accepted as an application within the meaning of section 505(b) of the act. It will be considered as a petition, under § 10.30 of this chapter, for a determination on the suitability of abbreviated new drug applications for the product.

Effective date. This regulation will become effective February 22, 1983.

(Secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a)))

Dated: December 23, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83-1867 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trichlorfon, Phenothiazine, and Piperazine Dihydrochloride Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) sponsored by Fort Dodge Laboratories, Inc. The NADA provides for safe and effective use of an equine anthelmintic containing trichlorfon, phenothiazine, and piperazine dihydrochloride. The drug combination is administered by stomach tube for removal of bots, large and small strongyles, large roundworms, and pinworms.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–3420.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Inc., Fort Dodge, IA 50501, is sponsor of NADA 15–154 providing for use of Dyrex T.F. in horses. The drug is a water dispersible powder containing trichlorfon, phenothiazine, and piperazine dihydrochloride which is mixed with warm water to form a suspension. The suspension is administered to horses by stomach tube for removal of bots, large and small strongyles, large roundworms, and pinworms.

The NADA was originally approved March 4, 1964. At that time, approvals were not codified by publication in the **Federal Register.** Accordingly, the regulations are now amended to codify Fort Dodge Laboratories' approved NADA.

This action, reflecting an approved NADA, does not constitute reaffirmation of the safety and effectiveness data supporting this approval. Since the NADA was approved before July 1, 1975, the sponsor has not been required to submit a summary of the safety and effectiveness data and information in accordance with the freedom of information provisions of the animal drug regulations in 21 CFR 514.11(e)(2)(ii).

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact

on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.2520g to read as follows:

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

§ 520.2520g Trichlorfon, phenothiazine, and piperazine dihydrochloride powder.

(a) *Specifications.* Each 54.10 grams (1.91 ounces) of water dispersible powder contains 9.10 grams of trichlorfon, 6.25 grams of phenothiazine, and the equivalent of 20.0 grams of piperazine base (as piperazine dihydrochloride).

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(c) *Special considerations.* Labeling shall bear the following statements: The drug is a cholinesterase inhibitor. Do not use this product in horses simultaneously with, or within 2 weeks before or after treatment with, or exposure to, neuromuscular depolarizing agents (e.g., succinylcholine) or to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *Conditions of use*—(1) *Amount.* 18.2 milligrams of trichlorfon, 12.5 milligrams of phenothiazine, and 40.0 milligrams of piperazine base per pound of body weight.

(2) *Indications for use.* For horses for removal of bots (*Gastrophilus nasalis, Gastrophilus intestinalis*), large strongyles (*Strongylus vulgaris*), small strongyles, large roundworms (ascarids, *Parascaris equorum*), and pinworms (*Oxyuris equi*).

(3) *Limitations.* Mix powder and vial contents together in warm water to form suspension. Administer by stomach tube. Do not fast horses before or after treatment. Treatment of mares in late pregnancy is not recommended. Surgery or any severe stress should be avoided for at least 2 weeks before or after treatment. Do not administer to sick, toxic, or debilitated horses. Not to be used in horses intended for use as food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: January 21, 1983.

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

Dated: January 14, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-1651 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins and Carbarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Hoechst Corp. providing for safe and effective use of a complete turkey feed manufactured by combining separately approved bambermycins and carbarsone premixes. The feed is used for improved feed efficiency or increased rate of weight gain and as an aid in the prevention of blackhead.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4317.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Rt. 202-206 North, Somerville, NJ 08876, filed NADA 130-661 providing for use of bambermycins at 1 or 4 grams per ton in combination with carbarsone (not U.S.P.) at 227 grams per ton (0.025 percent) in complete turkey feeds for improved feed efficiency or increased rate of weight gain and to aid in prevention of blackhead. The firm submitted data that comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. The NADA is approved and the regulations are amended to reflect this approval.

Approval of this NADA relies in part upon safety data contained in American Hoechst's NADA 44-759 for bambermycins and Whitmoyer Laboratories' NADA 10-285 for carbarsone (not U.S.P.). Whitmoyer has authorized use of the data contained in its NADA to support this approval. This approval does not change the dosage levels or indications for the drugs. Residue depletion data have shown that levels and persistence of residues from each drug are not affected by use of the drugs in combination. The data demonstrate that bambermycins meet the negligible tolerance requirements according to 21 CFR 556.1. The data further show that the arsenic levels in muscle, liver, kidney, and skin-fat tissues are below tolerance levels for samples assayed within the 5-day withdrawal period currently established for individual use of carbarsone. Therefore, the agency concludes that this approval poses no increased risk to humans from exposure to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this NADA has been treated as a Category II supplement, which did not require a reevaluation of the underlying human safety data in NADA's 44-759 and 10-285.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. In § 558.95 by adding new paragraph (e)(3)(iv) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(e) * * *

(3) * * *

(iv) *Amount per ton.* Bambermycins, 1 or 4 grams plus carbarsone, 227 grams (0.025 percent).

(*a*) *Indications for use.* For improved feed efficiency (1 gram per ton) or increased rate of weight gain (4 grams per ton); as an aid in the prevention of blackhead.

(*b*) *Limitations.* Feed continuously 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; use as sole source of organic arsenic; carbarsone by 011794 in § 510.600(c) of this chapter.

2. In § 558.120 by adding new paragraph (e)(2)(iii) to read as follows:

§ 558.120 Carbarsone (not U.S.P.).

* * * * *

(e) * * *

(2) * * *

(iii) Bambermycins as in § 558.95.

Effective date: January 21, 1983.

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

Dated: January 14, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-1648 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulation for tylosin to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. providing for administrative waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) with regard to the manufacture of finished feeds from premixes containing not more than 40 grams of tylosin per pound.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4317.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46285, filed supplemental NADA 12-491 providing for waiver of the requirements of section 512(m) of the act (21 U.S.C. 360b(m)) for making finished feeds from premixes containing not more than 40 grams of tylosin (as tylosin phosphate) per pound for all species for which the drug is approved. Tylosin has been approved for use in these species since 1975. A similar waiver for use of premixes containing up to 10 grams per pound in making swine feeds is currently in effect.

Tylosin as a sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classified with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as sole source of tylosin."

5. Data are on file to demonstrate that the product is effective over the approved range. This data should generally satisfy current standards for the demonstration of effectiveness.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Application of this criterion requires a review of the available drug experience reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific effectiveness claims or at specific levels of the drug, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds using various concentrations of drug.

By granting the administrative waiver of the requirements of section 512(m) of the act with regard to making finished feeds from intermediate premixes containing not more than 40 grams of tylosin per pound, existing waivers in 21 CFR 558.625(d) (1) and (2) are rendered obsolete. The term "finished feeds" includes feed supplements, feed concentrates, and complete feeds.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

In the **Federal Register** of January 9, 1981 (46 FR 2456), the agency published a proposal to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. In that proposal (46 FR 2463), the agency announced that it would no longer grant exemptions from the requirement of an approved medicated feed application because the interim policy would be terminated by publication of a regulation establishing a permanent policy. At that time FDA believed that a final rule on the proposed medicated feed regulations could be published within a short time. Because of the length of time that has transpired since publication of the proposal, the agency concluded that it would be unfair to continue denying waivers to those drug sponsors whose products meet the criteria set forth in the 1971 memorandum on the basis that the program is to be restructured in the future. Accordingly, as stated in the **Federal Register** of May 28, 1982 (47 FR 23446), the agency has withdrawn its policy terminating the granting of section 512(m) exemptions based on the 1971 memorandum (January 9, 1981; 46 FR 2456) and has resumed the granting of exemptions on an interim basis.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required.

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

List of Subjects in 21 CFR Part 558

Animal feeds, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner

of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (d) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(d) *Special considerations.* Finished feeds processed from premixes containing not more than 40 grams of tylosin (as tylosin phosphate) per pound and conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date: January 21, 1983.

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

Dated: January 13, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-1648 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 630

[Recodification Docket No. 2]

Biologics; Recodification and Republication; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting its biologics regulations on Poliovirus Vaccine, Live, Oral, by removing a sentence that was inadvertently introduced in the recodification published in the **Federal Register** of November 20, 1973. By removing the sentence, FDA will eliminate any confusion that could occur in the application of the regulation.

FOR FURTHER INFORMATION CONTACT: Rada Proehl, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 5600 Fishers Lane, 8800 Rockville Pike, Bethesda, MD 20205; 301-443-1306.

SUPPLEMENTARY INFORMATION: In FR Doc. 73-24521 appearing at page 32048 in the issue for Tuesday, November 20, 1973, the following correction is made: On page 32070, third column, under § 630.10 *Poliovirus Vaccine, Live, Oral,* in paragraph (b)(2)(ii), remove the second sentence that reads "Susceptibility shall be demonstrated by §§ 630.11, 630.15 and 630.16(b)."

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1649 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 203

Registration of Agencies for Voluntary Foreign Aid

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: This regulation is being amended in its entirety to clarify the purposes of registration and to emphasize that organizations must be private and voluntary in nature in order to be registered.

EFFECTIVE DATE: November 30, 1982.

FOR FURTHER INFORMATION CONTACT: Deborah Mace (703) 235-1684.

SUPPLEMENTARY INFORMATION: On December 8, 1981, the Agency published in the **Federal Register** (46 FR 60009-13) a proposed revision of Part 203. An extension of the comment period from January 3, 1982 to March 3, 1982, was published in the **Federal Register** on February 1, 1982 (47 FR 4535-36).

The agency received comments from eighty-five private individuals as well as comments from organizations, and AID overseas missions. The following summarizes the principal comments, and actions taken:

1. *Purpose.* The statement of purpose of § 203.1 was amended to indicate that the principal purpose of registration is to facilitate cooperation between AID and the private sector and to indicate that registration also serves as a basis for computing the amount of funding made available to private and voluntary organizations (PVOs) and whether a PVO meets the twenty percent test of section 123(g) of the Foreign Assistance Act of 1961, as amended ("FAA").

2. *Twenty Percent Test.* The proposed rule required as a condition of registration that twenty percent of PVO's overseas program costs be from private U.S. sources. However, after publication of the proposed rule, section 123(g) of the FAA became law. The twenty percent test of section 123(g) was different in several respects from the test of the proposed rule and the agency extended the comment period to provide for comments on the effect of section 123(g).

Almost all of the eighty-five comments from the general public were directed towards the twenty percent test and, without exception, were opposed to the test of the proposed regulation.

The requirement for twenty percent private funding has been deleted completely from the rule. Therefore, the twenty percent test is not a condition for registration. However, the twenty percent test of section 123(g) of the FAA will be used as a condition of eligibility for the PVO grant program as stated in § 203.1(e). The requirements of section 123(g) are effective on January 1, 1985. In the intervening period, the Agency will encourage a progressive phase-in.

3. *Citizenship of Board Members.* The proposed regulation deleted the requirement that the governing body be composed principally of U.S. citizens. The only comment received on this change was favorable.

4. *Presidential Task Force on Regulatory Relief.* One suggestion was to submit the regulation to the Presidential Task Force on Regulatory Relief chaired by Vice President Bush to provide the private and voluntary community an opportunity to comment on the proposed regulations. Pursuant to the requirement of Executive Order 12991 the regulation in both proposed and final form has been submitted to, and reviewed by, the Office of Regulatory Review of OMB which functions as the staff office of the Task Force.

5. *IRS Statements of Tax Exemptions.* One respondent suggested that the agency use the list of 501(c)(3) organizations published periodically by the IRS, rather than requiring a copy of the Statement of Tax Exemption. This was not adopted for several reasons. Applicants are often new organizations that have just received their tax exempt certificate and would not be on the IRS list. Moreover, the Statement of Tax Exemption is required only at the time of initial registration and need not be submitted annually. Therefore, its submission poses little, if any, administrative burden.

6. *Section 501(c)(6) Organizations.* One commentator noted that the reference in the proposed regulations to "cooperatives or credit union under section 501(c)(6)" of the Internal Revenue Code is inconsistent because credit unions are exempt under IRC section 501(c)(14) and most 501(c)(6) organizations are not cooperatives as that term is used in IRC section 1381(a)(2). Section 203(c)(1) has been amended to delete the reference to

cooperatives and credit unions, thus retaining only the reference to IRC section 501(c)(6). The reference was intended to refer to nonprofit associations of credit unions and cooperatives which qualify as 501(c)(6) organizations; it was not intended to refer to for-profit cooperatives and credit unions which are governed by other provisions of the Internal Revenue Code.

The information collection requirements in §§ 203.2 and 203.3 have been reviewed and approved by OMB pursuant to 44 U.S.C. Chapter 35 and have been assigned number 0412-0035.

List of Subjects in 22 CFR Part 203

Foreign aid, Nonprofit organizations.

Accordingly, Part 203 of Chapter II of Title 22 of the Code of Federal Regulations is revised as follows:

PART 203—REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Sec.

203.1 Purpose.
203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.
203.3 Annual requirements.
203.4 Certificates of registration.
203.5 Denial of registration and reconsideration.
203.6 Registration of foreign private and voluntary organizations.
203.7 Termination of registration.
203.8 Delegation of authority.
203.9 Access to records.
203.10 Waiver authority.

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381).

§ 203.1 Purpose.

(a) AID maintains two registries of PVOs engaging in, or intending to engage in, voluntary foreign aid operations—one of U.S., the other of foreign PVOs. The registry facilitates cooperation between AID and the nonprofit private sector by providing a mechanism for identifying which organizations are eligible for AID resources intended for PVOs.

(b) Registration is a condition of eligibility for assistance under Sections 123b and 607(a) of the FAA (the payment of transportation charges and the sale of services or commodities such as excess property) and confers a preference for assistance under Section 202 of Pub. L. 480. Other eligibility requirements apply, however, including a program review.

(c) Registration is a condition of eligibility for assistance under the "PVO grant program." However, it is only one of several eligibility requirements for such assistance. Others include: (1) Program review; (2) pre-grant award review, including compliance with OMB Circulars A-110 and A-122; and (3) funding requirements of Section 123(g) of the FAA.

(d) The registry serves as the basis for computing the amount of AID funding made available to PVOs.

(e) Registration provides the information necessary to determine whether a PVO meets the funding requirements of Section 123(g) of the FAA. Section 123(g) provides that a PVO must obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government to be eligible to receive funding under the PVO grant program. Further, a preference is given to those PVOs which receive cash from private, i.e., nongovernmental, sources.

(f) It is not the purpose of registration to make, or enable to be made, any representation to the public concerning the meaning of being registered.

(g) Definitions: As used in this part:

(1) "AID" means Agency for International Development.

(2) "FAA" means the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*

(3) "Funds from private U.S. sources" means cash contributions received from private nongovernmental U.S. sources, e.g., private individuals, groups, foundations and corporations. Cash contributions received directly or indirectly from the U.S. Government, state or local governments, the United Nations and other public international organizations, and foreign governments, institutions and individuals are not included. All in-kind contributions are excluded.

(4) "Overseas program costs" means the costs of all voluntary foreign aid operations conducted outside the U.S. and includes that portion of applicable indirect costs incurred in the U.S. (excluding fund-raising costs) necessary to carry out those voluntary foreign aid operations.

(5) "Pub. L. 480" means the Agricultural Trade and Development Assistance Act of 1954, as amended. 7 U.S.C. 1691 *et seq.*

(6) "PVO" means private and voluntary organizations.

(7) "PVO grant program" means those grants which AID has determined as a matter of policy can be made to only those PVOs which are registered and which meet the funding requirements of Section 123(g) of the FAA, 22 U.S.C. 215u(g).

(8) "Subventions" means (i) The payment of transportation charges under Section 123(b) of the FAA, 22 U.S.C. 215u(b); (ii) The sale of services or commodities, e.g., excess property, under Section 607(a) of the FAA, 22 U.S.C. 2357(a); and (iii) The furnishing of agricultural commodities under Section 202 of Pub. L. 480, 7 U.S.C. 1722.

§ 203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.

An applicant shall be registered with A.I.D. as a U.S. PVO if A.I.D. finds that the applicant has satisfied all the conditions and documentation requirements of registration listed below. An applicant seeking registration shall submit to A.I.D., Washington, D.C. 20523, the documentation listed below accompanied by a letter stating the reasons for seeking registration signed by its chief executive officer and supported by a resolution of its governing body. In addition, the applicant shall submit such other information as A.I.D. may reasonably require to determine if the applicant should be registered.

(a) *Condition and Documentation Requirement No. 1.*—(1) *Condition.* That the applicant is a private nongovernmental organization which is organized under U.S. law and maintains its principal place of business in the United States and is not a university, college, accredited degree-granting institution of education, private foundation, organization engaged exclusively in research or scientific activities, church, or organization engaged exclusively in religious activities.

(2) *Documentation Requirement.* Articles of incorporation, bylaws, relevant documents establishing its legal status, and a statement as to the location of the organization's principal offices.

(b) *Condition and Documentation Requirement, No. 2.*—(1) *Condition.* That the applicant receives funds from private U.S. sources, as defined in paragraph (g)(3) of § 203.1.

(2) *Documentation Requirement.* The latest audited financial statement (see Condition No. 6 at § 203.2(f) below).

(c) *Condition and Documentation Requirement No. 3.*—(1) *Condition.* That the applicant is a nonprofit organization and has a tax exemption under any one of the following provisions of the Internal Revenue Code: Section 501(c)(3), except private foundations under Section 509(a)(2); as a social welfare organization under Section 501(c)(4); Section 501(c)(5); or Section 501(c)(6).

(2) *Documentation Requirement.* IRS Statement of Tax Exemption, and a copy

of IRS Form 990 or 990-PF "Return of Organization Exempt from Income Tax," or one comparable to the Internal Revenue Service document.

(d) *Condition and Documentation Requirement No. 4.*—(1) *Condition.* That the applicant is a voluntary organization, i.e., receives voluntary contributions of money, staff time or in-kind support from the general public.

(2) *Documentation Requirement.* Latest annual report (or similar document) and audited financial statement (see Condition No. 6 at § 203.2(f)).

(e) *Condition and Documentation Requirement No. 5.*—(1) *Condition.* That the applicant is, or anticipates becoming, engaged in voluntary charitable or development assistance operations abroad (other than religious), including but not limited to services of relief, rehabilitation, disaster assistance, development assistance, welfare, training, or program support and coordination for such services, in the fields of health, education, population planning, nutrition, agriculture, industry, environment, ecology, refugee services, emigration, resettlement, and development of capacities in indigenous PVOs and institutions to meet basic human needs; and that such operations are consistent with its articles of incorporation and related documentation included in the application, and with the broad purposes of the Foreign Assistance Act and Pub. L. 480.

(2) *Documentation Requirement.* Latest annual report (or similar document) describing the development assistance operations. For organizations who anticipate initiating overseas activities, a statement should be included in the letter accompanying the registration documentation describing steps taken to date to undertake a program of development assistance overseas.

(f) *Condition and Documentation Requirement No. 6.*—(1) *Condition.* That the applicant accounts for its funds in accordance with generally accepted accounting principles ("GAAP"); has a sound financial position as evidenced by its audited financial statements; and exercises financial planning through the preparation of an annual budget for the year subsequent to that covered in the annual audit.

(i) Further tests of the financial management systems of a PVO are part of the A.I.D. pre-grant award process. In judging the financial management systems of grant applicants the requirements set by the Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations," Attachment F, "Standards for Financial Management Systems" will apply, and by reference, OMB Circular A-122 "Cost Principles for Nonprofit Organizations" will also apply. The determination as to whether an applicant can conform to these requirements is made through a pre-grant award review which is the responsibility of the grant officer with information provided by the A.I.D. Inspector General.

(2) *Documentation Requirement.* The most recent audited financial statement including Balance Sheet, Statement of Support, Revenue and Expenditure and Statement of Change in Financial Position prepared in accordance with generally accepted accounting principles ("GAAP") disclosing administrative, program, and fund-raising costs; and separately disclosing overseas program costs and sources and amounts of funds received for overseas programs. The audit shall be conducted by an independent Certified Public Accountant in accordance with the generally accepted auditing standards ("GAAS") of the "Statement on Auditing Standards" of the American Institute of Certified Public Accountants. A budget for the year subsequent to that covered in the year reported in a format consistent with the audit, including the detailing of anticipated amounts and sources of support and revenue.

(i) New organizations which have been incorporated less than a year must provide an independent CPA's statement that financial statements can be prepared in accordance with GAAP, along with an unaudited financial statement covering the period between incorporation and application for registration. The CPA's statement for new organizations will also indicate whether the organization has installed internal controls to enable the execution of an audit in accordance with the applicable auditing standards at the end of the first year of operations.

(g) *Condition and Documentation Requirement No. 7.*—(1) *Condition.* That the applicant has a Board of Directors which meets at least annually, whose members serve without compensation for such services, and that paid officers or staff members do not constitute a majority in any decision.

(2) *Documentation Requirement.* A statement indicating that paid officers or staff members who serve on the Board do not constitute a majority in any decision and members of the governing body receive no compensation for their services on that body; the names and addresses of members; and minutes of meetings or excerpts from minutes which demonstrate that the Board holds meetings at least annually.

(h) *Condition and Documentation Requirement No. 8.*—(1) *Condition.* That the applicant expends and distributes its funds and resources in accordance with the stated purposes of the organization, without unreasonable cost for salaries, promotion, publicity, fund raising and administration, at home or abroad, and provides public disclosure of its financial circumstances.

(i) In determining whether an applicant obtains, expends, and distributes its funds without unreasonable cost for promotion, publicity, fund raising, and administration, A.I.D. shall consider fund raising costs as presumptively unreasonable if they exceed 20 percent of the total cash and in-kind contributions to the organization (as reflected in the audited financial statement).

(ii) An applicant for registration or a registered agency whose fund raising costs exceed the 20 precent limitation must demonstrate that such costs are not unreasonable in light of the nature of the organization's operations. Upon such a showing, A.I.D. may permit exceptions to the 20 percent limitation on a case-by-case basis.

(iii) "Contributions" as used in this section, include U.S. Government financial support, both cash and in-kind, as well as private support; similarly, it is expected that fund raising costs will include costs incurred in securing government contributions.

(2) *Documentation Requirement.* A certification that audited financial statements are available to the public upon request and a statement indicating salaries and allowances of the top five principal headquarters positions (determined by salary level) and country director positions. When provided directly by the applicant, salaries and/or allowances may be valued at actual cost; when provided by the recipient country or local institution, they may be valued at fair market value. Any other documentation or evidence which the applicant wishes to submit addressing the degree to which annual program spending has been consistent with the stated purposes of the organization and annual expenses are reasonable in amount.

§ 203.3 Annual requirements.

In order to maintain its registration, each registered PVO shall submit annually, within 180 days after the close of the fiscal year, the following

documents: An independently audited financial statement; a report of income and expenditures (A.I.D. Form 1550–2), which is relatable to the audited financial statements; an annual report (or similar document); a copy of IRS Form 990 or 990–PF; a budget for the new fiscal year; and a statement that all other circumstances described in the original registration material remain unchanged except as noted. A.I.D. may revise the above list of documents from time to time. In addition, each registrant shall submit such other information as A.I.D. may reasonably require to determine that the organization continues to meet the conditions of registration.

§ 203.4 Certificates of registration.

Certificates of Registration will be issued by A.I.D. to applicants which A.I.D. finds satisfy the conditions and documentation requirements for registration set forth in § 203.2.

§ 203.5 Denial of registration and reconsideration.

(a) *Notification of denial of registration.* If A.I.D. decides to deny an applicant registration, the applicant will be informed in writing of the denial with a specific statement of those conditions and documentation requirements of registration in § 203.2 that the applicant has failed to satisfy.

(b) *Reconsideration.* An applicant may, within 30 days after receipt of a notification of denial of registration, request that A.I.D. reconsider its application for registration and may submit additional information to A.I.D. bearing on its suitability for registration. An applicant requesting reconsideration will be informed in writing of A.I.D.'s decision upon reconsideration. In addition, A.I.D. may, at its own discretion, reconsider a denial of registration at any time.

(c) An applicant may resubmit an application for registration in accordance with § 203.2 at any time.

§ 203.6 Registration of foreign private and voluntary organizations.

(a) For the purpose of this part, foreign PVOs shall consist of the following:

(1) An "indigenous" PVO is a non-U.S. PVO which conducts operations in the country under the laws of which it is organized.

(2) A "regional" PVO is a non-U.S. PVO that is organized under the laws of a country in an A.I.D. geographic region, and conducts operations in more than one country in that region but not in more than one such region.

(3) A "third country" PVO is a non-U.S. PVO which is not organized under the laws of any country in the A.I.D. geographic region or regions in which it conducts its operations.

(4) An "international" PVO is an organization which is not registered as a U.S. PVO, receives funds from two or more countries, has an international governing body, and conducts operations in one or more A.I.D. geographic regions.

(b) Foreign PVOs shall be registered in accordance with guidance for eligibility of non-U.S. private and voluntary organizations for participation in A.I.D.-supported programs approved by the Deputy Administrator of A.I.D., March 15, 1978 and A.I.D. handbooks, policies, regulations (published or otherwise) and procedures as they may be amended, supplemented or supported from time to time.

§ 203.7 Termination of registration.

(a) Registration shall remain in force until: (1) Relinquished voluntarily by the registrant upon written notice to A.I.D.; or

(2) Terminated by A.I.D. for failure of the registrant to fulfill and maintain the conditions of registration.

(b) Termination proceedings pursuant to § 203.7(a)(2) above shall include prior written notice to the registrant of the grounds for the proposed termination and opportunity for the registrant to file a written statement as to why its registration should not be terminated.

§ 203.8 Delegation of authority.

(a) The authority to register and to terminate registrations is delegated to: (1) The Assistant Administrator for Food for Peace and Voluntary Assistance, or his/her designee for U.S., international, and third country PVOs.

(2) The Regional Assistant Administrator, or their designees, for regional PVOs within their respective regions; and

(3) The principal A.I.D. officer, or, if there is none, the United States Ambassador, or their designees, for indigenous PVOs.

(b) Notices of registration and terminations of registration issued by the officials in paragraphs (a) (2) and (3) of this section will be forwarded to the Bureau for Food for Peace and Voluntary Assistance within 30 days for inclusion in the registry.

§ 203.9 Access to records.

All records, reports, and other documents which are made available to A.I.D. pursuant to this part shall be made available for public inspection and copying pursuant to and under the procedures established by the public information regulation (22 CFR Part 212) of the Agency for International Development.

§ 203.10 Waiver authority.

The Administrator of the Agency for International Development or his/her designee may waive, withdraw, or amend from time to time, any or all of the provisions of the regulations in this part.

Dated: November 30, 1982.

Julia Chang Bloch,

Assistant Administrator for Food for Peace and Voluntary Assistance.

[FR Doc. 83-1082 Filed 1-20-83; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF–126; Ref: Notice No. 433]

Extension of Mandatory Compliance Dates for Appellations of Origin, Name and Address Requirements, and Geographical Brand Names

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule amends the mandatory compliance date of January 1, 1983, to January 1, 1985, with respect to certain labeling requirements for wine. The affected regulations concern the type size prescribed for appellations of origin when required to be set forth on labels, name and address requirements, and the "brand" requirement for brand names having geographical significance. This action was requested in petitions from the Wine Institute. *All other 27 CFR Part 4 regulations having a mandatory compliance date of January 1, 1983, such as the percentage requirements for appellations of origin and varietal designations, remain mandatory January 1, 1983.*

These regulations were first promulgated under Treasury Decision ATF–53, published in the Federal Register on August 23, 1978 (43 FR 37672, 54624). However, certain regulations promulgated in T.D. ATF–53 were challenged in court. *Wawszkiewicz v. Department of the Treasury*, 480 F. Supp. 739 (D.D.C. 1979), affirmed in part, reversed in part and remanded with directions, 670 F. 2d 296 (D.C. Cir. 1981). This final rule results from a notice of proposed rulemaking published as a result of this litigation.

EFFECTIVE DATE: These amendments are effective for the calendar year beginning January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Roger Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20226, 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

Among the regulatory amendments published in Treasury Decision ATF–53 were the requirements that:

(a) Beginning January 1, 1983, appellations of origin must appear in the same size of type and in lettering as conspicuous as the class and type designation under certain circumstances. 27 CFR 4.34(c);

(b) Beginning January 1, 1983, the principal place of business and registry number of the bottler may not be stated on the label in lieu of the actual place where bottled; after December 31, 1982, the post office address shall be the address shown on the basic permit and each address where each designated wine-making operation took place must be shown; and after December 31, 1982, the registry number of the bottler must be shown on the label in direct conjunction with the name and address of the bottler and in type as conspicuous as the name and address. 27 CFR 4.35(a), (c), and (d), respectively; and

(c) Beginning January 1, 1983, to be used on a wine label a brand name having viticultural significance must be qualified by the word "brand" immediately following the brand name in the same size of type and as conspicuous as the brand name itself unless the winery using such a brand name is physically located in the geographical area used in the brand name and the wine meets the appellation of origin requirements for the geographical area named. 27 CFR 4.39(i).

The Wine Institute petitioned ATF to defer the mandatory compliance dates of 27 CFR 4.34 and 4.39(i) for an additional two year period from January 1, 1983, to January 1, 1985. Subsequent to submitting this petition, the Wine Institute then petitioned ATF to defer the effective date of the name and address requirements in 27 CFR 4.35 as well. In Notice No. 433 [November 15, 1982; 47 FR 51423], ATF proposed the deferral of the mandatory compliance date set forth in these regulations to January 1, 1985.

Comment Analysis

Notice No. 433 had a 30-day comment period. The only issue raised was whether the mandatory compliance date should be extended. A total of seven comments were received. Five commenters supported the proposal; another opposed the proposal; and one believed that the requirement to label each location where a winemaking operation occurred should not be extended.

Regulatory Change

ATF gave serious consideration to the comments received on this issue in light of the impact the *Wawszkiewicz* litigation has had on the wine labeling regulations. Due to the *Wawszkiewicz* litigation, industry members were uncertain as to whether the wine labeling regulations would ultimately be sustained as promulgated in T.D. ATF–53. Accordingly, they could not redesign their labels and be sure that the labels would conform to the requirements of law as of January 1, 1983. Since the Court of Appeals' decision was handed down in late December 1981, ATF has determined that the wine industry does not have sufficient time to redesign labels and introduce them into the market place before the January 1, 1983, mandatory compliance date. Moreover, since ATF is currently reconsidering the regulations in light of the court's decision and since there may be further changes in the regulations, any redesign of labels at this time may later prove to have been unnecessary or insufficient. Accordingly, ATF is extending the mandatory compliance date of the regulations described herein for an additional two year period.

This action does not extend the mandatory compliance date on any other provisions in T.D. ATF–53, such as: the new varietal minimum percentage requirements and the provision that any varietal used as the class and type designation requires an appellation of origin; the appellation of origin percentages and requirements for use, as set forth in 27 CFR 4.25a; the estate bottled requirements in 27 CFR 4.26; and the requirement in 27 CFR 4.27 that all vintage wines, imported or American, must be labeled with an appellation of origin other than a country.

Accordingly, a conforming change is made to 27 CFR 4.34(b)(1) to reflect the fact that 27 CFR 4.23a became mandatory on January 1, 1983. This change makes it clear that whenever a grape wine bears the name of a grape variety as the type designation the wine must be labeled with an appellation of origin. In the absence of this amendment, 27 CFR 4.34(b)(1) could have conveyed the erroneous impression that an appellation of origin is required only when a grape variety name having geographic significance is employed as the type designation.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it does not result in:

(a) An annual effect on the economy of $100 million or more;

(b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provision of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

Disclosure

Copies of the petition, the notice, the Treasury decision, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Roger L. Bowling, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205, 27 CFR Part 4 is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Subpart D—Labeling Requirements for Wine

Paragraph 1. Section 4.34 is amended to change the mandatory compliance dates in paragraphs (b) and (c); and to make a conforming change relating to varietal designations in paragraph (b)(1). As revised, § 4.34(b) and (c) read as follows:

§ 4.34 Class and type.

(a) * * *

(b) Prior to January 1, 1985, an appellation of origin such as "American," "California," "New York State," or "Spanish," disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation if (1) a grape type (varietal) designation is used under the provisions of § 4.23a, (2) a semi-generic type designation of geographic significance is employed as the type designation of the wine pursuant to § 4.24(b), or (3) the label bears any statement, design, device, or representation which indicates or infers an origin other than the true place of origin of the wine.

(c) Beginning January 1, 1985, an appellation of origin, such as "American," "California," "Napa Valley," or "Chilean," disclosing the true place of origin of the wine, shall appear in direct conjunction with, in the same size of type, and in lettering as conspicuous as the class and type designation if (1) a grape type (varietal) designation is used under the provisions of § 4.23a, (2) a semi-generic type designation is employed as the type designation of the wine, or a product name is qualified with the word "Brand" as required by the provisions of § 4.39(i) or (j).

Paragraph 2. Section 4.35 is amended to change the mandatory compliance dates in paragraphs (a), (c), and (d). The introductory text of paragraph (a), the first two sentences of paragraph (c), the first sentence of paragraph (d) and the date appearing in the second sentence of paragraph (d) of § 4.35 are revised as follows:

§ 4.35 Name and address.

(a) *American wine.* On labels of containers of American wine, there shall be stated the name of the bottler or packer and the place where bottled or packed (or until January 1, 1985, in lieu of such place, the principal place of business of the bottler or packer if in the same State where the wine was bottled or packed, and, if bottled or packed on bonded premises, the AFT registry number of the premises) immediately preceded by the words "bottled by" or "packed by" except that:

* * * * *

(c) *Form of address.* The "place" stated shall be the post office address (after December 31, 1984, the post office address shall be the address shown on the basic permit or other qualifying document of the premises at which the operations took place; and there shall be shown the address for each operation which is designated on the label. An example of such use would be "Produced at Gilroy, California, and bottled at San Mateo, California, by XYZ Winery, BW-CA-10001.", * * *

(d) *Trade or operating names.* The trade or operating name of any person appearing upon any label shall be identical with a name appearing on the basic permit or notice. In addition, after December 31, 1984,* * *

* * * * *

Paragraph 3. Section 4.39 is amended to extend the mandatory compliance date of paragraph (i). The heading of § 4.39 (i) is revised to read as follows:

§ 4.39 Prohibited practices.

* * * * *

(i) Geographical brand names (not mandatory before January 1, 1985). * * *

* * * * *

Dated: December 28, 1982.

Stephen E. Higgins,

Acting Director.

Approved: January 14, 1983.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-1841 Filed 1-19-83; 1:11 pm]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-365]

Occupational Exposure to Coal Tar Pitch Volatiles; Modification of Interpretation

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final interpretation.

SUMMARY: OSHA is modifying its interpretation of coal tar pitch volatiles (CTPV) found in § 1910.1002. This interpretation has been the subject of a number of requests for clarification. The requests have concerned primarily the inclusion of asphalt fumes as coal tar pitch volatiles. This new interpretation makes it clear that the CTPV standard does not cover petroleum asphalt.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Consumer Affairs, Occupational Safety and Health Administration, Room N-3718, U.S. Department of Labor, Washington, D.C. 20210, 202-523-8184.

SUPPLEMENTARY INFORMATION: In May 1971, in accordance with section 6(a) of the Occupational Safety and Health Act, OSHA published its national consensus and established federal safety and health standards at 29 CFR Part 1910 (36 FR 10466). Included in this package were standards governing exposure to airborne contaminants (§ 1910.1000) that were first issued by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968. These were adopted by the Department of Labor under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35 *et seq.* in 1969 (34 FR 7946) and became OSHA standards as noted in 1971.

Among these standards was a permissible exposure limit (PEL) for occupational exposure to "coal tar pitch volatiles." Section 1910.1000, Table Z-1, listed "coal tar pitch volatiles (benzene soluble fraction) anthracene, benzo(a)pyrene, phenanthrene, acridine, chrysene, and pyrene," and designated the permissible exposure limit as an eight-hour time-weighted average (TWA) not to exceed 0.2 milligrams per cubic meter of air (0.2 mg/m^3). Apart from the language quoted, the meaning of the term "coal tar pitch volatiles" was not clearly defined in either the original 1968 listing or in the OSHA standard, which made OSHA enforcement of this standard difficult. Specifically, no

further explanation was included as to sources of CTPV.

In 1969, ACGIH proposed a threshold limit value (TLV) for asphalt different from the TLV for CTPV, and adopted it in 1971. ACGIH proposed and adopted a TLV of 5 mg/m³ for asphalt, while its TLV for CTPV remained at 0.2 mg/m³. The documentation accompanying the new asphalt TLV gave the pertinent scientific information and data used to determine each limit.

In November 1972, OSHA published an interpretation of the term "coal tar pitch volatiles" in 29 CFR 1910.1002 (37 FR 2474) as follows:

> As used in § 1910.1000 (Table Z-1) coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum, wood, and other organic matter.

The preamble explained the reasons for the interpretation:

> Although the term suggests that it only refers to the distillation residues of coal, it is considered to include other hydrocarbons with the same chemical composition. The term "coal tar pitch volatiles" thus denotes the complete class of fused polycyclic hydrocarbons which volatilize from the distillation residues of organic matter rather than from the distillation residues of coal alone. Since all of these volatiles have the same basic chemical composition and since all of them present the same dangers to a person's health, the standard prescribed by § 1910.93 (now redesignated as § 1910.1000), is applied to the use of all of them. (37 FR 24749, November 21, 1972)

Under this interpretation of CTPV the standard now covered asphalt fumes since asphalt is a product of the distillation of petroleum. Although this published interpretation did not explicitly include the term "asphalt fumes," an earlier reference in OSHA Program Directive #72-21 (July 5, 1972) indicated that § 1910.1000 was intended to apply to asphalt fumes. The Agency defined CTPV to include asphalt fumes because asphalt is a complex mixture of materials, and the Agency believed that some of the polycyclic aromatic hydrocarbons that are referred to in Table Z-1 under "coal tar pitch volatiles" may be detected in the volatile emissions from both asphalt and coal tar pitch.

In a letter dated October 15, 1973, the American Petroleum Institute (API) recommended to OSHA that the definition of coal tar pitch volatiles be amended to refer only to those distillations that are destructive, such as occur from coal or wood distillation, and not to the common petroleum distillations that are nondestructive. Subsequently, on August 1, 1975, the Asphalt Institute endorsed the 1973 letter from API and recommended deletion of the standard insofar as it applied to materials not containing significant amounts of hazardous fused polycyclic hydrocarbons. It was also the Asphalt Institute's view that the inclusion of the word "destructive" would correct the interpretation rendered by OSHA.

In September 1977, the National Institute for Occupational Safety and Health (NIOSH) submitted a criteria document for a recommended standard for occupational exposure to asphalt fumes. That document stated that the toxic effects produced by asphalt, tars, and pitches are quantitatively and qualitatively different. Based on these findings, NIOSH recommended a ceiling concentration limit of 5 mg/m³, based on total particulates, for asphalt fumes.

On February 23, 1979, the Asphalt Institute wrote OSHA urging that asphalt fumes and CTPV be differentiated and that NIOSH's recommended standards be adopted. In a letter dated September 7, 1979, the Agency addressed the Asphalt Institute's recommendations. The Agency acknowledged that asphalt and coal tar pitch may be produced differently and have different uses and properties, but reiterated that both are complex polycyclic aromatic hydrocarbons. The OSHA letter described the air sampling techniques for asphalt and CTPV and indicated that citations for violations of 29 CFR 1910.1002 would be issued only in the following limited circumstances:

(1) At the time of inspection employees are found to be exposed to volatile emissions from distillation residues of coal, petroleum, wood, or other organic matter, and

(2) Samples obtained to determine employee exposure to the volatile emissions are found to contain more than 0.2 mg of benzene-soluble material per cubic meter of air, and

(3) Laboratory analysis of the benzene-soluble fraction described in (2) confirms the presence of benzo(a)pyrene and/or one or more the five additionally named fused polycyclic hydrocarbons to which the standard refers; anthracene, acridine, pyrene, chrysene and phenanthrene.

On June 9, 1980, the Asphalt Institute submitted to OSHA a formal petition requesting that the 0.2 mg/m³ level be declared unenforceable and inapplicable to asphalt fumes and that 29 CFR 1910.1002 be amended to exclude asphalt. The petition also requested a rulemaking to amend 29 CFR 1910.1000 to establish an occupational health standard for exposure to asphalt fumes of 5 mg/m³ as recommended in the NIOSH criteria document and ACGIH's 1971 TLV documentation. That petition was denied on November 25, 1980, by Assistant Secretary Bingham who reiterated the rationale for the interpretation of CTPV that was given in the November 21, 1972 (37 FR 24749) preamble explanation and repeated the limited circumstances that would result in citations.

On April 24, 1981, the Asphalt Institute filed a petition for reconsideration of the Assistant Secretary's denial. It asked that the Assistant Secretary overrule and withdraw the response on the ground that the decision was contrary to law. It also asked for confirmation that 29 CFR 1910.1000 is inapplicable and unenforceable as to asphalt fumes because 29 CFR 1910.1002 was issued without notice and comment. The Asphalt Institute again requested that OSHA amend 29 CFR 1910.1002 to exclude asphalt and that rulemaking procedures be instituted to establish the 5 mg/m³ limit for asphalt fumes.

In reviewing the appeal submitted by the Asphalt Institute, as well as the available NIOSH and ACGIH data and the circumstances surrounding the original interpretation, OSHA determined that its 1972 interpretation of CTPV was not consistent with what ACGIH intended to cover as a coal tar pitch volatile when it adopted its 1968 TLV. This determination was supported by ACGIH's adoption in 1971 of a separate TLV for asphalt fumes and its accompanying documentation. ACGIH adopted the separate asphalt TLV based on its explanation that:

> Asphalt is a native mixture of hydrocarbons which occurs as an amorphous, brownish black solid or semisolid. It results from evaporation of the lighter hydrocarbons from petroleum and partial oxidation of residue. Petroleum asphalt thus is to be differentiated from tar or pitch which results from the destructive distillation of coal.

Thus OSHA believed that the original ACGIH 1968 standard for CTPV, which was adopted by OSHA in 1971, was not intended to cover asphalt and that OSHA's 1972 interpretation was therefore in error. To correct this erroneous interpretation of CTPV, OSHA published a notice in the **Federal Register** (47 FR 23482, May 28, 1982) announcing its intention to amend the definition of coal tar pitch volatiles.

OSHA further indicated in the notice that while petroleum asphalt would no longer be covered by the coal tar pitch volatiles standard under this corrected interpretation, the Agency considered asphalt fumes to present a recognized hazard to exposed employees and

would reevaluate its view as to the appropriate regulatory response for protecting employees from this hazard. In the interim, OSHA stated that the agency would use section 5(a)(1) of the Act (general duty clause) to provide protection to employees from exposure to asphalt fumes.

Public Participation

As explained in the May 28, 1982, FR notice, a modification of an interpretation ordinarily would not have required notice and comment under either the Administrative Procedure Act (APA) or section 6(b) of the Act. However, OSHA decided to give notice and to invite public comment on this action since the previous interpretation had been followed since 1972 and had been published and codified in the Code of Federal Regulations.

A total of 39 comments were received by OSHA regarding this modification. Views were expressed on issues dealing with: (1) The legality of this action, (2) the validity of the previous interpretation, (3) the relative toxicities of CTPV and asphalt volatiles, and (4) the regulatory impact of this action. These issues will be discussed in turn.

(1) A few commentors contended that OSHA's modification of its 1972 interpretation was in fact a change in a rule which necessitates a section 6(b) rulemaking (Ex. 2-20, 2-26, 2-28). As stated above, OSHA regards its action today as a modification of an interpretation and not as substantive rulemaking. Nonetheless, OSHA has provided prior notice and comment as required for section 6(b) actions to allow effective participation in the rulemaking process by employers, employees and the general public.

As noted, extensive comments from interested parties have been received and considered by OSHA. No requests for a hearing were submitted. Accordingly, OSHA concludes that all procedural requirements were met, and indeed exceeded, in this proceeding. There is no basis in the record for the argument that parties with an interest in the present action have been deprived of an opportunity to participate.

(2) The proposal would have exempted all non-coal distillation residues from the CTPV standard. The final interpretation, however, exempts only petroleum asphalt while it continues to place all other distillation residues of coal, petroleum, wood and other organic matter under the coverage of the standard.

This modification of the proposed interpretation is based on comments which demonstrated that the proposal was over-broad in attempting to apply the exemption beyond petroleum asphalt. As noted in more detail below, the rationale for the proposal really applied only to petroleum asphalt. Thus, ACGIH developed a separate standard for petroleum asphalt but not for other non-coal distillation products. Further, petroleum asphalt is chemically different from the other distillation products in that the percentage of aromatic hydrocarbons in the volatiles of petroleum asphalt is significantly lower. The CTPV standard, which lists the polycyclic aromatic hydrocarbons found in coal tar pitch, may therefore be viewed as being applicable to other distillation residues which have significant amounts of polycyclic aromatic hydrocarbons but not applicable to petroleum asphalt.

The majority of comments received agreed with OSHA's judgement that the previous interpretation was invalid. There was basic agreement that the original 1968 ACGIH standard was not intended to apply to volatiles arising from asphalt. (Exs. 2-1, 2-3, 2-6, 2-7, 2-9, 2-16, 2-20, 2-25, 2-27, 2-30, 2-32).

The Asphalt Institute commented on this issue as follows:

> * * * The 1968 ACGIH TLVs contained a TLV of 0.2 mg/m³ for "coal tar pitch volatiles," but there was no listed TLV for "asphalt fumes." Nor was there any interpretation or understanding that the ACGIH standard for "coal tar pitch volatiles" applied to asphalt fumes. The ACGIH committee which formulated the CTPV standard considered no scientific data and no public comment concerning "asphalt fumes" in establishing its TLV of 0.2 mg/m³ for coal tar pitch volatiles. Thus, it would be scientifically unsound to interpret that TLV as an exposure standard for "asphalt fumes."
>
> Moreover, the history of the adoption of a TLV for "asphalt (petroleum) fumes" by the ACGIH demonstrates that the ACGIH never included the substance "asphalt (petroleum) fumes" within the class of substances called "coal tar pitch volatiles." A TLV for asphalt fumes was first proposed in 1969, with an indication that the TLV for this substance was being proposed as a new addition, not a change in a TLV for a substance already contained on the Adopted List of TLVs. When the ACGIH adopted a TLV of 5 mg/m³ for "asphalt (petroleum) fumes" in 1971, it indicated that this substance was being placed on the TLV Adopted List for the first time. Consequently, the TLV for "coal tar pitch volatiles" and the TLV for "asphalt (petroleum) fumes" have been separate values since each was adopted. This means that, when the 1968 ACGIH standards were incorporated by reference into the regulations promulgated under the Walsh-Healey Act, there was no TLV applicable to asphalt fumes. In turn, when OSHA adopted the Walsh-Healey standards as "established Federal standards" under Section 6(a) of the OSH Act, OSHA was adopting an occupational health standard for CTPV which was inapplicable to asphalt fumes (Ex. 2-19).

One commentor that disagreed with OSHA's assessment as to the original intent of the 1968 standard was NIOSH (Ex. 2-35), which stated:

> We are concerned that the proposed OSHA definition of coal tar pitch volatiles is too narrow. The 1968 TLV, which was adopted as the 1910.1000 standard had used coal tar pitch volatiles (CTPV) as a traditional descriptor for groups of polycyclic aromatic hydrocarbons (PAH's). A list of such PAH's (anthracene, BaP, phenanthrene, acridine, chrysene and pyrene) was included in the 1968 TLV list and in the 1910.1000 standard. In the TLV documentation (ACGIH, 1966) for CTPV and PAH's mentioned included naphthalene, fluorene, anthracene, acridine and phenanthrene as examples of lower molecular weight types and benzo(a)pyrene as an example of higher molecular weight PAH's. The ACGIH Documentation states that "(P)olycyclic hydrocarbons known to be carcinogenic are of this large molecular type."

This argument may have merit for substances other than asphalt. The fact that asphalt was listed as a new addition by ACGIH in 1969 leads to the conclusion that asphalt was not intended to be within the scope of the CTPV standard. Further, data in the record indicates that there are qualitative and quantitative differences between the volatiles arising from coal tar and asphalt. For example, a 1982 study by Niemeier et al. comparing the skin carcinogenicity of "roofing asphalt" and "coal tar pitch" fumes reported that the asphalt fume material is less than 1% aromatic, which are the hydrocarbons listed in 1910.1000 as CTPV's while the coal tar pitch fume indicated greater than 90% aromatic. The NIOSH criteria documents for asphalt (1977) and coal tar products (1977) supports this distinction. Indeed, the following discussion taken directly from the 1966 Documentation (American Conference of Governmental Industrial Hygienists (ACGIH), 1966 Documentation of Threshold Limit Values) leaves little doubt that the recommended TLV of 0.2 mg/m³ was not intended to apply to volatiles arising from asphalt because of this quantitative difference. Note that in the third paragraph below, asphalt and coal tar fumes are differentiated.

> Coal tar pitch volatiles contain a large quantity of lower molecular weight polycyclic hydrocarbons. As these hydrocarbons (naphthalene, fluorene, anthracene, acridine, phenanathrene) sublime into the air, there is an increase of benzo(a)pyrene (BaP or 3,4-benzpyrene) and other higher weight polycyclic hydrocarbons in the tar and in the

fumes. Polycyclic hydrocarbons known to be carcinogenic are of this large molecular type.

* * * * *

Coal tar pitch polluted air is characterized by large amounts of phenanthrene, anthracene, pyrene and carbazole. Coal tar pitch contains approximately 10% polycyclic hydrocarbons, and three different samples analyzed by Sawicki et al. gave a concentration of 1.4% BaP alone.

* * * * *

Fairhall states that fumes of dust from native asphalt do not present a substantial health hazard in comparison with coal tar fume or dust, citing the work of Hueper and Davies.

* * * * *

Since no "safe" limit of exposure can be established for carcinogens and because of instability in the composition of volatiles from coal tar pitch a limit of 0.2 milligrams of benzol-soluble components of coal tar pitch volatiles per cubic meter of air is recommended. A limit of 0.2 mg/m³ of the total components present should minimize exposure to these carcinogens.

Accordingly, evidence in the record supports the reasoning behind OSHA's current determination that its 1972 interpretation was in error regarding the inclusion of asphalt. The same cannot be said, however, for other distillation residues of petroleum, wood, and other organic matter. These residues contain much higher proportions of polycyclic aromatic hydrocarbons than does asphalt (Ex. 2–19, NIOSH criteria document for asphalt—1977). Inasmuch as the Asphalt Institutes' petition only addressed the exclusion of asphalt, and inasmuch as the correct application of the CTPV standard is unclear with regard to residues other than asphalt, based on consideration of chemical composition and health effects, the CTPV standard will continue to apply to distillation residues of coal, petroleum (other than asphalt), wood, and other organic matter.

The continued coverage of residues other than asphalt is supported by NIOSH's argument that the term "coal tar pitch volatiles" had been used "as a traditional descriptor for groups of polycyclic aromatic hydrocarbons * * *." There is no data in the record to refute this argument other than with respect to asphalt. The Agency's action in 1972 to include asphalt, while taken in an attempt to be as protective as possible, in fact expanded the meaning of "coal tar pitch volatiles" beyond what had been originally intended. OSHA does not want to do the reverse and limit the meaning to less than what had been intended.

(3) The relative toxicity of CTPV and asphalt volatiles has been raised during this administrative proceeding. Arguments to retain the previous interpretation were based primarily on concern over the adverse health effects presented by asphalt, which would no longer be covered by a specific PEL (Exs. 2–8, 2–23, 2–26, 2–28, 2–29, 2–31), rather than on the question as to whether the 1968 ACGIH coal tar pitch TLV was intended to apply to asphalt.

At least 2 commentors who opposed amendment to the interpretation clearly indicated that their position was based on their concern regarding the toxicity issue, rather than the issue of the validity of the original interpretation. For example, the United Steelworkers of America stated:

The USWA strongly opposes the manner in which OSHA intends to modify its interpretation of coal tar pitch volatiles (CTPV) found in 1910.1002. The USWA fully recognizes the advantages in clarifying existing OSHA standards. However, we vehemently oppose the deletion of essential health standards, especially recognized human carcinogens, as a means of clarifying these standards (Ex. 2–26).

The American Iron and Steel Institute, another objecting party, acknowledged that:

The current interpretation as to asphalt as being the same as other pitch residues is arguable since asphalt is primarily an aliphatic material with virtually no polycyclic hydrocarbon content. It is also arguable that asphalt, per se, is not a "distillation residue" and should not have been included in the interpretation. A distinction has been presented by NIOSH in its criteria document on Asphalt Fumes. This does not mean that exposure to asphalt fumes is without health consequences (Ex. 2–31).

As noted earlier, OSHA is evaluating the subsequent appropriate regulatory response to asphalt. Comments regarding this substance will be given full consideration in the Agency's determination of the appropriate regulatory response for protection of employees from the hazards presented by asphalt fumes.

Thus, based on data in the record which indicates that asphalt should be differentiated from CTPV because of differing health effects (ACGIH, NIOSH) and differing chemical composition (aliphatic versus aromatic) OSHA is amending § 1910.1002 accordingly.

Several commentors differed in their opinion as to how OSHA should approach the question of providing employees regulatory protection from asphalt fumes. A number of comments expressed the belief that OSHA was abandoning its congressionally designated duty to "set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity * * *." As noted OSHA concedes that asphalt fumes are hazardous and is cognizant of its legislative mandate to protect employee health and does not intend to terminate its efforts in pursuing appropriate rulemaking activities with regard to asphalt fumes. A small number of commentors stressed that OSHA's intent to use the general duty clause in section 5(a)(1) was tantamount to removing protection of employee health because of enforcement problems regarding the general duty clause and the absence of an accepted exposure standard for the deleted substances. However, others expressed support for OSHA's decision to use section 5(a)(1) in the interim while considering more appropriate rulemaking for the deleted substance. OSHA's Instruction CPL 2.50 dated March 17, 1982, contains Agency guidelines for enforcement of section 5(a)(1).

Summary of Regulatory Impact Assessment and Regulatory Flexibility Certification

In the notice of intention to modify the interpretation of CTPV, the Secretary determined that the action was not "major" as defined by the Executive Order 12291, Section 1(b). The Secretary also certified that the action will have no significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act of 1980 (U.S.C. Title 6). The Secretary reaffirms both of these findings after review of comments in response to the notice.

No quantitative data were submitted to support an argument that the interpretation would have a major impact. Some commentors argued that removing all substances except those distillates of coal from the definition of CTPV as proposed in the May, 1982, notice, would incorrectly signal to the users of CTPV that the deleted substances were safer and less subject to regulation. Several commentors expressed the concern that if only coal tar pitch remained regulated there may be a "chilling effect" on consumers of the product. It was argued that this may result in a switch from coal tar pitch to petroleum pitch and, in the view of one commentor could result in "an economically devastating market disruption" (Ex. 2–20). This concern about a dramatic market shift toward petroleum pitch was also reflected in comments by representatives of steel workers (Ex. 2–26) who are also concerned about the effect this may have on employee health protection if the change in interpretation were made as proposed. They believed that a

modified interpretation of the CTPV standard may create an economic incentive for companies to substitute petroleum pitch for coal tar pitch thereby reducing or avoiding the expense of implementing engineering controls to reduce occupational exposure to hazardous pitch volatiles.

These concerns have been mitigated by the final interpretation by exclusion of asphalt alone from the CTPV standard. The only market for coal tar pitch where the excluded substance asphalt is in competition is in roofing. Coal tar pitch roofs account for approximately 10 percent of coal tar pitch sales, which much compete against initially lower cost asphalt roofing. Because OSHA compliance costs were determined to be an insignificant component in the price of asphalt roofing, the exemption of asphalt from the CTPV standard is not likely to result in an important cost advantage for this product. For both of these reasons, the exemption of asphalt will not result in a major shift in demand from coal tar products to asphalt. Finally, given that the total 1980 sales value of coal tar pitch was $245.9 million, and that a major share of that market was insensitive to relative prices, it is clear that this action is not "major." This conclusion is further supported by information submitted by representatives of the potentially affected industries detailing the unique properties and applications of coal tar pitch (Ex. 2-20).

List of Subjects in 29 CFR Part 1910

Chemicals, Coal tar, Health, Occupational safety and health.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Accordingly, pursuant to section 8(g) of the Act, 29 CFR Part 1910 is amended by revising § 1910.1002 to read as follows:

§ 1910.1002 Coal tar pitch volatiles; interpretation of term.

As used in § 1910.1000 (Table Z-1), coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum (excluding asphalt), wood, and other organic matter. Asphalt (CAS 8052-42-4, and CAS 64742-93-4) is not covered under the "coal tar pitch volatiles" standard.

Authority

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

(Sec. 8, 84 Stat. 1600, (29 U.S.C. 657); 5 U.S.C. 553; Secretary of Labor's Order No. 876 (41 FR 25059))

Signed at Washington, D.C. this 10th day of January 1983.*

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-1528 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-26-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Additional Eligibility Period

Correction

In FR Doc. 83-690, beginning on page 1196, on Tuesday, January 11, 1983, on page 1197, in the First column, in § 21.1044 (c) (2), in the fourth line "December 31, 1983" should read "December 31, 1981".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2266-8]

Approval of a Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Pennsylvania has requested revisions to its State Implementation Plan (SIP). EPA is approving these revisions which consist of regulations for certain sources of Volatile Organic Compound (VOC) emissions, changes to the air pollution episode regulations, and an increase in permit fees for air pollution sources in Allegheny County.

EPA has determined that the revisions being approved will not cause or contribute to a violation of any of the National Ambient Air Quality Standards (NAAQS) and that they meet all applicable requirements of Section 172(b) of the Clean Air Act concerning reasonably available control technology.

EPA is also correcting the numbering of 40 CFR 52.2020, in Subpart NN—Pennsylvania. This is an administrative change.

DATE: Effective January 21, 1983.

ADDRESSES: Copies of this SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106; ATTN: Gregory Ham (3AW11);

Allegheny County Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, PA 15201;

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120; or

Public Information Reference Unit, Room 2922, EPA Library, Environmental Protection Agency, 401 M Street, SW., (Waterside Mall), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Ham, Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA 19106; (215) 597-2745.

SUPPLEMENTARY INFORMATION: On February 23, 1982, the Commonwealth of Pennsylvania submitted revisions to the Pennsylvania SIP. The revisions consist of regulations controlling VOC emissions from sources specified in EPA's Group II Control Technique Guidelines (Group II CTG's), changes to the air pollution episode regulations, and an increase in permit fees for Allegheny County, Pennsylvania. The following paragraphs discuss each of these revisions.

Group II VOC Regulations

Provisions of the Clean Air Act enacted in 1977 require States to revise their SIP's for areas that have not attained the NAAQS. For States with ozone nonattainment areas, EPA has stated that the minimum acceptable level of ozone control includes Reasonably Available Control Technology (RACT) requirements for sources of VOC emissions for which EPA has published a CTG by January 1978 and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); 44 FR 67182 (November 23, 1970); and 44 FR 50371 (August 28, 1979).)

EPA published the CTGs in order to assist the States in determining RACT. The CTGs provide information on

available air pollution control techniques to provide recommendations on what EPA calls the "presumptive norm" for RACT. Group II CTGs cover the following source categories: (1) Factory Surface Coating of Flatwood Paneling; (2) Petroleum Refinery Fugitive Emissions (Leaks) ; (3) Synthesized Pharmaceutical Manufacturing; (4) Pneumatic Rubber Tire Manufacturing; (5) Surface Coating of Miscellaneous Metal Parts and Products; (6) Graphic Arts (Printing); (7) Dry Cleaning Perchloroethylene; (8) Gasoline Tank Trucks (Leak Prevention) ; (9) Petroleum Liquid Storage in External Floating Roof Tanks.

On February 23, 1982, Pennsylvania submitted to EPA revisions to its SIP for Allegheny County which consist of regulations for all of the above categories except: (1) Factory Surface Coating of Flatwood Paneling; (2) Petroleum Refinery Fugitive Emissions (Leaks), (3) Pharmaceutical Manufacture; and (4) Rubber Tire Manufacture. The Allegheny County Bureau of Air Pollution Control (BAPC) has certified that none of these sources currently operate in the County.

EPA has reviewed these regulations and finds them approvable except for the dry cleaning regulations. In addition, the compliance schedule established for control of VOC emissions from inks used to print on non-porous substrates allows for extensions up to December 31, 1986. This extension is not consistent with the Commonwealth of Pennsylvania's regulation, which allows extensions up to December 31, 1985. EPA requested comments in the proposed notice on the acceptability of an extension for this category of source until December 31, 1986. One comment was received which favored the additional year. No adverse comments were received. Therefore, this regulation is being approved with the 1986 compliance date.

Where variations from EPA's recommended RACT occur in other regulations, documentation showing insignificant impact has been submitted by the BAPC.

The County's regulation for Perchloroethylene Dry Cleaning is significantly different than that adopted by most other States in that no emission limit is specified. Therefore, the County's regulation does not require add-on control equipment. As noted in the proposal notice, EPA will take no action on this regulation at this time.

Air Pollution Episode Regulations

The air pollution episode regulations establish procedures for alerting the public when air pollution reaches or is forecasted to reach specified levels which may affect the health of people in the area. The County currently has episode regulations in effect. The regulation being approved today revises the method used for setting the levels at which various alert stages are called.

The previous regulations set one level of pollution for each stage. This level applied to all monitoring sites which measure the potential for episodes. The revised regulations allow the level to be set specifically for each monitor. This is necessary because of the variable characteristics of the particulates which are being monitored. Each monitor is impacted by different ranges of particulate sizes and characteristics. The monitors are affected by the size and characteristics of the particles, and can give different readings because of this variation, even if total particulate levels are the same. Therefore, each monitor site must be studied to establish site-specific values at which the alert stages are called. The new regulations establish procedures for this, and were developed in accordance with EPA's "Guidance for Selecting TSP Episode Monitoring Methods" (EPA No. 1.2–114, February 1979). The revisions do not change the levels at which episodes are declared, but change the way in which the levels are determined.

EPA has reviewed these regulations and finds them to be approvable.

Permit Fee Increase

The revisions to the permit fee regulations consist of an increase of 15% in the fees for installation, operating and non-complying source operating permits. These fees cover the costs of inspections, permit processing, and evaluation of source compliance. The County is increasing the fees to offset rising costs of performing these functions.

EPA has reviewed these regulation changes and finds them to be approvable. In addition, no adverse comments were submitted on any of the items being approved today.

In a **Federal Register** notice of June 9, 1982, EPA published an approval of revisions to Allegheny County's asphalt regulation which satisfied conditional approvals on the County's Part D SIP. In that approval, the documents pertaining to it were inadvertantly placed in Section (C)(43) of § 52.2020, Subpart NN—Pennsylvania. These documents should have been placed in Section (C)(45). EPA is making this correction in this notice, and has shown both Sections (C)(43) and (C)(45) in this notice as they should appear in the Code of Federal Regulations.

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

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

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

List of Subjects in 40 CFR Part 52

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

(42 U.S.C. 7401–7642)

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF INPLEMENTATION PLANS

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

Subpart NN—Pennsylvania

In § 52.2020 paragraphs (c)(43) and (45) are revised and paragraph (c)(49) is added to read:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(43) Amendments to Air Management Regulations II and III, with supporting documents, submitted by Governor Dick Thornburgh on December 8, 1981, allowing the continued burning of anthracite coal in existing space heating units currently burning coal.

* * * * *

(45) Revisions submitted to the Commonwealth of Pennsylvania on February 23, 1982 to correct the conditionally-approved portions of the 1979 State Implementation Plan, specifically the two asphalt regulations in Allegheny County.

* * * * *

(49) Group IIVOC regulations, a revision of the Air Episode Regulations, and an increase in Permit Fees, for Allegheny County, Pa. These revisions

were submitted by Secretary Peter S. Duncan on February 23, 1982.

[FR Doc. 83-1546 Filed 1-20-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 81

[Docket No. 107PA-8; A-3-FRL 2270-6]

Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for the State of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving changes Pennsylvania has requested in the Total Suspended Particulate (TSP) designations of several areas. These designations are used for purposes of planing to attain and maintain TSP standards, and are required by Section 107 of the Clean Air Act (CAA). EPA is approving Pennsylvania's requested changes because the agency has found them to be justified by recent air quality and/or modeling data.

EFFECTIVE DATE: February 22, 1983.

ADDRESSES: Copies of Pennsylvania's request for the redesignations and associated support materials are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA. 19106;
Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA. 17120; or
Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M. Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address for EPA Region III above, or telephone (215) 597-8309.

SUPPLEMENTARY INFORMATION: EPA approves changes Pennsylvania has requested in the Total Suspended Particulate (TSP) air quality designations of several areas. EPA approves these changes since they are justified by recent air quality and/or monitoring data. EPA's approval of these changes modifies the list of attainment status designations in 40 CFR Part 81 that is published pursuant to the requirements of Section 107 of the Clean Air Act.

Pennsylvania requested most of the redesignations as a result of a decision to change from designating nine of its air basins in their entirety to designating individual townships, boroughs, etc. Pennsylvania also requested redesignations in cases where recent air quality or modeling data indicated they were appropriate. In most cases Pennsylvania had sufficient information available to make definite designations of areas as either "Does not meet Primary Standards," "Does not meet Secondary Standards" or "Better than National Standards." However, in a few cases available information was insufficient or conflicting. In these cases Pennsylvania designated areas as "Cannot be Classified."

Pennsylvania's redesignations bring the State's TSP designations up to date for all areas except Allegheny County and Philadelphia. Pennsylvania did not review the TSP designations of these areas because local agencies have been delegated the responsibility for such reviews.

Pennsylvania's approved redesignations apply to areas in six Air Quality Control Regions (AQCRs). The redesignations are described below on an AQCR by AQCR basis.

I. Metropolitan Philadelphia Interstate AQCR

EPA approves changes in the designations of several areas in the Southeast Pennsylvania Air Basin. EPA approves a change in the designation of Phoenixville Borough from "Does not meet Secondary Standards" to "Better than National Standards." EPA also approves changes in the designations of the following areas from "Cannot be Classified" to "Better than National Standards": West Conshohocken Borough, Lower Merion Borough, Narberth Borough, Upper Merion Township, Bridgeport Borough, Norristown Borough, Plymouth Township, Whitemarsh Township, Upper Moreland Township, Lower Pottsgrove Township, Upper Providence Township, Caln Township, Downingtown Borough, East Followfield Township, Modena Borough, Valley Township, North Coventry Township, East Coventry Township, and Schuylkill Township.

II. Northeast Pennsylvania Interstate AQCR

EPA approves Pennsylvania's proposal to change from designating the Scranton/Wilkes-Barre, Allentown-Bethlehem-Easton, and Reading Air Basins in their entirety to designating individual minor civil divisions (MCDs) within them as described below:

A. *Scranton Wilkes-Barre Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: the City of Wilkes-Barre and the Borough of Throop remain designated "Does not meet Secondary Standards" and all remaining MCDs are redesignated to "Better than National Standards."

B. *Allentown-Bethlehem-Easton Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: the Boroughs of Northampton and Coplay and the Townships of Allen and Whitehall remain designated "Does not meet Secondary Standards" and all remaining MCDs are redesignated to "Better than National Standards."

C. *Reading Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: Laureldale and Temple Boroughs and Muhlenberg Township remain designated "Does not meet Secondary Standards" and all other MCDs are redesignated to "Better than National Standards."

EPA also approves Pennsylvania's request to redesignate one non-air basin area in this AQCR. EPA approves a change in the designation of the City of Palmerton from "Better than National Standards" to "Cannot be Classified."

III. South Central Pennsylvania Intrastate AQCR

EPA approves the following designation changes:

A. *Harrisburg Air Basin*—EPA approves the redesignation of this air basin in its entirety from "Does not meet Secondary Standards" to "Better than National Standards."

B. *Lancaster Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: the City of Lancaster and the Township of Manheim remain designated "Does not meet Secondary Standards" and all remaining MCDs are redesignated to "Better than National Standards."

C. *York Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Primary Standards" to designating individual MCDs in the air basin as follows: York City, West York Borough, and West Manchester Township remain designated "Does not meet Secondary Standards" and all

remaining MCDs are redesignated to "Better than National Standards."

IV. Central Pennsylvania Intrastate

EPA approves Pennsylvania's proposal to change from designating the Johnstown Air Basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: Johnstown City, East Conemaugh Borough, Franklin Borough and Dale Borough remain designated "Does not meet Secondary Standards," the Township of East Taylor, Middle Taylor and West Taylor are redesignated "Cannot be Classified" and the remaining MCDs are classified "Better than National Standards."

V. Southwest Pennsylvania Intrastate AQCR

EPA approves Pennsylvania's proposal to change from designating the Monongahela Air Basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs in the air basin as follows: Donora Borough, Monessen City, and the Townships of Carrol and Rostraver remain designated "Does not meet Primary Standards," the Borough of Brownsville is redesignated to "Does not meet Secondary Standards," and all remaining MCDs are redesignated to "Better than National Standards."

EPA also approves Pennsylvania's proposal to change the designation of one non-air basin area. EPA approves a change in the designation of the City of New Kensington in Westmoreland County from "Better than National Standards" to "Cannot be Classified."

IV. Northwest Pennsylvania Interstate AQCR

EPA approves Pennsylvania's proposal to change from designating the Erie Air Basin in its entirety to designating indivdual MCDs in the air basin as follows: City of Erie, Lawrence Park Township and the Borough of Wesleyville are redesignated to "Does not meet Secondary Standards" and the remaining MCDs are redesignated "Better than National Standards."

EPA received some general comments on the TSP situation in Pennsylvania and a request for additional information on Pennsylvania's proposed redesignations from one commentor. EPA considered the general comments submitted but did not find them relevant to the question of whether to approve or disapprove any of the particular redesignations Pennsylvania had requested. The commentor submitted no additional comments on specific issues after EPA forwarded to him the additional information he had requested.

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

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d), 171(2), and 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7602(a)))

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.339, the table headed "Pennsylvania-TSP" is revised to read:

§ 81.339 Pennsylvania.

PENNSYLVANIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
I. Metropolitan Philadelphia Interstate AQCR:				
(A) City of Philadelphia:				
Census tracts 1-12, 125-142, 144-157, 162-177, 190-205, 293, 294, 298-302, 315-321, 323, 325, 326, 329-332		X		
Census tracts 13-75, 143, 158-161, 178-189, 295-297, 322, 324, 327			X	
Balance of city				X
(B) Montgomery County:				
Conshohocken Boro		X		
Pottstown Boro		X		
West Pottsgrove Township			X	
Upper Pottsgrove Township			X	
(C) Chester County:				
South Coatesville Boro		X		
City of Coatesville			X	
(D) Bucks County: Doylestown Township			X	
(E) Remaining Pennsylvania Portions of AQCR				X
II. Northeast Pennsylvania Interstate AQCR:				
(A) Scranton, W-B Air Basin:				
Lackawanna County: Throop Boro		X		
Luzerne County: City of Wilkes-Barre		X		
(B) A-B-E Air Basin:				
Lehigh County:				
Coplay Boro	X			
Whitehall Township	X			
Northampton County:				
Northampton Boro	X			
Allen Township	X			
(C) Reading Air Basin:				
Berks County:				
Laureldale Boro		X		
Temple Boro		X		
Muhlenberg Township		X		

PENNSYLVANIA—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
(D) Carbon County: City of Palmerton			X	
(E) Remaining Portions of AQCR				X
III. South Central Pennsylvania Intrastate AQCR:				
(A) Harrisburg Air Basin				X
(B) Lancaster Air Basin:				
Lancaster County:				
City of Lancaster	X			
Manheim Township	X			
(C) York Air Basin:				
York County:				
City of York	X			
West York Boro	X			
West Manchester Township	X			
(D) Remaining Portions of AQCR				X
IV. Central Pennsylvania Intrastate AQCR:				
(A) Johnstown Air Basin:				
Cambria County:				
City of Johnstown	X			
Dale Boro	X			
East Conemaugh Boro	X			
Franklin Boro	X			
East Taylor Township			X	
Middle Taylor Township			X	
West Taylor Township			X	
(B) Blair County:				
City of Altoona		X		
Allegheny Township			X	
Logan Township			X	
(C) Lycoming County:				
City of Williamsport		X		
South Williamsport Boro			X	
Duboistown Boro			X	
Armstrong Township			X	
Susquehanna Township			X	
Woodward Township			X	
Old Lycoming Township			X	
Loyalsock Township			X	
Montoursville Boro			X	
(D) Remaining Portions of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR:				
(A) Monongahela Valley Air Basin:				
Fayette County: Brownsville Boro		X		
Washington County:				
Donora Boro	X			
Carroll Township	X			
Westmoreland County:				
City of Monessen	X			
Rostraver Township	X			
(B) Allegheny County Air Basin:				
(1) A three mile wide strip which is within a perpendicular distance two miles north and east and one mile south and west of the river center line with terminus points as follows:				
(a) The Beaver County line to the I-79 Bridge on the Ohio River			X	
(b) I-79 to the McKees Rocks Bridge on the Ohio River	X			
(c) McKees Rocks Bridge to the Birmingham Bridge on the Ohio and Monongahela Rivers	X			
(d) Birmingham Bridge to the Glenwood Bridge on the Monongahela River	X			
(e) Glenwood Bridge to the Mansfield Bridge (Dravosburg) on the Monongahela River	X			
(f) Mansfield Bridge to the Westmoreland County line on the Monongahela River	X			
(2) The area within a half-mile radius of the Greater Pittsburgh Airport monitor	X			
(3) The one mile wide strip centered on Turtle Creek running from area (V)(B)(1)(e) above to the Westmoreland County line.	X			
(4) The area within Allegheny County within a radius of two miles of the Springdale monitor		X		
(5) The remaining portions of the Allegheny County Air Basin				X
(C) Lower Beaver Valley Air Basin	X			
(D) Westmoreland County: City of New Kensington			X	
(E) Remaining Portions of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR:				
(A) Upper Beaver Valley Air Basin	X			
(B) Erie Air Basin:				
City of Erie		X		
Wesleyville Boro		X		
Lawrence Park Township		X		
(C) Mercer County:				
City of Sharon	X			
City of Farrell	X			
Sharpsville Boro			X	
Wheatland Boro			X	
Hickory Township			X	
(D) Remaining Portions of AQCR				X

* * * * * * * * *

[FR Doc. 83-1545 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 264

[SWH-FRL 2288-6]

Regulatory Flexibility Analysis of Land Disposal Regulations

AGENCY: Environmental Protection Agency.

ACTION: Rule Related Notice.

SUMMARY: On July 26, 1982, the Environmental Protection Agency (EPA) promulgated interim final rules governing the land disposal of hazardous waste under Part 264 of the Resource Conservation and Recovery Act (RCRA). The Regulatory Flexibility Act (5 U.S.C. 601 et seq) requires a Federal agency to prepare a Regulatory Flexibility Analysis (RFA) for any rule or regulation that must undergo "notice and comment" under section 553(b) of the Administrative Procedure Act.

This notice announces that EPA has completed the Regulatory Flexibility Analysis for the Part 264 land disposal regulations and summarizes the conclusions of the analysis.

ADDRESS: The Regulatory Flexibility Analysis is available for public review from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays, in the libraries of EPA Regional Offices and in Room S269C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information on the technical aspects of this analysis contact: Richard Mertens, Environmental Protection Specialist, Economic and Policy Analysis Branch, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-4646.

SUPPLEMENTARY INFORMATION:

Summary

EPA prepared this Regulatory Flexibility Analysis to assess the effects on small entities of the Part 264 land disposal regulations the Agency promulgated on July 26, 1982. This analysis examined the incremental impact of these regulations on small entities in all industry groups that have both available financial information and more than a minimal number of land disposal facilities. A total of forty-six industry groups (defined by four digit Standard Industrial Classification Code) was examined.

The analysis revealed no industry groups where a substantial number (defined in this analysis as twenty percent) of small firms might experience significant impacts under "best case" assumptions. The analysis found, however, that under circumstances where small firms would be required to take corrective action to protect ground water, the costs to small firms in some industries could often exceed by a large percentage their average annual capital expenditures. The following industry groups contain a substantial number of small firms that the analysis predicts would experience significant impacts if required to take corrective action: Wood preserving (SIC 2491), Cellulosic man-made fibers (SIC 2823), Organic fibers (SIC 2824), Phosphatic fertilizers (SIC 2874), Explosives (SIC 2892), and Secondary smelters—nonferrous metals (SIC 3341).

The analysis suggests that the design and operating requirements of the regulations alone do not have a significant impact on small firms within any of the industry groups. The costs of the corrective action requirements may be sufficient to have a significant impact on those small firms required to take corrective action. The regulations are designed so that corrective action costs will be incurred in those situations where protection of human health and the environment requires removing hazardous constituents from the ground water. EPA has provided a procedure for a variance to the corrective action requirements where the owner or operator is able to show that the actual concentrations of hazardous constituents in the ground water pose no substantial present or potential hazard to human health or the environment. The Agency believes, therefore, that although some small firms may experience significant impacts due to these requirements, the corrective action requirements are necessary to ensure adequate protection of human health and the environment.

Regulatory Flexibility Analysis

This Regulatory Flexibility Analysis (RFA) drew extensively from existing regulatory analyses for the Part 264 land disposal regulations promulgated on July 26, 1982. In particular, this RFA relied on the analyses and compliance cost estimates of the Part 264 Land Disposal design and operating requirements, closure and post-closure requirements, groundwater monitoring and corrective action requirements. These requirements and cost estimates are described in the Preamble to the July 26, 1982 Federal Register Notice (47 FR 32274) and are documented in detail in the report placed in the EPA Docket on August 24, 1982. The definitions and criteria used to identify impacts in this analysis followed the guidelines EPA developed for implementing the Regulatory Flexibility Act to the extent the available data would permit.

This Regulatory Flexibility Analysis examined the incremental impact of these Part 264 land disposal requirements on:

- Small entities which generate hazardous waste and dispose on-site and small commercial facilities (landfills, surface impoundments, waste piles, and land treatment facilities) which are subject to the regulations and will directly incur the costs of complying with regulations, and
- Small entities which generate hazardous waste and send the waste off-site and may pay higher prices for services as a result of the increased costs incurred by commercial facilities.

The EPA obtained information on the universe of facilities with on-site land disposal units primarily from the Part A permit application data base, and from a recent Telephone Verification Survey that EPA conducted to verify the Part A permit information. EPA estimated the number of hazardous waste generators using Notification data from the Hazardous Waste Data Management System.

Using this facility and generator information and Dun and Bradstreet data on establishment size, EPA developed establishment size categories, defined by the number of employees.[1] These categories enabled EPA to distinguish differences in impacts among small establishments, both for generators that dispose off-site, and for facilities that own or operate on-site land disposal units. In general, establishments with fewer than 100 employees are defined as "small" in this analysis.

The analysis used cost functions under three sets of cost assumptions to screen for impacts on small entities in each industry. In general, the "best case" cost estimate assumed that facilities meet the minimum design and operating requirements of the regulations and do not require corrective action. The "worst case" assumed that all facilities take the most expensive design options available and in spite of these actions, all facilities require

[1] The distinction between establishments and firms is critical in this analysis. An establishment is the smallest unit in which business activity is conducted and on which statistical information is collected. A firm, however, may be one or more establishments. Establishments that are branches or subsidiaries owned by larger firms cannot legitimately be considered small businesses.

immediate corrective action. The analysis used a "corrective action case" incorporating the costs associated with the minimum design and operating requirements allowed under the regulations but requiring corrective action to determine the impact of the corrective action requirements. This analysis used the most expensive corrective action scenario for assessing the impacts of the "worst" and "corrective action" cases. Using the least expensive corrective action scenario, however, does not substantially change the results.

The Analysis applied the three cost scenarios to selected industries to indicate initially the potential severity of the economic impacts. This initial screening included all industries in the Hazardous Waste Data Management System with more than a minimal number of land disposal facilities and with financial data available for assessing impacts. Table 1 lists the industries the RFA examined, and their SIC codes. The screening analysis assessed the following four economic components for these industries:

- *Increase in production cost:* Identified industries and size categories for which annual compliance costs are more than five percent of non-capital production costs;
- *Relative compliance costs as a percent of sales:* Identified industries in which the ratio of annual compliance cost to value of shipments (a proxy for value of sales) is more than ten percent higher for small firms than for large;
- *Capital availability:* Calculated the ratio of first year cash expenditures required to achieve compliance to annual capital expenditures. Industry size categories for which the required expenditures represent a substantial portion of typical capital expenditures may experience difficulty financing the required expenditures; and
- *Potential plant closures:* Calculated the ratio of annual compliance costs to value added as a measure of potential decrease in profitability. The analysis assumed that industry size categories with high ratios of cost to value added (defined in this analysis as 5 percent or greater) may experience plant closures.

The initial screening identified industry groups that contained a "substantial number" of small establishments that could potentially experience "significant impacts". The analysis defined a "substantial number" of small establishments to be twenty percent of these entities in an industry group.

Because data at the firm level were available for only a portion of the firms affected by this rule, the initial screening for "significant impacts on a substantial number of small entities" was conducted at the establishment level. For those industries where the initial screening had determined that a substantial number of small establishments might experience significant impacts and where firm level data were available, the analysis determined if the small establishments were branches or subsidiaries of large firms and should, therefore, not be considered small entities.

Using the above definitions of "significant impact" and "substantial number", the analysis identified three industry groups that contained a substantial number of small establishments that would experience significant impacts under the "best case" assumptions. A detailed analysis of these industry groups, however, revealed that the small establishments were owned by relatively large firms.

The analysis found six industry groups containing small firms that would experience significant impacts under the "worst case" assumptions. Of these six industry groups, five also experienced impacts under the "corrective action case" assumptions. Impacts experienced by small firms under the "corrective action" and "worst" case assumptions are caused primarily by the capital expenditures required for corrective action. The analysis found that the capital expenditures for corrective action often exceed by a large percentage the average annual capital expenditures of these small firms. The analysis suggests that although the costs of the design and operating requirements alone do not have a significant impact on small firms, the costs of the corrective action requirements may be sufficient to have significant impacts on those small firms required to take corrective action.

TABLE I.—INDUSTRIES INCLUDED IN THE LAND DISPOSAL REGULATORY FLEXIBILITY ANALYSIS

SIC code	Industry
2421	Sawmills and Planing Mills, General.
2491	Wood Preserving.
2511	Wood Household Furniture.
2812	Alkalies and Chlorine.
2816	Inorganic Pigments.
2819	Industrial Inorganic Chemicals.
2821	Plastic Materials and Resins.
2823	Cellulosic Man-made Fibers.
2824	Organic Fibers, Noncellulosic.
2833	Medicinals and Botanicals.
2851	Paint and Allied Products.
2861	Gum and Wood Chemicals.
2865	Cyclic Crudes and Intermediates.
2869	Industrial Organic Chemicals.
2873	Nitrogenous Fertilizers.
2874	Phosphatic Fertilizers.
2879	Agricultural Chemicals.
2892	Explosives.
2899	Chemical Preparations, NEC.
2911	Petroleum Refining.
2992	Lubricating Oils and Greases.
3079	Miscellaneous Plastics Products.
3111	Leather Tanning and Finishing.
3221	Glass Containers.
3292	Asbestos Products.
3312	Blast Furnaces and Steel Mills.
3315	Steel Wire and Related Products.
3321	Gray Iron Foundries.
3325	Steel Foundries, NEC.
3341	Secondary Smelters Nonferrous Metals.
3351	Copper Rolling and Drawing.
3356	Nonferrous Rolling and Drawing, NEC.
3429	Hardware, NEC.
3469	Metal Stampings, NEC.
3471	Plating and Polishing.
3479	Metal Coating and Allied Services.
3483	Ammunition, except for Small Arms, NEC.
3559	Special Industry Machinery, NEC.
3573	Electronic Computing Equipment.
3651	Radio and TV Receiving Sets.
3662	Radio and TV Communications Equipment.
3679	Electronic Components, NEC.
3711	Motor Vehicles and Bodies.
3714	Motor Vehicles Parts and Accessories.
3721	Aircraft.
3724	Aircraft Engines and Engine Parts.

Dated: January 18, 1983.

Rita Lavelle,

Assistant Administrator for Office of Solid Waste and Emergency Response.

[FR Doc. 83-1715 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 403 and 413

[OW-FRL 2276-7]

General Pretreatment Regulations for Existing and New Sources and Effluent Guidelines and Standards; Electroplating Point Source Category Pretreatment Standards for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule; change in compliance, application, and reporting deadlines.

SUMMARY: On October 4, 1982, the United States Court of Appeals for the Third Circuit issued an order staying for ninety days certain deadlines in the Environmental Protection Agency's pretreatment standards for the Electroplating Point Source Category (40 CFR Part 413) and General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403). The purpose

of this rulemaking is to implement the stay and explain its effects.

DATES: The compliance deadline for the non-integrated segment of the electroplating industry is now April 27, 1984. The compliance deadline for the integrated segment of the electroplating industry is now June 30, 1984. The deadline for submission of category determination requests (49 CFR 403.6(a)), baseline monitoring reports (40 CFR 413.12), fundamentally different factors variance requests (40 CFR 403.13) and net/gross adjustments requests (40 CFR 403.15) is extended ninety days for facilities subject to these submission deadlines as of October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN-336), 401 M St., SW., Washington, D.C. 20460, (202) 426-4793.

SUPPLEMENTARY INFORMATION: This notice addresses two interrelated regulations: (1) The Environmental Protection Agency's Electroplating Pretreatment Standards for existing sources (40 CFR Part 413) and (2) EPA's General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403). The Electroplating Pretreatment Standards were initially promulgated on September 7, 1979 and amended on January 28, 1981, (see, 44 FR 52590 and 46 FR 9462). The General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403) were originally promulgated on June 26, 1978 and amended on January 28, 1981 (see, 43 FR 77736 and 46 FR 9404). A number of cases challenging these two regulations are currently lodged in the United States Court of Appeals for the Third Circuit.

On September 24, 1982 the Third Circuit conducted a prehearing conference in these cases in an attempt to resolve various threshold issues concerning consolidation of the cases, establishment of a briefing schedule and other matters. At this conference, the Court recommended entry of an order staying certain compliance, application and reporting deadlines in the Electroplating Pretreatment regulations and General Pretreatment regulations to "accommodate the unique management problems imposed upon the Court by these complex cases."

Out of deference to the Court and in the interest of helping to relieve the Court's management problem, EPA informed the Court several days after the prehearing conference that it would not object to entry of the order. In this communication, EPA noted that it had elected not to oppose the order "solely to accommodate the unique burdens imposed on the Court by this complex litigation." EPA added that it did not believe the Agency itself had the authority to stay the statutorily-mandated compliance deadlines contained in the electroplating regulations nor did it concede that the narrowly defined circumstances warranting a judicial stay of regulations were present. The Agency concluded:

> In short, EPA's action is not intended to compromise in any way the generally accepted principle that those who challenge its regulations must 'litigate on their own time' and are not ordinarily entitled to a stay of regulations pending judicial review. Consistent with this intention, EPA can not generally be expected to agree to entry of a stay order in other cases involving judicial review of other regulations. Moreover, EPA in all likelihood would vigorously oppose any further stay of the electroplating or general pretreatment regulations in these cases. EPA believes it proper to expect industry petitioners to treat the stay as an opportunity for additional time in which to effectuate compliance with EPA's regulations, and not as a basis for halting or deferring their compliance efforts.

After receiving word from EPA that the Agency would not oppose entry of the order, the Court, on October 4, 1982, entered an order staying for ninety days the compliance deadlines contained in the Electroplating regulations and all deadlines applicable to industrial users contained in the General Pretreatment regulations.

The practical effects of the Third Circuit's order are essentially threefold. First, it extends the compliance deadline for the non-integrated segment of the electroplating industry from January 28, 1984 to April 27, 1984.

Second, it extends the compliance deadline for the integrated segment of the electroplating industry from March 30, 1984 to June 30, 1984. As we explained in a September 28, 1982 **Federal Register** notice, the March 30, 1984 deadline was brought into being by the Third Circuit's decision ordering EPA to retroactively reinstate the amendments to the General Pretreatment regulations in *Natural Resources Defense Council, Inc.* v. *EPA*, No. 81-2068 (47 FR 42688).

Third, the order extends for ninety days various application and reporting deadlines in the General Pretreatment regulations currently applicable to industrial users. These deadlines are the application deadline for category determination requests (40 CFR 403.6(a)); the deadline for submission of baseline monitoring reports (40 CFR 403.12); the deadline for submission of fundamentally different factors variance requests (40 CFR 403.13); and the application deadline for net/gross adjustments (40 CFR 403.15). The Court's order requires alteration of these application and reporting deadlines only for industrial users subject to these deadlines as of the date of the Court's order. It thus does not apply to facilities which have become subject to these deadlines since the October 4, 1982 order or which, at some time in the future, will become subject to these deadlines. By the same token, since the order only extends the deadlines for ninety days, it does not apply to facilities whose deadlines expired ninety days prior to October 4. Given this and the fact that the deadlines are all keyed to the effective date of categorical pretreatment standards, it is possible to accurately identify the facilities who benefit from the ninety day extension of application and reporting deadlines. The beneficiaries are integrated electroplating plants, iron and steel facilities, and inorganic chemical facilities subject to the pretreatment standards promulgated on June 29, 1982. (47 FR 28260). All these facilities are subject to recently effective categorical pretreatment standards. The following chart identifies the new application and reporting deadlines for these facilities.

Industry	Category determination requests		Baseline monitoring report		Fundamentally different factors variance requests		Net gross adjustments	
	Old deadline	New deadline	Old deadline	New deadline	Old deadline	New deadline	Old deadline	New deadline
Integrated electroplating	Nov. 27, 1982	Feb. 25, 1983	Mar. 27 1983	June 25, 1983	Mar. 27, 1983	June 25, 1983	Nov. 27 1982	Feb. 25, 1983.
Iron and steel	Sept. 8,1982	Dec. 7, 1982	Jan. 6, 1983	Apr. 6, 1983	Jan. 6, 1983	Apr. 6, 1983	Sept. 8, 1982	Dec. 7, 1982.
Inorganic chemicals	Oct. 11, 1982	Jan. 9, 1983	Feb. 8, 1983	May 9, 1983	Feb. 8, 1983	May 9, 1983	Oct. 11, 1982	Jan. 9, 1983.

Non-integrated electroplating facilities will not benefit from the Court's extension of application and reporting deadlines because their deadlines have long since expired.

List of Subjects

40 CFR Part 403

Confidential business information, reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

40 CFR Part 413

Electroplating, Metal, Water pollution control, Waste treatment and disposal.

Dated: January 5, 1983.

John W. Hernandez, Jr.,
Acting Administrator.

PART 413—ELECTROPLATING POINT SOURCE CATEGORY

For the reasons set forth above, EPA is amending 40 CFR Part 413 as follows:

1. The authority citation for Part 413 is as follows:

Authority: Secs. 301, 304(g), 307, 308, 309, 402, 405, 501(a), Clean Water Act, as amended, (33 U.S.C. 1311, 1314(g), 1317, 1318, 1319, 1322, 1325 and 1341(a)).

2. The last two sentences of 40 CFR 413.01(a) are revised as follows:

§ 413.01 Applicability.

(a) * * * The compliance deadline for integrated facilities is June 30, 1984. The compliance deadline for non-integrated facilities is April 27, 1984.

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

For the reasons set forth above, EPA is amending 40 CFR Part 403 as follows:

1. The authority citation for Part 403 is as follows:

Authority: Sec. 54(c)(2), Clean Water Act of 1977 (Pub. L. 95-217), 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)-(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a), Federal Water Pollution Control Act (Pub. L. 92-500), as amended by the Clean Water Act of 1977.

2. Section 403.1 is amended by adding a new paragraph (c) as follows:

§ 403.1 Purpose and applicability.

* * * * *

(c) The deadlines for submission of category determination requests (§ 403.6(a)), baseline monitoring reports (§ 403.12), fundamentally different factors variance requests (§ 403.13), and applications for net/gross adjustments (§ 403.15) are extended ninety days for integrated facilities subject to the electroplating pretreatment standards (40 CFR Part 413), industrial users subject to the inorganic chemicals pretreatment standards promulgated on June 29, 1982 (47 FR 28260; 40 CFR Part 415) and industrial users subject to the iron and steel pretreatment standards (40 CFR Part 420).

[FR Doc. 83-1666 Filed 1-20-83; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-11

[FPMR Amdt. B-51]

Transfer of Records to Federal Records Center

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending its regulations to require specific permission from the Office of Federal Records Centers before agencies may retire records without a specific disposition date to Federal records centers. This action is taken to ensure that all records scheduled for final disposition after an unspecified future event should be so scheduled. Some agencies have a contingent disposition for certain records series, resulting in excessive retention periods and the necessity for records centers to contact agencies repeatedly concerning the disposal of these records. This change will eliminate the waste of time in contacting agencies, and will provide the National Archieves with an opportunity to negotiate with the agencies concerning the most appropriate disposition for certain records. Regulations also are changed to increase from 1 year to 3 years the minimum amount of time that records being transferred to the records centers are required to remain in the centers before being destroyed. Finally, in the past, records centers accepted records—otherwise eligible for disposal—that were being retained because of agency imposed or court ordered freezes. Such records no longer will be accepted for storage. The changes are being made so that the records center system can use its space and other resources in a more effective and efficient manner.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Linda N. Brown, Acting Assistant Archivist for Federal Records Centers (202-724-1614).

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

List of Subjects in 41 CFR Part 101-11

Advisory committees, Archives and records, Classified information, Freedom of Information, Government property management, Interagency reports, Micrographics, Privacy, Records and information management, Word processing.

PART 101-11—[AMENDED]

Section 101-11.410-2 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 101-11.410-2 Procedures for transfers to Federal records centers.

* * * * *

(a) * * *

(1) The records are properly scheduled, if the records are not scheduled, or if the records are scheduled for final disposition after the occurrence of an event at some unspecified future time, an exception to this regulation must be obtained by submitting a request in writing to the General Services Administration (NC), Washington, DC 20408.

(2) The records are not authorized for disposal less than 3 years after transfer to the records centers and transportation costs are not in excess of

the resulting savings. In addition, records otherwise eligible for immediate disposal but being retained because of an agency-imposed or court-ordered freeze are not eligible for retirement to Federal records centers.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 23, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-1665 Filed 1-20-83; 8:45 am]

BILLING CODE 6820-26-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Forty-Sixth Rev. Service Order No. 1473; Amdt. 1]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Forty-sixth Revised Service No. 1473.

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

EFFECTIVE DATE: 11:59 p.m., January 31, 1983, and continuing in effect until 11:59 p.m. July 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

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

SUPPLEMENTARY INFORMATION:

Decided: January 17, 1983.

Upon further consideration of Forty-sixth Revised Service Order No. 1473 (47 FR 53392), and good cause appearing therefor:

§ 1033.1473 [Amended]

It is ordered, that § 1033.1473 *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor, (William M. Gibbons, Trustee),* Forty-sixth Revised Service Order No. 1473 is amended by revising paragraph (n) thereof:

* * * * *

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

Effective date. This order shall become effective at 11:59 p.m., January 31, 1983.

(49 U.S.C. 10304-10305 and Sec. 122, Pub. L. 96-254)

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

List of Subjects in 49 CFR Part 1033

Railroads.

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

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1675 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status for the Population of Woodland Caribou Found in Washington, Idaho, and Southern British Columbia

Correction

In FR Doc. 83-1118, beginning on page 1722 is the issue of Friday, January 14, 1983, make the following correction.

On page 1726, third column, first line of amendatory language "2.", "Section 17.11(n)" should read "Section 17.11(h)".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1251

Investigative Authority of the Special Counsel

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to the rights and responsibilities of witnesses during investigations by the Office of the Special Counsel. Pursuant to evaluation of comments, and research, the rule is deemed not presently necessary. The notice initially appeared in the **Federal Register** on Friday, April 30, 1982 (47 FR 18602). The action will have no significant impact on the office's ability to carry out its functions under law.

EFFECTIVE DATE: January 21 1983.

FOR FURTHER INFORMATION CONTACT: Alma Hepner, Office of the Special Counsel, 1120 Vermont Avenue, NW., Washington, D.C., 20419, (202) 653-7984.

SUPPLEMENTARY INFORMATION: The Office of the Special Counsel has authority to investigate and prosecute those who commit prohibited personnel practices, 5 U.S.C. 1206(a), and authority to investigate alleged violations of the Hatch Act, arbitrary and capricious withholding of information prohibited under the Freedom of Information Act, involvement of employees in any prohibited discrimination found by a court or an administrative authority to have occurred in the course of any personnel action, and other activities prohibited by civil service law, rule or regulation. 5 U.S.C. 1206(e). In accordance with 5 U.S.C. 1206(k), the notice of proposed rulemaking, published for comment on April 30, 1982, is hereby withdrawn.

Dated: January 14, 1983.

K. William O'Connor,

Special Counsel.

[FR Doc. 83-1508 Filed 1-20-83; 8:45 am]
BILLING CODE 7400-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-163 (Colorado-31)]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Mesaverde Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 3, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Issued: January 17, 1983.

I. Background

On December 15, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mesaverde Formation located in Rio Blanco County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposaed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Mesaverde Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands in Rio Blanco County, Colorado, and is located approximately 26 miles southwest of Meeker, Colorado. The recommended area is approximately 14,004 acres and consists of Township 2 South, Range 96 West, Section 31 S½, S½NW¼, Section 32 S½S½, Section 33 SW¼SW¼; Township 2 South, Range 97 West, Section 4 W½W½, Sections 5, 6, 9, 16, 17, 20, 21, 22, All, Section 23 W½, Section 25 SW¼, Section 26 W½, SE¼, Sections 27, 28, 29, 31 through 36, All; Township 3 South, Range 97 West, Sections 3 through 7, All, all 6th P.M. The average depth to the top of the Mesaverde Formation varies from 6,130 feet in the east to 7,480 feet in the west with an average depth of approximately 7,790 feet, and the thickness of the formation varies from 4,000 feet to 5,600 feet with an average thickness of approximately 4,800 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG 35-1 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells

completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Mesaverde Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant of § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federaal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 3, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-67-163 (Colorado-31), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

PART 271—[AMENDED]

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Direction, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 amended is by adding paragraph (d)(156) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(156) *Mesaverde Formation in Colorado.* RM79-76-163 (Colorado-31).

(i) *Delineation of formation.* The Mesaverde Formation is located in Rio Blanco County, Colorado, in Township 2 South, Range 96 West, Section 31 S½, S½ NW¼, Section 32 S½ S½, Section 33 SW¼ SW¼; Township 2 South, Range 97 West, Section 4 W½ W½, Sections 5, 8, 9, 16, 17, 20, 21, 22, All, Section 23 W½, Section 25 SW¼, Section 26 W½, SE¼, Sections 27, 28, 29, 31 through 36, All; Township 3 South, Range 97 West, Sections 3 through 7, All, all 6th P.M.

(ii) *Depth.* The average depth to the top of the Mesaverde Formation is approximately 7,790 feet. The producing interval is approximately 4,800 feet in thickness and begins at the base of the Ohio Creek Conglomerate and extends to the top of the Marine Mancos Shale.

[FR Doc. 83-1627 Filed 1-20-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 79P-0349]

Cheese and Cheese Products; Proposal To Permit Use of Antimycotics on Surface of Bulk Cheeses and To Provide for Declaration of Animal, Plant, and Microbial Enzymes as "Enzymes"

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standards of identity for several cheeses to permit the use of safe and suitable antimycotics on the surface of the bulk form of those cheeses while being held for curing and storage, as well as on cuts and slices of those cheeses which are in consumersized packages. The use of antimycotics on the surface of bulk cheese will permit the use of labor-saving practices and will reduce cheese losses caused by surface mold growth during the periods that cheese is held before being cut and packaged, thus minimizing production costs of the food. This action is based on a petition filed by the National Cheese Institute. FDA is also proposing to establish label declaration of ingredient requirements in those standards that do not already contain them, as well as permit label declaration of animal, plant, and microbial enzymes by the general term "enzymes," rather than by specific name.

DATES: Comments by March 22, 1983.

The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal. See **SUPPLEMENTARY INFORMATION** for full discussion of proposed effective date.

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

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HHF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The National Cheese Institute, Inc. (NCI) has petitioned FDA to amend the standards of identity for several cheeses to permit the use of safe and suitable antimycotics on the surface of bulk cheeses during curing and storage and to establish uniform provisions for the declaration of ingredients. The cheese standards included in the petition are: § 133.102 (21 CFR 133.102), asiago fresh and asiago soft cheese; § 133.111 (21 CFR 133.111), caciocavallo siciliano cheese; § 133.148 (21 CFR 133.148), hard grating cheeses; § 133.150 (21 CFR 133.150), hard cheeses; § 133.155 (21 CFR 133.155), mozzarella cheese and scamorza cheese; § 133.156 (21 CFR 133.156), low-moisture mozzarella and scamorza cheese; § 133.165 (21 CFR 133.165), parmesan and reggiano cheese; § 133.181 (21 CFR 133.181), provolone and pasta filata cheese; and § 133.183 (21 CFR 133.183),

romano cheese. The petition also would amend cross-referenced standards of identity. These include § 133.103 (21 CFR 133.103), asiago medium cheese; § 133.104 (21 CFR 133.104), asiago old cheese; § 133.157 (21 CFR 133.157), part-skim mozzarella and scamorza cheese; and § 133.158 (21 CFR 133.158), low-moisture part-skim mozzarella and scamorza cheese. A copy of the petiton is on file with the Dockets Management Branch (address above).

As grounds in support of their petition, NCI states that the use of antimycotics on the surfaces of bulk cheeses will benefit consumers in the following ways: (1) The cost of energy and labor required to remove mold from cheese surfaces during curing and storage will be reduced and (2) the quantity of cheese lost when mold is removed (referred to as "trim") will be reduced. The potential overall effect will be reduced costs to consumers and increased industry productivity. Furthermore, NCI contends that reduction of mold growth during the initial stages of production will minimize the potential contamination of the cheese with mold spores throughout the production process. The petitioner points out that mold and mold spores are everywhere and, realistically, cannot be eliminated from the normal manufacturing environment, but they can be reduced in number. This proposed broader use of antimycotics is not meant to replace the use of current good manufacturing practices or sanitary procedures, but to supplement them. The limiting factor in this broader use, or in any use of antimycotics, is that the cumulative level of antimycotics shall not exceed current good manufacturing practice as determined by 21 CFR Parts 172, 182, and 184.

Antimycotics are currently permitted for use on the surface of cuts and slices, in consumer-sized packages, of all of the cheeses included in this proposal. In addition, the standards of identity for the pasta filata-type cheeses (i.e., caciocavallo siciliano cheese, mozzarella cheese and scamorza cheese, low-moisture mozzarella and scamorza cheese, provolone and pasta filata cheese, and the cross-referenced standards for part-skim mozzarella and scamorza cheese and low-moisture part-skim mozzarella and scamorza cheese) also provide for the addition of antimycotics directly to the curd during the kneading and stretching step of the manufacturing procedure. NCI contends that provision for use of antimycotics on the surface of bulk pasta filata-type cheeses is necessary because some manufacturers do not have the facilities to add the antimycotic to the curd and, thus, need the surface protection in lieu of protection afforded by internal use of antimycotics.

Based on NCI's petition, FDA proposes to permit the use of safe and suitable antimycotics on cheeses during the storage, curing, and packaging operations by revising paragraph (d) of §§ 133.102, 133.111, 133.148, 133.150, 133.155, 133.156, 133.165, 133.181, and 133.183.

NCI also petitioned to have uniform ingredient declaration provisions in the standards of identity for asiago fresh and asiago soft cheese (§ 133.102), hard grating cheeses (§ 133.148), hard cheeses (§ 133.150), parmesan and reggiano cheese (§ 133.165), and romano cheese (§ 133.183). FDA, therefore, proposes to amend §§ 133.102, 133.148, 133.150, 133.165, and 133.183 accordingly. The standards for caciocavallo siciliano cheese, mozzarella cheese and scamorza cheese, and provolone and pasta filata cheese already include these labeling requirements.

On its own initiative, FDA proposes to provide for declaration of animal, plant, and microbial enzymes simply as "enzymes" in the label statement of ingredients. These provisions are consistent with the provisions published in the **Federal Register** of September 19, 1978 (43 FR 42127) (Docket No. 77N-0331), which proposed, among other things, inclusion of "enzyme" labeling provisions in standards of identity for nine natural cheeses and appropriate cross-referenced standards. The current standards of identity for cottage cheese (§ 133.128 (21 CFR 133.128)), dry curd cottage cheese (§ 133.129 (21 CFR 133.129)), and lowfat cottage cheese (§ 133.131 (21 CFR 133.131)) contain this "enzyme" labeling provision. In addition, the agency has received a petition (Docket No. 77P-0146) to amend labeling regulations in § 101.4 (21 CFR 101.4) to permit enzymes of animal, plant, or microbial origin used in the manufacture of cheeses and cheese products to be declared by the word "enzymes". However, to date, a proposal based on this petition has not been published. Therefore, FDA proposes to include enzyme labeling provisions in these revised standards.

The standards of identity for hard grating cheeses and hard cheeses contain nomenclature provisions in two different paragraphs of each standard. To place all the nomenclature provisions in one paragraph in each of the standards, FDA proposes to redesignate (§ 133.148(f)(1) as (§ 133.148(e)(3) and (§ 133.150(f)(1) as (§ 133.150(e)(3).

FDA notes that the standard of identity for provolone cheese (§ 133.181) is involved in another rulemaking procedure published in the **Federal Register** of September 19, 1978 (43 FR 42127) (Docket No. 77N-0331), which proposed to provide for the optional use of antimycotics as paragraph (b)(3)(iv) and to include the "enzyme" labeling language in the "Label declaration of optional ingredients" paragraph as (d)(1). These paragraph designations differ from those found in this proposal because this document proposes to revise only paragraphs (d) and (f) of the current effective standard of identity, where the September 19, 1978 proposal involves a complete revision of the standard of identity. In the event that final rules issue based upon both proposals, the language found in § 133.181(d) of this proposal will be inco porated into the final version of § 133.181(b)(3)(iv) of the September 19, 1978 proposal.

The agency periodically announces by notice in the **Federal Register** uniform effective dates for compliance with food labeling requirements. (See, for example, the **Federal Register** of August 13, 1982 (47 FR 35185).) The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal. Affected products initially introduced or initially delivered for introduction into interstate commerce on or after the effective date would be required to comply with any final rule other than provisions that are stayed by the filing of proper objections.

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

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354) (5 U.S.C. 601), FDA has reviewed the proposed rule to permit the use of antimycotics on the surface of certain bulk cheeses to determine its impact on small entities including small businesses. The petitioner, NCI, presented 1978 data indicating that there were approximately 872 million pounds of Italian-type cheeses produced in the United States, with monetary values

ranging from $1.20 to $1.90 per pound. NCI's best estimate is that there is a 1 to 2 percent minimum loss of cheese caused by surface mold growth during curing and storage of these cheeses. Using 1 percent loss as the basis of their calculation NCI calculated that surface mold growth resulted in a loss of 8,720,000 pounds of cheese worth $11,121,000 during 1978. On a per pound basis, the use of antimycotics, as proposed, reduces curing costs from 6 cents to 3 cents. Reduction in cheese loss and in labor account for the reduction in curing costs. NCI included the costs of the antimycotics and their application into the reduced cost of curing. It should be noted that current monetary losses would be substantially higher than those cited for 1978, due to increases in both monetary value and cheese production. It is not possible to estimate what part of the total annual cheese losses could be recouped through this proposed use of antimycotics because it is not known how many manufacturers would implement the proposed use of antimycotics. FDA determined that the proposed action would not result in a significant economic impact on a substantial number of small entities. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 133

Cheese, Food grades and standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended [21 U.S.C. 341, 371(e)]) and under authority delegated to the Commissioner of Food and Drugs [21 CFR 5.10], it is proposed that Part 133 be amended as follows:

PART 133—CHEESES AND RELATED CHEESES PRODUCTS

1. In § 133.102 by revising paragraphs (d) and (e), to read as follows:

§ 133.102 Asiago fresh and asiago soft cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

2. In § 133.111 by revising paragraphs (d) and (f), to read as follows:

§ 133.111 Caciocavallo siciliano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

3. In § 133.148 by revising paragraph (d), redesignating paragraph (f)(1) as (e)(3), and revising paragraph (e)(3) and (f), to read as follows:

§ 133.148 Hard grating cheeses.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) * * *

(3) When milk other than cow's milk is used, in whole or in part, the statement "made from ———", the blank being filled in with the name or names of the milk used, in order of perdominance by weigth.

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

4. In § 133.150 by revising paragraph (d), redesignating paragraph (f)(1) as (e)(3), and revising paragraphs (e)(3) and (f), to read as follows:

§ 133.150 Hard cheeses.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) * * *

(3) When milk other than cow's milk is used in whole or in part, includes the statement "made from ———", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order or predominance by weight; and

(2) Enzymes of animal, plant or microbial origin may be declared as "enzymes".

5. In § 133.155 by revising paragraph (d) and (f), to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name or name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

6. In § 133.156 by revising paragraph (d) and (f), to read as follows:

§ 133.156 Low-moisture mozzarella and scamorza cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

7. In § 133.165 by revising paragraphs (d) and (e), to read as follows:

§ 133.165 Parmesan and reggiano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels, of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

8. In § 133.181 by revising paragraphs (d) and (f), to read as follows:

§ 133.181 Provolone and pasta filata cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections or Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

9. In § 133.183 by revising paragraphs (d) and (f), to read as follows:

§ 133.183 Romano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

Interested persons may, on or before March 22, 1983 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1680 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 78N-0281]

Magnesium Carbonate, Magnesium Chloride, Magnesium Hydroxide, Magnesium Oxide, Magnesium Phosphate, Magnesium Stearate, and Magnesium Sulfate; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that certain magnesium salts are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of magnesium oxide, magnesium phosphate, and magnesium sulfate as GRAS substances for use in dietary supplements.

DATE: Comments by March 22, 1983.

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

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of magnesium carbonate, magnesium chloride, magnesium hydroxide, magnesium oxide, magnesium phosphate, magnesium stearate, and magnesium sulfate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients for use in conventional foods [1] and infant formulas.

The GRAS status of the use of magnesium oxide, magnesium phosphate, and magnesium sulfate in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using these ingredients in dietary supplements. The use of these ingredients in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Magnesium gluconate, magnesium glycerophosphate, and magnesium silicate are not included in this proposal. Their GRAS status will be addressed in proposals on gluconates, glycerophosphates, and silicates, respectively.

Magnesium is a natural constituent of fruits, vegetables, grains, meats, and seafoods. It occurs in these foods as a divalent action in association with various anions. Magnesium is an essential nutrient for plants and animals because it is necessary for the production and transfer of energy, for contractility in muscle and excitability in nerves, and for the activity of numerous enzyme systems, including those responsible for protein, fat, and nucleic acid biosynthesis.

Magnesium occurs naturally in many mineral forms; however, the commercially important sources of magnesium are the minerals brucite (magnesium hydroxide), dolomite (a mixture of magnesium and calcium carbonates), magnesite (magnesium carbonate), and olivine (a complex magnesium iron silicate), as well as sea water and high magnesium content brines. Occasionally, certain of the minerals occur in nature in a form pure enough for commercial use. Normally, however, they are processed to produce the magnesium compounds required by industry.

Magnesium salts considered in this proposal are generally either insoluble or only slightly soluble in water or alcohol but are soluble in acidic solution. The exceptions are magnesium chloride, which is soluble in both water and alcohol, and magnesium sulfate, which is soluble in water.

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[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

Magnesium carbonate (molecular formula approximately $(MgCO_3)_4 \cdot Mg(OH)_2 \cdot 5H_2O$) is the magnesium salt most widely used in food. It occurs naturally as the minerals artinite and hydromagnesite. It is prepared either by adding an alkaline carbonate, such as sodium carbonate, to a solution of magnesium sulfate or by carbonation of a slurry of magnesium hydroxide followed by boiling of the resulting magnesium carbonate. Pure magnesium carbonate ($MgCO_3$) is stable only in an atmosphere of carbon dioxide, and when exposed to air, it is transformed slowly into the salt used in food.

Magnesium chloride occurs naturally as the mineral bischofite. Commercially, magnesium chloride is produced either as the colorless, crystalline hexahydrate ($MgCl_2 \cdot 6H_2O$) or as the white, crystalline, anhydrous $MgCl_2$. The hexahydrate is, however, the only form of magnesium chloride that is used as a human food ingredient. It is prepared by dissolving magnesium oxide, hydroxide, or carbonate in hydrochloric acid solution and crystallizing out magnesium chloride hexahydrate.

Magnesium hydroxide ($Mg(OH)_2$) occurs naturally as the colorless, crystalline mineral brucite. It is obtained commercially as a white precipitate resulting from the addition of a solution of sodium hydroxide to a solution of a soluble magnesium salt or by hydration of reactive grades of magnesium oxide.

Magnesium oxide (MgO) occurs naturally as the colorless, crystalline mineral periclase. Commercially, it is produced either as a bulky white powder (light) or a relatively dense white powder (heavy) by heating magnesium hydroxide or carbonate. Both forms of magnesium oxide are used as food ingredients. Heating magnesium oxide or carbonate under moderate conditions (400° to 900° C for a few hours) produces light magnesium oxide, which is readily soluble in dilute acid and hydrates rapidly in cold water. Heating magnesium oxide or hydroxide under more rigorous conditions (1200° C for 12 hours) produces heavy magnesium oxide, which is virtually insoluble in concentrated acids and indifferent to water unless very finely pulverized. Light magnesium oxide is converted to heavy magnesium oxide by sustained heating at high temperatures.

Magnesium phosphate (dibasic) occurs naturally as the white crystalline mineral newberyite. The form used in food is the trihydrate ($MgHPO_4 \cdot 3H_2O$), which is prepared commercially as a precipitate formed by treating a solution of magnesium sulfate with disodium phosphate under controlled conditions.

Magnesium phosphate (tribasic) is a white, odorless, tasteless, crystalline powder. The octahydrate ($Mg_3(PO_4)_2 \cdot 8H_2O$) occurs in nature as the mineral bobierrite. The food-grade product may contain 4, 5, or 8 molecules of water of hydration and is prepared as a precipitate formed by the addition of phosphoric acid to an aqueous solution of a soluble magnesium salt.

Magnesium stearate ($Mg(C_{17}H_{35}COO)_2$) is the magnesium salt of stearic acid. It is a white powder produced as a precipitate by the addition of an aqueous solution of magnesium chloride to an aqueous solution of sodium stearate.

Magnesium sulfate occurs naturally as the hydrated, colorless, crystalline minerals kieserite and epsomite. There are several commercial methods for preparing magnesium sulfate; however, food-grade magnesium sulfate ($MgSO_4 \cdot 7H_2O$) is made by neutralization of magnesium oxide, hydroxide, or carbonate with sulfuric acid and evaporating the solution to crystallization.

Magnesium carbonate was listed as GRAS as a buffer and neutralizing agent and as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Magnesium carbonate was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Magnesium carbonate is currently listed as GRAS in § 182.1425 (21 CFR 182.1425) as a multiple purpose GRAS food substance and in § 182.90 (21 CFR 182.90) as a substance migrating to food from paper and paperboard products. Magnesium carbonate is listed as a component of an optional bleaching mixture, in combination with benzoyl peroxide, for use in some cheeses and related products (21 CFR Part 133) and in flour (21 CFR 137.105); and as an optional neutralizing ingredient in cacao nibs (21 CFR 163.110). Magnesium carbonate is listed in 21 CFR 177.2600 as an activator in vulcanization of rubber for rubber articles intended for repeated use.

FDA stated in a 1960 opinion letter that it considers magnesium chloride to be GRAS as a component of cotton fabrics for dry food packaging. FDA also stated in two 1961 opinion letters that it considers magnesium chloride to be GRAS in foods for special dietary use and as a nutritional source of magnesium in food. Magnesium chloride was listed as GRAS as a substance migrating to food from paper and paperboard products and is currently listed as GRAS in § 182.90 for this use. Magnesium chloride is also listed in 21 CFR 177.1650 as a substance used in the manufacture of polysulfide polymer-polyepoxide resins.

Magnesium hydroxide was listed as GRAS as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Magnesium hydroxide was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Magnesium hydroxide is currently listed as GRAS in § 182.1428 (21 CFR 182.1428) as a multiple purpose GRAS food substance and in § 182.90 as a substance migrating to food from paper and paperboard products. Magnesium hydroxide is also listed in 21 CFR 176.210 as a component of defoaming agents used in the manufacture of paper and paperboard.

Magnesium oxide was listed as GRAS as a buffer and neutralizing agent in a regulation published in the **Federal Register** of November 11, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Magnesium oxide was also listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients in regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837). Currently, magnesium oxide is listed as GRAS in § 182.1431 (21 CFR 182.1431) as a multiple purpose GRAS food

substance, in § 182.5431 (21 CFR 182.5431) as a dietary supplement, and in § 182.8431 (21 CFR 182.8431) as a nutrient. Magnesium oxide is listed in the standard of identity for cacao nibs as an optional neutralizing ingredient (21 CFR 163.110). It is also listed in 21 CFR 175.300 as a pigment and colorant in resinous and polymeric coatings and in 21 CFR 177.2600 as an activator in vulcanization of rubber for rubber articles intended for repeated use.

Magnesium phosphate (di- and tribasic) was listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients in a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837). Currently magnesium phosphate is listed as GRAS in § 182.5434 (21 CFR 182.5434) as a dietary supplement and in § 182.8434 (21 CFR 182.8434) as a nutrient. Magnesium hydrogen phosphate (magnesium phosphate, dibasic) and magnesium phosphate are prior sanctioned (21 CFR 181.29) as stabilizers employed in the manufacture of food packaging materials. Also, di- and trimagnesium phosphates are listed in 21 CFR 175.300 as miscellaneous materials used to prepare resinous and polymeric coatings for food contact surfaces.

FDA has stated in opinion letters that it considers magnesium stearate that is prepared from stearic acid derived from edible fats or oils and is free from chick edema factor to be GRAS for use as (1) a tableting aid, (2) a dietary supplement, (3) an anticaking agent in table salt, and (4) a pan release agent in the baking of bread. Magnesium stearate was listed as GRAS as a miscellaneous substance from packaging materials when used as a stablizer in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938) and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Both listings included the stipulation that "[t]his substance is generally recognized as safe when used as a migratory substance from packaging materials when used as a stabilizer in accordance with good manufacturing practice." Currently, magnesium stearate is listed as GRAS in § 182.1440 (21 CFR 182.1440) as a multiple purpose GRAS food substance with the restriction that it is a migratory substance from packaging materials when used as a stabilizer. The ingredient is also prior sanctioned (21 CFR 181.29) for use as a stabilizer in food-packaging materials. Magnesium stearate is regulated as a food additive in 21 CFR 172.863 for use as a binder, emulsifier, and anticaking agent in food, in 21 CFR 173.340 for use as a defoaming agent in processing beet sugar and yeast, in 21 CFR 175.300 for use as a miscellaneous material and drier in resinous and polymeric coatings, and in 21 CFR 179.45 for use as a component of packaging materials used during the irradiation of prepackged foods.

Magnesium sulfate was listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients in a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837). Magnesium sulfate was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Currently, magnesium sulfate is listed as GRAS in § 182.5443 (21 CFR 182.5443) as a dietary supplement, in § 182.8443 (21 CFR 182.8443) as a nutrient, and in § 182.90 as a substance migrating to food from paper and paperboard products.

Magnesium (salt not specified) is listed in 21 CFR 102.23 as a required nutrient in peanut spreads; in 21 CFR 104.20 as a nutrient that may be added to food to restore a level of magnesium representative of the food prior to storage, handling, and processing; and in 21 CFR 105.65 as a nutrient in infant formulas. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists magnesium as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of magnesium in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS-NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which magnesium salts were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS-NRC survey that during the decade 1960–1970, use of magnesium oxide increased 43-fold and the use of magnesium stearate increased 13-fold. FDA also estimates from this survey that the total amount of magnesium salts used by the U.S. foods industry in 1970 was as follows: magnesium carbonate, 830,000 pounds; magnesium hydroxide, 284,000 pounds; magnesium oxide, 7,000 pounds; magnesium phosphate dibasic, 21,000 pounds; magnesium stearate, 389,000 pounds; and magnesium sulfate, 25,000 pounds. No poundage data are available for magnesium phosphate (tribasic) or magnesium chloride.

The NAS-NRC survey reported the following food uses of magnesium salts: Magnesium carbonate is used as a nutrient supplement, anticaking agent, pH control agent, and lubricant in a large number of food categories; magnesium hydroxide is used as a nutrient supplement in milk products; magnesium sulfate is used as a processing aid, flavor enhancer, and nutrient supplement in condiments and relishes and nonalcoholic beverages; magnesium stearate is used as an anticaking agent in seasonings and flavorings and as a lubricant, formulation aid, and processing aid in chewing gum, confections and frostings, and soft candy; magnesium oxide is used as a nutrient supplement, pH control agent, firming agent, and lubricant in snack foods, imitation dairy products, processed vegetables, and hard candy; magnesium phosphate is used as a pH control agent in soft candy; and magnesium chloride is used as a flavoring agent and nutrient supplement in soups and nonalcoholic beverages. The survey also reported the use of magnesium oxide, magnesium phosphate, and magnesium chloride as nutrient supplements in infant formula.

Magnesium salts have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity; (2) occupational hazards; (3) metabolism; (4) reaction products; (5) degradation products; (6) carcinogenicity, teratogenicity, or mutagenicity; (7) dose response; (8) reproductive effects; (9) histology; (10) embryology; (11) behavioral effects; (12) detection; and (13) processing. A total of 856 abstracts was reviewed, and 93 particularly pertinent reports have been

summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on magnesium carbonate, magnesium chloride, magnesium hydroxide, magnesium oxide, dibasic magnesium phosphate, tribasic magnesium phosphate, magnesium stearate, and magnesium sulfate.[2] In the Select Committee's opinion:

Magnesium is a dietary essential. It is involved in myriad metabolic reactions and is necessary for the activity of many intracellular enzymes. Also, with certain other cations, it is important in electrolyte balance. Magnesium is present in fruits, vegetables, grains, milk, meat and fish and the natural content of these foods is the major source of the current dietary intake. The Food and Nutrition Board, NRC, has recommended that cereal grain products be fortified with magnesium in view of potential risk of deficiency among significant segments of the population. The usual adult intake is about 300 mg or less per day from all sources and the contribution of food additives to total magnesium intake is very small.

The administration of magnesium sulfate in very high doses to humans occasionally has resulted in severe and even fatal episodes, especially in the presence of pre-existing disease. These occurrences should not be prejudicial to the use of magnesium salts as food ingredients since the dosages given were orders of magnitude greater than the daily dietary intake of magnesium added to food.

While chronic toxicity data are lacking, the status of magnesium as a ubiquitous and essential dietary ingredient for the maintenance of homeostatic and bioenergetic mechanisms leads to the opinion that none of the available evidence suggests any probable hazard when any of the GRAS compounds of magnesium is used as a food ingredient.[3]

The Select Committee concludes that no evidence in the available information on magnesium carbonate, magnesium chloride, magnesium sulfate, magnesium hydroxide, magnesium oxide, magnesium stearate, dibasic magnesium phosphate, and tribasic magnesium phosphate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information on uses of magnesium salts in conventional foods and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes that magnesium carbonate, magnesium chloride, magnesium sulfate, magnesium hydroxide, magnesium oxide, magnesium stearate, dibasic magnesium phosphate, and tribasic magnesium phosphate be affirmed as GRAS for use in conventional foods. However, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge the exposure from the use of magnesium oxide, magnesium phosphate, and magnesium sulfate as dietary supplements. Without such exposure data, the agency cannot evaluate the safety of the use of these substances in dietary supplements and can take no action on the GRAS status of magnesium oxide, magnesium phosphate, and magnesium sulfate for this use. Therefore, FDA is taking no action on the listing of magnesium oxide, magnesium phosphate, and magnesium sulfate in §§ 182.5431, 182.5434, and 182.5443, respectively, for use as dietary supplements.

In proposing GRAS affirmation for these magnesium salts, the agency considered a number of issues that affected details in the proposed GRAS affirmation regulations.

Direct food uses of magnesium stearate as an anticaking agent, binder, and emulsifier are regulated by § 172.863 (21 CFR 172.863). However, the NAS/NRC survey of food manufacturers also found that this salt is being used as a lubricant (in chewing gum, confections and frostings, and soft candy) and as a processing aid (in confections and frostings), uses that are not covered by § 172.863. The agency believes that the information developed for this safety review establishes that these limited additional uses of magnesium stearate are safe and thus forms a sound scientific basis for affirming them as GRAS. Therefore, FDA proposes that magnesium stearate be affirmed as GRAS for these reported direct food uses that are not authorized by § 172.863.

The agency also believes that the magnesium stearate utilized for these uses should be of the same purity as that used in accordance with § 172.863. Therefore, the agency is proposing to require under § 184.1440(a) that the stearate moiety be derived from edible sources and under § 184.1440(b) that magnesium stearate meets not only the specifications for the ingredient in the Food Chemicals Codex, 3d Ed., but also the specifications for fatty acids under § 172.860(b)(2).

In addition, FDA is not affirming magnesium stearate as GRAS as a stablizer in food-packaging materials. This use of the ingredient is prior sanctioned (21 CFR 181.29) when used in accordance with current good manufacturing practice. Therefore, the GRAS listing of magnesium stearate as a stabilizer in packaging materials is superfluous and should not be retained.

In the **Federal Register** of April 13, 1973 (38 FR 9310), FDA proposed to remove a number of compounds, including magnesium phosphate (tribasic), from the GRAS list because no evidence of use of these ingredients was reported during the NAS/NRC survey of food manufacturers. One response to this proposal indicated that magnesium phosphate (tribasic) is used as a stabilizer to prevent the loss of water of crystallization of dibasic calcium phosphate. The agency recognizes this use of magnesium phosphate (tribasic) but considers it unnecessary to affirm this use as GRAS. Any safety-related problem that might result from this use of magnesium phosphate (tribasic) is more appropriately addressed in the food-grade specifications for dibasic calcium phosphate. However, the agency has reconsidered removing magnesium phosphate (tribasic) from the GRAS list. The current listings of magnesium phosphate as a nutrient and as a dietary supplement in Part 182 include both the dibasic and tribasic forms. Furthermore, the dibasic and tribasic forms of magnesium phosphate are produced by the same basic manufacturing process, with minor variations in conditions. Therefore, the agency concludes that there is no safety justification for differentiating between these forms of magnesium phosphate, and that it has no concern about the free exchange in food of dibasic and tribasic magnesium phosphate. Therefore, the agency has

[2] "Evaluation of the Health Aspects of Magnesium Salts as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1976, pp. 9–15. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm the GRAS status in accordance with current good manufacturing practice.

[3] *Ibid.*, pp. 15–16.

[4] *Ibid.*, p 16.

evaluated the safety of magnesium phosphate (dibasic and tribasic) based upon known uses of dibasic magnesium phosphate and is proposing to affirm magnesium phosphate (including both the dibasic and tribasic forms) as GRAS for use in conventional foods under conditions of current good manufacturing practice. In addition, the agency is requesting as comments on its proposal information on any additional food uses of magnesium phosphate (dibasic or tribasic) not covered in its proposal.

At one time, magnesium carbonate, magnesium hydroxide, and magnesium oxide were listed in § 155.170 (21 CFR 155.170) as optional ingredients in the preparation of processed peas. However, FDA published a regulation in the **Federal Register** of June 27, 1980 (45 FR 43394) that removed these magnesium salts from the list of optional ingredients in § 155.170. Recently, on the basis of an industry petition, FDA published a proposal in the **Federal Register** of August 31, 1982 (47 FR 38346) that would reinstate these substances as optional ingredients in processed peas. Although this use of these ingredients in processed peas was not reported in the 1971 NAS/NRC survey, the agency has evaluated this use and has tentatively concluded that the available safety data are adequate to affirm this use as GRAS. Therefore, the agency is proposing to include the food category "processed vegetables and vegetable juices" (21 CFR 170.3(n)(36)) in the GRAS affirmation regulation for magnesium hydroxide. This food category was already included in the proposed GRAS affirmation regulation for magnesium oxide, based on information reported in the 1971 NAS/NRC survey. The proposed GRAS affirmation regulation for magnesium carbonate does not specify food categories of use.

As stated above, section 412(g) of the act authorizes the use of magnesium (salt not specified) in infant formula. The 1971 NAS/NRC survey reported the use of magnesium chloride, magnesium oxide, and magnesium phosphate as nutrient supplements in infant formula. The agency has evaluated this use of these ingredients and has concluded, on the basis of available data, that this use is safe. Consequently, the agency is proposing to affirm as GRAS the use of magnesium chloride, magnesium oxide, and magnesium phosphate in infant formula. The 1971 NAS/NRC survey also reported the use of magnesium carbonate, magnesium hydroxide, and magnesium sulfate as nutrient supplements but did not report their use in infant formula. Consequently, the agency is not proposing to affirm as GRAS the use of these ingredients in infant formula. However, the agency will reconsider the GRAS status of this use of these magnesium salts if it receives as comments on this proposal information that establishes that these ingredients are used for this purpose.

FDA is aware of a concern expressed by the Food and Nutrition Board regarding the potential risk of magnesium deficiency among significant segments of the population and of the Board's recommendation to fortify cereal grain products with 200 milligrams per pound.[5] The agency has evaluated this potential use of magnesium salts in food and has concluded that it presents no health hazard and, if technically feasible, may present a health benefit to a considerable portion of the population. The technical feasibility of this proposed fortification of cereal grain products is currently being investigated by interested food processing companies. Therefore, the agency is taking no action at this time on this potential use of magnesium salts in food.

In the past, when a substance has been listed in Part 182 (21 CFR part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of magnesium carbonate, magnesium chloride, magnesium hydroxide, and magnesium sulfate. The indirect uses of these ingredients would be authorized under §§ 184.1425, 184.1246, 184.1428, 184.1443, respectively, and § 184.1(a).

In the case of magnesium carbonate, magnesium chloride, magnesium hydroxide, and magnesium sulfate, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended uses in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and be used in accordance with current good manufacturing practice are sufficient to ensure the safe use of these ingredients. Therefore, the agency has not proposed any specific purity specifications for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for magnesium carbonate, magnesium chloride, magnesium hydroxide, magnesium oxide, magnesium phosphate, magnesium stearate, and magnesium sulfate the levels of use reported in the NAS-NRC 1971 survey for these ingredients. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of magnesium carbonate is based on currently known uses, the proposed regulation sets forth the technical effects that FDA evaluated, and that the affirmation of the GRAS status of the other magnesium salts is based on the evaluation of limited uses, the regulations set forth both technical effects and food categories.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good

[5] "Proposed Fortification Policy for Cereal-Grain Products," prepared by the Food and Nutrition Board, Division of Biological Sciences, Assembly of Life Sciences, National Research Council (1974), p. 2. Copies can ber obtained from: Printing and Publishing Office, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418.

manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on magnesium salts, mutagenicity reports on magnesium oxide and magnesium stearate, and the report of the Select Committee on magnesium salts are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Magnesium salts (scientific literature review)	PB-228-550/AS	A09	$12.00
Magnesium oxide (mutagenicity report)	PB-245-472/AS	A03	6.00
Magnesium stearate (mutagenicity report)	PB-257-875/AS	A03	6.00
Magnesium salts (Select Committee report)	PB-265-509/AS	A03	6.00

[1] Price subject to change.

This proposed action does not affect the current use of these magnesium salts in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1425, 184.1428, 184.1428, 184.1431, 184.1434, 184.1440, and 184.1443 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and, except for magnesium carbonate, the food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavoring.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entries for "Magnesium carbonate", "Magnesium chloride", "Magnesium hydroxide", and "Magnesium sulfate".

§§ 182.1425, 182.1428, 182.1431, 182.1440, 182.8431, 182.8434, 182.8443 [Removed]

b. By removing § 182.1425 *Magnesium carbonate*, § 182.1428 *Magnesium hydroxide*, § 182.1431 *Magnesium oxide*, § 182.1440 *Magnesium stearate*, § 182.8431 *Magnesium oxide*, § 182.8434 *Magnesium phosphate*, and § 182.8443 *Magnesium sulfate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1425, to read as follows:

§ 184.1425 Magnesium carbonate.

(a) Magnesium carbonate (molecular formula approximately $(MgCO_3)_4 \cdot Mg(OH)_2 \cdot 5H_2O$, CAS Reg. No. 39409–82–0) is also known as magnesium carbonate hydroxide. It is a white powder formed either by adding an alkaline carbonate (such as sodium carbonate) to a solution of magnesium sulfate or by carbonation of a slurry of magnesium hydroxide followed by boiling of the resulting magnesium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 177, which is incorporated by reference. Copies are available from the National Academy Press, 2102 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an anticaking and free-flow agent as defined in § 170.3(o)(1) of this chapter; a flour treating agent as defined in § 170.3(o)(13) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; a processing aid as defined in § 170.3(o)(24) of this chapter; and a synergist as defined in § 170.3(o)(31) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

b. By adding new § 184.1426, to read as follows:

§ 184.1426 Magnesium chloride.

(a) Magnesium chloride ($MgCl_2 \cdot 6H_2O$, CAS Reg. No. 7786–30–3) is a colorless, deliquescent, crystalline material that occurs naturally as the mineral bischofite. It is prepared by dissolving magnesium oxide, hydroxide, or carbonate in aqueous hydrochloric acid solution and crystallizing out magnesium chloride hexahydrate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 177, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the

following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter and soups and soup mixes as defined in § 170.3(n)(40) of this chapter. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

c. By adding new § 184.1428, to read as follows:

§ 184.1428 Magnesium hydroxide.

(a) Magnesium hydroxide $Mg(OH)_2$, CAS Reg. No. 1409–42–8) occurs naturally as the colorless, crystalline mineral brucite. It is prepared as a white precipitate by the addition of sodium hydroxide to a water soluble magnesium salt or by hydration of reactive grades of magnesium oxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 178, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: confections and frostings as defined in § 170.3(n)(9) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; and processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter.

d. By adding new § 184.1431, to read as follows:

§ 184.1431 Magnesium oxide.

(a) Magnesium oxide (MgO, CAS Reg. No. 1390–48–4) occurs naturally as the colorless, crystalline mineral periclase. It is produced either as a bulky white powder (light) or a relatively dense white powder (heavy) by heating magnesium hydroxide or carbonate. Heating these magnesium salts under moderate conditions (400° to 900° C for a few hours) produces light magnesium oxide. Heating the salts under more rigorous conditions (1200° C for 12 hours) produces heavy magnesium oxide. Light magnesium oxide is converted to heavy magnesium oxide by sustained heating at high temperatures.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 178, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; and a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in § 170.3(n)(5) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; hard candy and cough drops as defined in § 170.3(n)(25) of this chapter; processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter; and snack foods as defined in § 170.3(n)(37) of this chapter. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

e. By adding new § 184.1434, to read as follows:

§ 184.1434 Magnesium phosphate.

(a) Magnesium phosphate includes both magnesium phosphate, dibasic, and magnesium phosphate, tribasic. Magnesium phosphate, dibasic ($MgHPO_4.3H_2O$, CAS Reg. No 7782–75–4) occurs naturally as the white, crystalline mineral newberyite. It is prepared commercially as a precipitate formed by treating a solution of magenesium sulfate with disodium phosphate under controlled conditions. Magnesium phosphate, tribasic ($Mg_3(PO_4)_2.xH_2O$, CAS Reg. No. 7727–87–1) may contain 4, 5, or 8 molecules of water of hydration. It is produced as a precipitate from a solution of magnesite with phosphoric acid.

(b) Magnesium phosphate, dibasic, meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), P. 179, which is incorporated by reference. Magnesium phosphate, tribasic, meets the specifications of the Food Chemicals, Codex, 3d Ed. (1981), p. 180, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 29418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter and a pH control agent as defined in § 170.3(o)(23), of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice; soft candy as defined in § 170.3(n)(38) of this chapter. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

f. By adding new § 184.1440, to read as follows:

§ 184.1440 Magnesium stearate.

(a) Magnesium stearate ($Mg(C_{17}H_{35}COO)_2$, CAS Reg . No. 557–04–0) is the magnesium salt of stearic acid. It is produced as a white precipitate by the addition of an aqueous solution of magnesium chloride to an aqueous solution of sodium stearate derived from edible sources.

(b) The ingredient meets the specifications of § 172.860(b)(2) of this chapter and the Food Chemicals Codex, 3d Ed. (1981), p. 182, which is incorporated by reference. Copies are

available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a lubricant and release agent as defined in § 170.3(o)(18) of this chapter and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; herbs, seeds, spices, seasoning blends, extracts, and flavorings as defined in § 170.3(n)(26) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

g. By adding new § 184.1443, to read as follows:

§ 184.1443 Magnesium sulfate.

(a) Magnesium sulfate ($MgSO_4.7H_2O$, Cas Reg. No. 10034-99-8) occurs naturally as the mineral epsomite. It is prepared by neutralization of magnesium oxide, hydroxide, or carbonate with sulfuric acid and evaporating the solution to crystallization.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 183, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavor enhancer as defined in § 170.3(o)(11) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter and condiments and relishes as defined in § 170.3(n)(8) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before March 22, 1983 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 29, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1663 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 81N-0381]

Manganese Salts; Proposed Affirmation and Removal of GRAS Status as Direct Human Food Ingredients

Correction

In FR Doc. 82-34257, beginning on page 56513 in the issue of Friday, December 17, 1982, make the following correction.

On page 56513, third column, twelfth line of the second complete paragraph, the last word in the line reading "the" should read "and".

BILLING CODE 1505-01-M

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21 CFR Part 201

[Docket No. 82N-0158]

Labeling of Salicylate-Containing Drug Products; Correction

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the advance notice of proposed rulemaking advising that the agency is considering proposing to require certain over-the counter (OTC) and prescription salicylate-containing drug products for human use to bear a warning against the use of the products for the treatment of flu or chicken pox in children or adolescents under 16 years of age, because salicylates may be associated with the development of Reye Syndrome in this age group. The advance notice of proposed rulemaking was published in the **Federal Register** of December 28, 1982

FOR FURTHER INFORMATION CONTACT: Paul O. Fehnel, Jr., National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490

SUPPLEMENTARY INFORMATION: In FR Doc. 82-35065 at page 57886 in the **Federal Register** of Tuesday, December 28, 1982, the following corrections are made:

1. On page 57892 in the third column, in the first sentence of the first full paragraph, "antecent" is changed to "antecedent."

2. On page 57896 in the third column in the next to last sentence in the second full paragraph, "(Refs. 113 and 114)" is added after "undertaken"; and in the fourth sentence in the third paragraph, "(Ref. 105)" is added after "announced".

3. On page 57898 in the fourth line in the first column, "(Refs. 113 and 114)" is added after "products".

4. On page 57901 in the third column, two references are added after reference 112. The references are:

113. HHS press release on Reye Syndrome dated September 20, 1982.

114. Statement by Edward N. Brandt, Jr., M.D., before the Subcommittee on National Resources, Agriculture Research and Environment, Committee on Science and Technology, U.S. House of Representatives, September 29, 1982.

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1521 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 201

[Docket No. 82N-0158]

Labeling for Salicylate-Containing Drug Products

Correction

In FR Doc. 82-35065 begining on page 57886 in the issue of Tuesday, December 28, 1982 make the following corrections.

1. On page 57886, column one summary, line five "saliciylate-containing" should read salicylate-containing."

2. On page 57886, column two, paragraph two, lines thirteen, fourteen, and fifteen, delete "but its incidence may be 30 to 60 per 100,000 persons under 18 years of age (Ref. 2),".

3. On page 57886, column three, paragraph three, line two "by" should read "be."

4. On page 57887, column one, paragraph one, line thirteen, "amont" should read "among."

5. On page 57887, column one, paragraph two, line four, "on" should read "of."

6. On page 57887, column one, paragraph two, line eleven "the" should appear between "about" and "accuracy."

7. On page 57887, column one, paragraph three, line six, "too" should read "took."

8. On page 57887, column one, paragraph designated as "B.", line nine, delete the word "as."

9. On page 57887, column three, paragraph designated as "3.", line one, "wrtitten" should read "written."

10. On page 57889, column two, paragraph one, line twenty-four, "user" should read "use" and "by" should appear between "use" and "cases."

11. On page 57890, column one, paragraph designated as "3.", line seven, "statistial" should read "statistical."

12. On page 57892, column one, paragraph three, line two from the bottom, "has" should read "had."

13. On page 57892, column three, line twenty-three, delete the word "a."

14. On page 57892, column three, paragraph one, line twenty, "Rs" should read "RS."

15. On page 57893, column one, paragraph designated as "8.", line twelve, "salicylate" should read "salicylates."

16. On page 57893, column two, paragraph two, line nine,"diffeential" should read "differential."

17. On page 57893, column three, line eight, the words "acetaminophen product longer than they would remember administering a" should appear between "an" and "salicylate."

18. On page 57894, column two, paragraph designated as "12.", line 16, there should be a space between "I" and "RS."

19. On page 57894, column three, paragraph two, line eight, "case" should read "cases."

20. On page 57895, column one, paragraph two, line five, "results" should read "result."

21. On page 57895, column one, paragraph two, line fourteen "salicylism" should read "salicylate."

22. On page 57895, column one, paragraph designated as "14.", line twelve, "phosphorylatin" should read "phosphorylation."

23. On page 57895, column three, paragraph one, line eighteen "rhevmatoid" should read "rheumatoid."

24. On page 57896, column two, line twenty-four, "delegate" should read "delegated."

25. On page 57896, column two, paragraph two, line seven "100,0900" should read "100,000."

26. On page 57896, column two, paragraph two, line eleven "result" should read "results."

27. On page 57896, column two, paragraph two, line fifteen "take" should read "taken."

28. On page 57897, column one, paragraph one, line twelve, "necesarily" should read "necessarily."

29. On page 57897, column two, paragraph designated as "5.", line five "Reyes" should read "Reye."

30. On page 57897, column three, paragraph designated as "B.", line twelve "Reyes" should read "Reye".

31. On page 57898, column one, lines thirteen and twenty-two, "Reyes" should read "Reye."

32. On page 57898, column one, line twenty-eight, "working" should read "wording."

33. On page 57898, column three, line six, "us" should read "use".

34. On page 57901, column two, paragraph designated as "108.", line two "dted" should read "dated."

BILLING CODE 1505-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-236-81]

Credit for Increasing Research Activity

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the income tax regulations to provide rules for the new credit for increasing research activities. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 25, 1983. These amendments are proposed to be effective for purposes of determining if and to what extent amounts paid or incurred after June 30, 1981, and before January 1, 1986, qualify for the research credit. The amendments to § 1.174-2 are proposed to be effective for taxable years beginning after 1953, but the Internal Revenue Service will not require changes in the treatment of expenses for purposes of section 174 on returns filed before the publication of a treasury decision on this subject merely because of these amendments.

ADDRESS: Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-236-81).

FOR FURTHER INFORMATION CONTACT: John R. Harman of the Legislation & Regulations Division, Office of Chief Counsel, 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The credit for increasing research activities is provided by section 44F of the Internal revenue Code of 1954, as added by section 221 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34; 95 Stat. 241). These proposed amendments, if adopted, will be issued under the authority contained in section 44F (f) (1)-(4) and section 7805 of the Internal Revenue Code of 1954 (95 Stat.

243, 26 U.S.C. 44F (f) (1)–(4); 68A Stat. 917, 26 U.S.C. 7805).

Explanation

These proposed amendments to the regulations deal only with certain provisions of section 44F and section 174. Many rules found in the statute are not found in the proposed amendments. Thus, it will be necessary to refer to both the statute and the regulations for guidance in computing the credit.

Section 1.44F–1 indicates the provisions of section 44F that are dealt with in the regulations.

Section 1.44F–2 clarifies certain provisions contained in section 44F (b) relating to the trade or business requirement, in-house research expenses, and contract research expenses. Section 1.44F–2 (a) (4) (ii), together with § 1.44F–7 (a) (3) (ii), explains a rule not found in the Code, concerning the treatment of certain joint ventures of partnerships. The legislative history of section 44F indicates that, under regulations, the research expenses of a partnership may be eligible for the credit even if the expenses are not paid or incurred in carrying on a trade or business of the partnership. The expenses will be eligible for the credit only if each of the partners: (1) Is engaged in a trade or business to which the research relates and (2) is entitled to the research results. The regulations explain that, in such a case, the credit is determined at the partner level with each partner taking its allocable share of the partnership's qualified research expense into account as if the expense were incurred directly by the partner.

Section 1.44F–3 deals with the rules for base period research expenses found in section 44F(c). It clarifies the transitional rules applicable to the determination of base period and the rule for the determination of base periods expenses of new taxpayers.

Section 1.44F–4, together with the proposed amendments to § 1.174–2, clarifies the definition of qualified research found in section 44F(d). The proposed regulations address several issues with respect to this definition.

Section 44F(d) provides that the term "qualified research" generally has the same meaning as the term "research or experimental" in section 174. The report of the Senate Finance Committee, recognizing that the existing regulations under section 174 were somewhat vague, stated that it anticipated further regulatory guidance under section 44F and section 174 "not inconsistent with existing regulations." Accordingly, the proposed regulations include extensive clarifications of the regulations under section 174, including a clarification of the treatment of computer software. The new rules contained in § 1.174–2(a) are consistent with the explanation congressional intent perpared by the Staff of the Joint Committee on Taxation.

Although the amendments to § 1.174–2(a) are proposed to be effective for taxable years beginning after 1953, the Internal Revenue Service will not require changes in the treatment of expenses for purposes of section 174 or returns filed before publication of a Treasury decision on this subject merely because of these amendments. However, the amendments will be taken into account for all taxable years for purposes of determining the credit under section 44F.

Section 44F(d) (2) excludes from qualified research, "research in the social sciences or humanities." The proposed regulations, in accordance with the only available explanation of the exclusion (the House Ways and Means Committee report), adopts a broad interpretation of the exclusion. Section 1.44F–4(c) provides that the provision excludes "all areas of research other than research in a field of laboratory science (such as physics or biochemistry), engineering or technology."

This interpretation is consistent with the general background against which the exclusion was adopted. The National Science Foundation (NSF) in 1971 had formulated a definition of research and development that specifically excluded "research in the social sciences or psychology, and other nontechnological activities." The Financial Accounting Standards Board in 1974 decided to modify the NSF definition to include "research and development activities in the social sciences such as those conducted by service-type business enterprises." The statutory exclusion appears to represent a decision in favor of the NSF approach that looks to technological developments.

Section 44F(d)(3) excludes from qualified research, research to the extent funded by any person or government entity. Proposed § 1.44F–4(d) provides that, for purposes of computing the credit, research performed solely on behalf of another person is treated as completely funded. The proposed regulations explain how to determine the extent of funding when the researcher retains substantial rights in the research. In addition, the proposed regulations clarify the effect of governmental funding programs like the Department of Defense's Independent Research and Development program.

Section 1.44F–5 deals with the basic research rule found in section 44F(e). It provides that all basic research expenses are deemed to have been paid or incurred in carrying on a trade or business. The proposed regulation also specifies the prerequisites of a valid written research agreement and the method by which an organization may elect to be treated as a qualified fund.

Section 1.44F–6 deals with the aggregation rule of section 44F(f)(1), which requires that commonly controlled entities compute the credit as if the entities constituted a single taxpayer. The proposed regulations provide special rules for commonly controlled groups when one member performs research for another or the members use different taxable years. Section 1.44F–7 explains certain other rules found in section 44F (f) and (g).

Drafting Information

The principal authors of these proposed regulations are John R. Harman and Herman B. Bouma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, Personnel from other offices in the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking the solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553(b) do not apply. Accordingly no Regulatory Flexibility Analysis is required.

List of Subjects

26 CFR 1.0–1—1.58–8

Income taxes, Tax liability, Tax rates, credits.

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The following new §§ 1.44F–1 through 1.44F–7, are added in the appropriate place.

§ 1.44F–1 Introduction to regulations under section 44F.

Sections 1.44F–2 through 1.44F–7 deal only with certain provisions of section 44F. The following table identifies the provisions of section 44F that are dealt with, and lists each below the regulation section in which it is covered:

Section 1.44F–2	Section 1.44F–3	Section 1.44F–4	Section 1.44F–5	Section 1.44F–6	Section 1.44F–7
(b)(1)	(c)(2)	(d)	(e)(1)	(f)(1)	(f)(2)
(b)(2)(A)(ii)	(f)(4)		(e)(3)(A)		(f)(3)
(b)(2)(A)(iii)			(e)(4)(B)(iv)		(g)(1)(B)
(b)(2)(B)			(e)(4)(C)(ii)		(g)(2)
(b)(3)					

Section 1.44F–3 also deals with the special rule in section 221(d)(2) of the Economic Recovery Tax Act of 1981 relating to taxable years overlapping the effective dates of section 44F.

§ 1.44F–2 Qualified research expenses.

(a) *Trade or business requirement*—(1) *In general.* An in-house research expense of the taxpayer or a contract research expense of the taxpayer is a qualified research expense only if the expense is paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer. The phrase "in carrying on a trade or business" has the same meaning for purposes of section 44F(b)(1) as it has for purposes of section 162: Thus, expenses paid or incurred in connection with a trade or business (within the meaning of section 174(a), relating to the deduction for research and experimental expenses) are not necessarily paid or incurred in carrying on a trade or business for purposes of section 44F. A research expenses must relate to a particular trade or business being carried on by the taxpayer at the time the expense is paid or incurred in order to be qualified research expense. In general, a contract research expense of the taxpayer is not qualified research expense if the product or result of the research is intended to be transferred to another in return for license or royalty payments and the taxpayer does not use the product of the research in the taxpayer's trade or business.

(2) *New business.* Expenses paid or incurred prior to commencing a new business (as distinguished from expanding an existing business) may be paid or incurred in connection with a trade or business but are not paid or incurred in carrying on a trade or business. Thus, research expenses paid or incurred by a taxpayer in developing a product the sale of which would constitute a new trade or business for the taxpayer are not paid or incurred in carrying on a trade or business.

(3) *Research performed for others*—(i) *Taxpayer not entitled to results.* If the taxpayer performs research on behalf of another person and retains no substantial rights in the research, that research shall not be taken into account by the taxpayer for purposes of section 44F. See § 1.44F–4 (d)(2).

(ii) *Taxpayer entitled to results.* If the taxpayer in carrying on a trade or business performs research on behalf of other persons but retains substantial rights in the research, the taxpayer shall take otherwise qualified expenses for that research into account for purposes of section 44F to the extent provided in § 1.44F–4(d)(3).

(4) *Partnerships*—(i) *In general.* An in-house research expense or a contract research expense paid or incurred by a partnership is a qualified research expense of the partnership if the expense is paid or incurred by the partnership in carrying on a trade or business of the partnership, determined at the partnership level without regard to the trade or business of any partner.

(ii) *Exception for certain joint ventures.* An in-house research expense or a contract research expense paid or incurred by a partnership other than in carrying on a trade or business of the partnership constitutes a qualified research expense if the following conditions are met—

(A) All of the partners are entitled to the results of the research, and

(B) The following is true with respect to each partner: If the partner had carried on the research that was in fact carried on by the partnership, all the research expenses paid or incurred in carrying on the research would have been paid or incurred by the partner in carrying on a trade or business of the partner.

For purposes of section 44F, research expenditures to which this paragraph (a)(4)(ii) applies shall be treated as paid or incurred directly by the partners. See § 1.44F–7(a)(3)(ii) for special rules regarding these expenditures.

(b) *Supplies and personal property used in the conduct of qualified research*—(1) *In general.* For purposes of section 44F(b)(2)(A)(ii) and (iii), supplies and personal property are used in the conduct of qualified research if they are used in the performance of qualified services (as defined in section 44F(b)(2)(B), but without regard to the last sentence thereof) by an employee of the taxpayer. Expenditures for supplies or for the use of personal property that are indirect research expenditures or general and administrative expenses do not qualify as in-house research expenses.

(2) *Certain utility charges.* In general, amounts paid or incurred for utilities such as water, electricity, and natural gas used in the building where qualified research is performed are treated as expenditures for general overhead. However, such amounts shall be treated as amounts paid or incurred for supplies used in the conduct of qualified research to the extent the taxpayer can establish that the special character of the qualified research required extraordinary expenditures for utilities. For example, amounts paid for electricity used for general laboratory lighting are treated as general overhead, but amounts paid for electricity used in operating high energy equipment for qualified research (such as laser or nuclear research) may be treated as expenditures for supplies to the extent the taxpayer can establish that the special character of the research required an extraordinary additional expenditure for electricity.

(3) *Right to use personal property.* The determination of whether an amount is paid or incurred to another person for the right to use personal property in the conduct of qualified research shall be made without regard to the characterization of the transaction as a lease under section 168(f)(8). See § 5c.168(f)(8)–1(b).

(c) *Qualified services*—(1) *Engaging in qualified research.* The term "engaging in qualified research" as used in section 44F(b)(2)(B) means the actual conduct of qualified research (as in the case of a scientist conducting laboratory experiments).

(2) *Direct supervision.* The term "direct supervision" as used in section 44F(b)(2)(B) means the immediate supervision of qualified research (as in the case of a research scientist who

directly supervises laboratory experiments, but who may not actually perform experiments).

(3) *Direct support.* The term "direct support" as used in section 44F(b)(2)(B) means services in the direct support of either—

(i) Persons engaging in the actual conduct of qualified research, or

(ii) Persons who are directly supervising persons engaging in the actual conduct of qualified research.

For example, direct support of research includes the services of a secretary for typing reports describing laboratory results derived from qualified research, of a laboratory worker for cleaning equipment used in qualified research, of a clerk for compiling research data, and of a machinist for machining part of an experimental model used in qualified research. Direct support of research activities does not include general administrative services, or other services only indirectly of benefit to research activities. For example, services of payroll personnel for preparing salary checks of laboratory scientists, of an accountant for accounting for research expenses, of a janitor for general cleaning of a research laboratory, or of officers engaged in supervising financial or personnel matters do not qualify as direct support of research.

(d) *Wages paid for qualified services*—(1) *In general.* Wages paid or incurred to an employee constitute in-house research expenses only to the extent the wages were paid or incurred for qualified services performed by the employee. If an employee has performed both qualified services and nonqualified services, only the amount of wages apportioned to the performance of qualified services constitute an in-house research expense. In the absence of another method of apportionment that the taxpayer can demonstrate to be more appropriate, the amount of in-house research expense shall be determined by multiplying the total amount of wages paid or incurred to the employee during the taxable year by the ratio of the total time actually spent by the employee in the performance of qualified services for the taxpayer to the total time spent by the employee in the performance of all services for the taxpayer during the taxable year.

(2) *"Substantially all."* Notwithstanding paragraph (d)(1) of this section, if substantially all of the services performed by an employee for the taxpayer during the taxable year consist of services meeting the requirements of section 44F(b)(2)(B) (i) or (ii), then the term "qualified services" means all of the services performed by the employee for the taxpayer during the taxable year. Services meeting the requirements of section 44F(b)(2)(B) (i) or (ii) constitute substantially all of the services performed by the employee during a taxable year if and only if the wages apportioned (on the basis used for purposes of paragraph (d)(1) of this section) to services meeting the requirements of section 44F(b)(2)(B) (i) or (ii) constitute at least 80 percent of the wages paid or incurred by the taxpayer to the employee during the taxable year.

(e) *Contract research expenses*—(1) *In general.* A contract research expense is 65 percent of any expense paid or incurred in carrying on a trade or business to any person other than an employee of the taxpayer for the performance on behalf of the taxpayer of—

(i) Qualified research as defined in § 1.44F-4, or

(ii) Services which, if performed by employees of the taxpayer, would constitute qualified services within the meaning of section 44F(b)(2)(B).

Where the contract calls for services other than services described in this paragraph (e)(1), only 65 percent of the portion of the amount paid or incurred that is attributable to the services described in this paragraph (e)(1) is a contract research expense.

(2) *Performance of qualified research.* an expense is paid or incurred for the performance of qualified research only to the extent that it is paid or incurred pursuant to an agreement that—

(i) Is entered into prior to the performance of the qualified research,

(ii) Provides that research be performed on behalf of the taxpayer, and

(iii) Requires the taxpayer to bear the expense even if the research is not successful.

If an expense is paid or incurred pursuant to an agreement under which payment is contingent on the success of the research, then the expense is considered paid for the product or result rather than the performance of the research, and the payment is not a contract research expense.

(3) *"On behalf of."* Qualified research is performed on behalf of the taxpayer if the taxpayer has a right to the research results. Qualified research can be performed on behalf of the taxpayer notwithstanding the fact that the taxpayer does not have exclusive rights to the results.

(4) *Prepaid amounts.* Notwithstanding paragraph (e)(1) of this section, if any contract research expense paid or incurred during any taxable year is attributable to qualified research to be conducted after the close of such taxable year, the expenses so attributable shall be treated for purposes of section 44F(b)(1)(B) as paid or incurred during the period during which the qualified research is conducted.

(5) *Examples.* The following examples illustrate provisions contained in paragraphs (e) (1) through (4) of this section.

Example (1). *A*, a cash-method taxpayer using the calendar year as its taxable year, enters into a contract with *B* Corporation under which *B* is to perform qualified research on behalf of *A*. The contract requires *A* to pay *B* $300x, regardless of the success of the research. In 1982, *B* performs all of the research and *A* makes full payment of $300x under the contract. Accordingly, during taxable year 1982, $195x (65 percent of the payment of $300x) constitutes contract research expense of *A*.

Example (2). The facts are the same as in *example (1)* except that *B* performs 50 percent of the research in 1983. Of the $195x of contract research expense, paragraph (e)(4) of this section provides that $97.5x (50 percent of $195x) is contract research expense for 1982 and the remaining $97.5x is contract research expense for 1983.

Example (3). The facts are the same as in *example (1)* except that rather than a flat payment of $300x, *A* agrees to reimburse *B* for all expenses plus to pay *B* $100x. *B* incurs expenses attributable to the research as follows:

Labor	$90x
Supplies	20x
Depreciation on equipment	50x
Overhead	40x
Total	200x

Under this agreement *A* pays *B* $300x during 1982. Accordingly, during taxable year 1982, $195x (65 percent of $300x) of the payment constitutes a contract research expense of *A*.

Example (4). The facts are the same as in *example (3)* except that *A* agrees to reimburse *B* for all expenses and *A* agrees to pay *B* an additional amount of $100, but only if the research is successful. The research is successful and *A* pays *B* $300x during 1982. Paragraph (e)(2) of this section provides that the contingent portion of the payment is not an expense incurred for the performance of qualified research. Thus, for taxable year 1982, $130x (65 percent of the payment of $200x) constitutes contract research expense of *A*.

Example (5). *C* conducts in-house qualified research in carrying on its trade or business. In addition, *C* pays *D* Corporation, a provider of computer services, $100x to develop software to be used in analyzing the results *C* derives from its research. Because the software services, if performed by an employee of *C*, would constitute qualified services, $65x of the $100x constitutes a contract research expense of *C*.

Example (6). *C* conducts in-house qualified research in carrying on its trade or business. In addition, *C* contracts with *E* Corporation, a provider of temporary secretarial services, for the services of a secretary for a week. The secretary spends the entire week typing reports describing laboratory results derived from *C*'s qualified research. *C* pays *E* $400 for the secretarial service, none of which constitutes wages within the meaning of section 44F(b)(2)(D). These services, if performed by employees of *C*, would constitute qualified services within the meaning of section 44F(b)(2)(B). Thus, pursuant to paragraph (e)(1) of this section, $260 (65 percent of $400) constitutes a contract research expense.

Example (7). *C* conducts in-house qualified research in carrying on its trade or business. In addition, *C* pays *F*, an outside accountant, $100x to keep *C*'s books and records pertaining to the research project. The activity carried on by the accountant does not constitute qualified research as defined in section 44F(d); the services performed by the accountant, if performed by an employee of *C*, would not constitute qualified services (as defined in section 44F(b)(2)(B)). Thus, under paragraph (e)(1) of this section, no portion of the $100x constitutes a contract research expense.

§ 1.44F-3 Base period research expenses.

(a) *Number of years in base period.* The term "base period" generally means the 3 taxable years immediately preceding the year for which a credit is being determined ("determination year"). However, if the first taxable year of the taxpayer ending after June 30, 1981, ends in 1981 or 1982, then with respect to that taxable year the term "base period" means the immediately preceding taxable year. If the second taxable year of the taxpayer ending after June 30, 1981, ends in 1982 or 1983, then with respect to that taxable year the term "base period" means the 2 immediately preceding taxable years.

(b) *New taxpayers.* If, with respect to any determination year, the taxpayer has not been in existence for the number of preceding taxable years that are included under paragraph (a) of this section in the base period for that year, then for purposes of paragraph (c)(1) of this section (relating to the determination of average qualified research expenses during the base period), the taxpayer shall be treated as—

(1) Having been in existence for that number of additional 12-month taxpayer years that is necessary to complete the base period specified in paragraph (a) of this section, and

(2) Having had qualified research expenses of zero in each of those additional years.

(c) *Definition of base period research expenses.* For any determination year, the term "base period research expenses" means the greater of—

(1) The average qualified research expenses for taxable years during the base period, or

(2) Fifty percent of the qualified research expenses for the determination year.

(d) *Special rules for short taxable years*—(1) *Short determination year.* If the determination year for which a research credit is being taken is a short taxable year, the amount taken into account under paragraph (c)(1) of this section shall be modified by multiplying that amount by the number of months in the short taxable year and dividing the result by 12.

(2) *Short base period year.* For purposes of paragraph (c)(1) of this section, if a year in the base period is a short taxable year, the qualified research expenses paid or incurred in the short taxable year are deemed to be equal to the qualified research expenses actually paid or incurred in that year multiplied by 12 and divided by the number of months in that year.

(3) *Years overlapping the effective dates of section 44F*—(i) *Determination years.* If a determination year includes months before July 1981 (or after December 1985), the determination year is deemed to be a short taxable year including only the months after June 1981 (or before January 1986). Accordingly, paragraph (d)(1) of this section is applied for purposes of determining the base period expenses for such year. See section 221(d)(2) of the Economic Recovery Tax Act of 1981.

(ii) *Base period years.* No adjustment is required in the case of a base period year merely because it overlaps June 30, 1981.

(4) *Number of months in a short taxable year.* The number of months in a short taxable year is equal to the number of whole months contained in the year plus fractions for any partially included months. The fraction for a partially included month is equal to the number of days in the month that are included in the short taxable year divided by the total number of days in the month. Thus, if a short taxable year begins on January 1, 1982, and ends on June 9, 1982, it consists of five and 9/30 months.

(e) *Examples.* The following examples illustrate the application of this section.

Example (1). *X* Corp., an accrual-method taxpayer using the calendar year as its taxable year, is organized during 1979 and incurs qualified research expenses as follows:

1979	$10x
1980	150x
Jan. 1 to June 30, 1981	90x
July 1 to Dec. 31, 1981	110x
1982	250x
1983	450x

(i) *Determination year 1981.* For determination year 1981, the base period consists of the immediately preceding taxable year, calendar year 1980. Because the determination year includes months before July 1981, paragraph (d)(3)(i) requires that the determination year be treated as a short taxable year. Thus, for purposes of paragraph (c)(1), as modified by paragraph (d)(1), the average qualified research expenses for taxable years during the base period is $75x ($150x, the average qualified research expenses for the base period, multiplied by 6, the number of months in the determination year after June 30, 1981, and divided by 12). Because this amount is greater than the amount determined under paragraph (c)(2) (50 percent of the determination year's qualified research expense of $110x or $55x), the amount of base period research expenses is $75x. The credit for determination year 1981 is equal to 25 percent of the excess of $110x (the qualified research expenditures incurred during the determination year including only expenditures accrued on or after July 1, 1981, through the end of the determination year) over $75x (the base period research expenses).

(ii) *Determination year 1982.* For determination year 1982, the base period consists of the 2 immediately preceding taxable years, 1980 and 1981. The amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $175x (($150x + 200x) divided by 2). This amount is greater than the amount determined under paragraph (c)(2) (50 percent of $250x, or $125x). Accordingly, the amount of base period research expenses is $175x. The credit for determination year 1982 is equal to 25 percent of the excess of $250x (the qualified research expenses incurred during the determination year) over $175x (the base period research expenses).

(iii) *Determination year 1983.* For determination year 1983, the base period consists of the 3 immediately preceding taxable years 1980, 1981 and 1982. The amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $200x (($150x + $200 + $250x) divided by 3). The amount determined under paragraph (c)(2) is $225x (50 percent of the $450x of qualified research expenses in 1983). Accordingly, the amount of base period research expenses is $225x. The credit for determination year 1983 is equal to 25 percent of the excess of $450x (the qualified research expenses incurred during the determination year) over $225x (the base period research expenses).

Example (2). *Y*, an accrual-basis corporation using the calendar year as its taxable year comes into existence on July 1, 1983. *Y* incurs qualified research expenses as follows:

July 1 to Dec. 31, 1983	$80x
1984	200x
1985	200x

(i) *Determination year 1983.* For determination year 1983, the base period consists of the 3 immediately preceding taxable years: 1980, 1981 and 1982. Although *Y* was not in existence during 1980, 1981 and 1982, *Y* is treated under paragraph (b) of this section as having been in existence during those years with qualified research expenses of zero. Thus, the amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $0 (($0x + $0x + $0x) divided by 3). The amount determined under paragraph (c)(2) of this section is $40x (50 percent of $80x). Accordingly, the amount of base period research expenses is $40x. The credit for determination year 1983 is equal to 25 percent of the excess of $80x (the qualified research expenses incurred during the determination year) over $40x (the base period research expenses).

(ii) *Determination year 1984.* For determination year 1984, the base period consists of the 3 immediately preceding taxable years: 1981, 1982, and 1983. Under paragraph (b) of this section, *Y* is treated as having been in existence during years 1981 and 1982 with qualified research expenses of zero. Because July 1 through December 31, 1983 is a short taxable year, paragraph (d)(2) of this section requires that the qualified research expenses for that year be adjusted to $160x for purpose of determining the average qualified research expenses during the base period. The $160x is the actual qualified research expenses for that year ($80x) multiplied by 12 and divided by 6 (the number of months in the short taxable year). Accordingly, the amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $53⅓x[($0x + $0x + $160x) divided by 3). The amount determined under paragraph (c)(2) of this section is $100x (50 percent of $200x). The amount of base period research expenses is $100x. The credit for determination year 1984 is equal to 25 percent of the excess of $200x (the qualified research expenses incurred during the determination year) over $100x (the base period research expenses).

(iii) *Determination year 1985.* For determination year 1985, the base period consists of the 3 immediately preceding taxable years: 1982, 1983, and 1984. Pursuant to paragraph (b) of this section, *Y* is treated as having been in existence during 1982 with qualified research expenses of zero. Because July 1 through December 31, 1982, is a short taxable year, paragraph (d)(2) of this section requires that the qualified research expense for that year be adjusted to $160x for purposes of determining the average qualified research expenses for taxable years during the base period. This $160x is the actual qualified research expenses for that year ($80x) multiplied by 12 and divided by 6 (the number of months in the short taxable year). Accordingly, the amounts determined under paragraph expenses for taxable years during the base period) is $120x (($0x + $160x + $200x) divided by 3). The amount determined under paragraph (c)(2) of this section is $100 (50 percent of $200x). The amount of base period research expenses is $120x. The credit for determination year 1985 is equal to 25 percent of the excess of $200x (the qualified research expenses incurred during the determination year) over $120x (the base period research expenses).

§ 1.44F–4. Qualified research.

(a) *General rule.* Except as otherwise provided in section 44F(d) (1), (2) and (3) and this section, the term "qualified research" for purposes of section 44F means research, expenditures for which would be research and experimental expenditures within the meaning of section 174. Expenditures that are ineligible for the section 174 deduction elections are not expenditures for qualified research. For example, expenditures for the acquisition of land or depreciable property used in research, and mineral exploration costs described in section 174(d), are not expenditures for qualified research.

(b) *Activities outside the United States*—(1) *In-house research.* In-house research conducted outside the United States (as defined in section 7701(a)(9)) cannot constitute qualified research. Thus, wages paid to an employee scientist for services performed in a laboratory in the United States and in a test station in Antarctica must be apportioned between the services performed within the United States and the services performed outside the United States, and only the wages apportioned to the services conducted within the United States are qualified research expenses unless the 80 percent rule of § 1.44F–2(d)(3) applies.

(2) *Contract research.* If contract research is performed partly within the United States and partly without, only 65 percent of the portion of the contract amount that is attributable to the research performed within the United States can qualify as contract research expense (even if 80 percent or more of the contract amount was for research performed in the United States).

(c) *Social sciences or humanities.* Qualified research does not include research in the social sciences or humanities. For purposes of section 44F(d)(2) and this section, the term "research in the social sciences or humanities" encompasses all areas of research other than research in a field of laboratory science (such as physics or biochemistry), engineering or technology. Examples of research in the social sciences or humanities include the development of a new life insurance contract, a new accounting procedure or a new cookbook. However, the programing costs of developing software associated with such products is qualified research if the expenses of developing the software are research or experimental expenditures within the meaning of § 1.74–2(a)(3).

(d) *Research funded by any grant, contract, or otherwise*—(1) *In general.* Research does not constitute qualified research to the extent it is funded by another person (including any governmental entity). All agreements (not only research contracts) entered into between the taxpayer performing the research and other persons shall be considered in determining the extent to which the research is funded. Amounts paid under any agreement that are contingent on the success of the research and thus considered to be paid for the product or result of the research (see § 1.44F–2(e)(2)) are not treated as funding. For a special rule regarding funding between commonly controlled businesses, see § 1.44F–6(e).

(2) *Research in which taxpayer retains no rights.* If a taxpayer performing research for another person retains no substantial rights in the research under the agreement providing for the research, the research is treated as fully funded for purposes of section 44F(d)(3), and no expenses paid or incurred by the taxpayer in performing the research are qualified research expenses. For example, if the taxpayer performs research under an agreement that confers on another person the exclusive right to exploit the results of the research, the taxpayer is not performing qualified research because the research is treated as fully funded under this paragraph (d)(2). Incidental benefits to the taxpayer from performance of the research (for example, increased experience in a field of research) do not constitute substantial rights in the research.

(3) *Research in which taxpayer retains substantial rights*—(i) *In general.* If a taxpayer performing research for another person retains substantial rights in the research under the agreement providing for the research, the research is funded to the extent of the payments (and fair market value of any property) to which the taxpayer becomes entitled by performing the research. Except as otherwise provided in paragraph (d)(3)(ii) of this section, the taxpayer shall reduce the amount paid or incurred by the taxpayer for the research that would, but for section 44F(d)(3), constitute qualified research expenses of the taxpayer by the amount of funding determined under the preceding sentence.

(ii) *Pro rata allocation.* If the taxpayer can establish to the satisfaction of the district director—

(A) The total amount of research expenses,

(B) That the total amount of research expenses exceed the funding, and

(C) That the otherwise qualified research expenses (that is, the expenses which would be qualified research expenses if there were no funding) exceed 65 percent of the funding,

the taxpayer may allocate the funding pro rata to non-qualified and otherwise qualified research expenses, rather than allocating it 100 percent to otherwise qualified research expenses (as provided in paragraph (d)(3)(i) of this section). In no event, however, shall less than 65 percent of the funding be applied against the otherwise qualified research expenses.

(iii) *Project by project determination.* The provisions of this paragraph (d)(3) shall be applied separately to each research project undertaken by the taxpayer.

(4) *Independent research and development under the Armed Services procurement regulations and similar provisions.* The Armed Services procurement regulations and similar rules and regulations relating to contracts with government entities provide for allocation of certain "independent research and development costs" and "bid and proposal costs" of a contractor to cost-plus and incentive-type contracts entered into with that contractor. Any amount paid to a taxpayer by reason of such allocation shall be treated as funding the underlying research activities to the extent provided in paragraph (d)(3) of this section. If because of cost overruns the amount paid to the taxpayer under an incentive-type contract is less than the taxpayer's costs for the contract, the shortage shall be allocated pro rata to all costs (both direct and indirect) of the contract that are allowable under the applicable regulations.

(5) *Funding determinable only in subsequent taxable year.* If at the time the taxpayer files its return for a taxable year, it is impossible to determine to what extent particular research performed by the taxpayer during that year may be funded, the taxpayer shall treat the research as completely funded for purposes of completing that return. When the amount of funding is finally determined, the taxpayer should amend the return and any interim returns to reflect the proper amount of funding.

(6) *Examples.* The following examples illustrate the application of the principles contained in this paragraph.

Example (1) *A* enters into a contract with *B* Corporation, a cash-method taxpayer using the calendar year as its taxable year, under which *B* is to perform research that would, but for section 44F(d)(3), be qualified research of *B*. The agreement calls for *A* to pay *B* $120x, regardless of the outcome of the research. In 1982, *A* makes full payment of $120x under the contract, *B* performs all the research, and *B* pays all the expenses connected with the research, as follows:

In-house research expenses	$100x
Outside research (amount *B* paid to third parties for research, 65 percent of which ($26x) is treated as a contract research expenses of *B*)	40x
Overhead and other expenses	10x
Total	150x

If *B* has no rights to the research, *B* is fully funded. Alternatively, assume that *B* retains the right to use the results of the research in carrying on *B*'s business. Of *B*'s otherwise qualified research expenses of $126x ($100x plus $26x), $120x is treated as funded by *A*. Thus, $8x ($126x less $120x) is treated as a qualified research expense of *B*. However, if *B* establishes the facts required under paragraph (d)(2) of this section, *B* can allocate the funding pro rata to non-qualified and otherwise qualified research expenses. Thus $100.8x ($120x multiplied by ($126x/$150x)) would be allocated to otherwise qualified research expenses. B's qualified research expenses would be $25.2x ($126x − $100.8x).

Example (2). The facts are the same as in *example (1)* except that, although *A* makes full payment of $120x during 1982, *B* does not perform the research or pay the associated expenses until 1983. The computations are unchanged. However, B's qualified research expenses determined in *example (1)* are qualified research expenses during 1983.

Example (3). The facts are the same as in *example (1)* except that, although *B* performs the research and pays the associated expenses during 1982, *A* does not pay the $120x until 1983. The computations are unchanged and the amount determined in *example (1)* is a qualified research expense of *B* during 1982.

Example (4). The facts are the same as in *example (1)* except that, instead of agreeing to pay *B* $120x, *A* agrees to pay *B* $100x regardless of the outcome and an additional $20x only if *B*'s research produces a useful product. *B*'s research produces a useful product and *A* pays *B* $120x during 1982. The $20x payment that is conditional on the success of the research is not treated as funding. Assuming that *B* establishes to the satisfaction of the district director the actual research expenses, *B* can allocate the funding to non-qualified and otherwise qualified research expenses. Thus $84x ($100x multiplied by (126x/150x)) would be allocated to otherwise qualified research expenses. *B*'s qualified research expenses would be $42x ($126x minus $84x).

Example (5). *C* enters into a contract with *D*, a cash-method taxpayer using the calendar year as its taxable year, under which *D* is to perform research in which both *C* and *D* will have substantial rights. *C* agrees to reimburse *D* for 80 percent of *D*'s expenses for the research. *D* performs part of the research in 1982 and the rest 1983. At the time that *D* files *D*'s return for 1982, *D* is unable to determine the extent to which the research is funded under the provisions of this paragraph. Under these circumstances, *D* may not treat any of the expenses paid by *D* for this research during 1982 as qualified research expenxes on *D*'s 1982 return. When the project is complete and *D* can determine the extent of funding, *D* should file an amended return for 1982 to take into account any qualified research expense for 1982.

§ 1.44F-5 Basic research.

(a) *In general.* The amount expended for basic research within the meaning of section 44F(e) equals the sum of the money transferred plus the taxpayer's basis in tangible property (other than land) transferred for use in the performance of basic research.

(b) *Trade or business requirement.* Any amount treated as a contract research expense under section 44F(e) (relating to basic research) shall be deemed to have been paid or incurred in carrying on a trade or business, provided the corporation that paid or incurred the expense is actually engaged in carrying on some trade or business.

(c) *Prepaid amounts*—(1) *In general.* If any basic research expense paid or incurred during any taxable year is attributable to research to be conducted after the close of such taxable year, the expense so attributable shall be treated for purposes of section 44F(b)(1)(B) as paid or incurred during the period during which the basic research is conducted.

(2) *Transfers of property.* In the case of transfers of property to be used in the performance of basic research, the research in which that property is to be used shall be considered to be conducted ratably over a period beginning on the day the property is first so used and continuing for the number of years provided with respect to property of that class under section 168(c)(2). For example, if an item of property that is 3-year property under section 168(c)(2) is transferred to a university for basic research on January 12, 1983, and is first so used by the university on March 1, 1983, the research in which that property is used is considered to be conducted ratably from March 1, 1983, through February 28, 1986.

(d) *Written research agreement*—(1) *In general.* A written research agreement must be entered into prior to the performance of the basic research.

(2) *Agreement between a corporation and a qualified organization after June 30, 1983*—(i) *In general.* A written research agreement between a corporation and a qualified organization (including a qualified fund) entered into after June 30, 1983, shall provide that the organization shall inform the corporation within 90 days after the close of each taxable year of the

corporation what amount of funds provided by the corporation pursuant to the agreement were expended on basic research during the taxable year of the corporation. In determining amounts expended on basic research, the qualified organization shall take into account the exclusions specified in section 44F(e)(3) and in paragraph (e) of this section.

(ii) *Transfers of property.* In the case of transfers of property to be used in basic research, the agreement shall provide that substantially all of use the property is to be for basic research, as defined in section 44F(e)(3).

(3) *Agreement between a qualified fund and a qualified edcuational organization after June 30, 1983.* A written research agreement between a qualified fund and a qualified educational organization (see section 44F(e)(4)(B)(iii)) entered into after June 30, 1983, shall provide that the qualified organization shall furnish sufficient information to the qualified fund to enable the qualified fund to comply with the written research agreements it has entered into with grantor corporations, including the requirement set forth in paragraph (d)(2) of this section.

(e) *Exclusions*—(1) *Research conducted outside the United States.* If a taxpayer pays or incurs an amount for basic research to be performed partly within the United States and partly without, only 65 percent of the portion of the amount attributable to research performed within the United States can be treated as a contract research expense (even if 80 percent or more of the contract amount was for basic research performed in the United States).

(2) *Research in the social sciences or humanities.* Basic research does not include research in the social sciences or humanities, within the meaning of § 1.44F–4(c).

(f) *Procedure for making an election to be treated as a qualified fund.* An organization shall make an election to be treated as a qualified fund by filing with the IRS service center with which it files its annual return a statement that—

(1) Sets out the name, address, and taxpayer identification number of the electing organization and of the organization that established and maintains the electing organization,

(2) Identifies the election as an election under section 44F(e)(4) of the Code,

(3) Affirms that the parent and the taxpayer are section 501(c)(3) organizations,

(4) Provides that the taxpayer elects to be treated as a private foundation for all Code purposes other than section 4940,

(5) Affirms that the taxpayer satisfies the requirement of section 44F(e)(4)(B)(iii), and

(6) Specifies the date on which the election is to become effective.

If an election to be treated as a qualified fund is filed before February 1, 1982, the election may be made effective as of any date after June 30, 1981, and before January 1, 1986. If an election is filed on or after February 1, 1982, the election may be made effective as of any date on or after the date on which the election is filed and before January 1, 1986.

§ 1.44F–6 Aggregation of expenditures.

(a) *Controlled group of corporations; trades or businesses under common control*—(1) *In general.* In determining the amount of the research credit allowed with respect to a trade or business that at the end of its taxable year is a member of a controlled group of corporations or a member of a group of trades or businesses under common control, all members of the group are treated as a single taxpayer and the credit (if any) allowed to the member is determined on the basis of its proportionate share of the increase in qualified research expenses of the aggregated group.

(2) *Definition of trade or business.* For purposes of this section, a trade or business is a sole proprietorship, a partnership, a trust, an estate, or a corporation, that is carrying on a trade or business (within the meaning of section 162). For purposes of this section, any corporation that is a member of a commonly controlled group shall be deemed to be carrying on a trade or business if any other member of that group is carrying on any trade or business.

(3) *Determination of common control.* For rules for determining whether trades or businesses are under common control, see paragraphs (b)–(g) of 26 CFR 1.52–1 (Revised as of April 1, 1982) except that the words "singly or" in § 1.52–1(d)(1)(i) shall be treated as deleted.

(4) *Examples.* The following examples illustrate provisions of this paragraph.

Example (1). (i) Facts. A controlled group of four corporations (all of which are calendar-year taxpayers) had qualified research expenses ("research expenses") during the base period and taxable year as follows:

Corporation	Base period (average)	Taxable year	Change
A	$60	$40	($20)
B	10	15	5
C	30	70	40
D	15	25	10

(ii) *Total credit.* Because the research expenses of the four corporations are treated as if made by one taxpayer, the total amount of incremental expenses eligible for the credit is $35 ($55 increase attributable to B, C, and D less $20 decrease attributable to A). The total amount of credit allowable to members of the group is 25% of the incremental amount or $8.75.

(iii) *Allocation of credit.* No amount of credit is allocated to *A* since *A* 's research expenses did not increase in the taxable year. The full $8.75 credit is allocated to *B, C,* and *D,* the members of the group that increased their research expenses. This allocation is made on the basis of the ratio of each corporation's increase in its research expenses to the sum of increases in those expenses. Inasmuch as the total increase made by those members of the group whose research expenses rose (*B, C,* and *D*) was $55, B's share of the $8.75 credit is 5/55; *C*'s share is 40/55; and *D*'s share is 10/55.

Example (2). The facts are the same as in *example (1)* except that *A* had zero research expenses in the taxable year. Thus, the controlled group had a decrease rather than an increase in aggregate research expenses. Accordingly, no amount of credit is allowable to any member of the group even though *B, C,* and *D* actually increased their research expenses in comparison with their own base period expenses.

(b) *Minimum base period research expenses.* For purposes of this section, the rule in section 44F(c)(3) (pertaining to minimum base period research expenses) shall be applied only to the aggregate amount of base period research expenses. See the treatment of corporation *C* in example (1) of paragraph (a)(4) of this section.

(c) *Tax accounting periods used*—(1) *In general.* The credit allowable to a member of a controlled group of corporations or a group of trades or businesses under common control is that member's share of the aggregate credit computed as of the end of such member's taxable year. In computing the aggregate credit in the case of a group whose members have different taxable years, a member shall generally treat the taxable year of another member that ends with or within the determination year of the computing member as the determination year of that other member. The base period research expenses taken into account with respect to a determination year of another member shall be the base period research expenses determined for that year under § 1.44F–3, except that § 1.44F–3(c)(2) shall be applied only at the aggregate level.

(2) *Special rule where timing of research is manipulated.* If the timing of research by members using different tax accounting periods is manipulated to generate a credit in excess of the amount that would be allowable if all members of the group used the same tax accounting period, the district director may require all members of the group to calculate the credit in the current taxable year and all future years by using the "conformed years" method. Each member computing a credit under the "conformed years" method shall compute the credit as if all members of the group had the same taxable year and base period as the computing member.

(d) *Membership during taxable year in more than one group.* A trade or business may be a member of only one group for a taxable year. If, without application of this paragraph, a business would be a member of more than one group at the end of its taxable year, the business shall be treated as a member of the group in which it was included for its preceding taxable year. If the business was not included for its preceding taxable year in any group in which it could be included as of the end of its taxable year, the business shall designate in its timely filed return the group in which it is being included. If the return for a taxable year is due before July 1, 1983, the business may designate its group membership through an amended return for that year filed on or before June 30, 1983. If the business does not so designate, then the district director with audit jurisdiction of the return will determine the group in which the business is to be included.

(e) *Intra-group transactions*—(1) *In general.* Because all members of a group under common control are treated as a single taxpayer for purposes of determining the research credit, transfers between members of the group are generally disregarded.

(2) *In-house research expenses.* If one member of a group performs qualified research on behalf of another member, the member performing the research shall include in its qualified research expenses any in-house research expenses for that work and shall not treat any amount received or accrued as funding the research. Conversely, the member for whom the research is performed shall not treat any part of any amount paid or incurred as a contract research expense. For purposes of determining whether the in-house research for that work is qualified research, the member performing the research shall be treated as carrying on any trade or business carried by the member on whose behalf the research is performed.

(3) *Contract research expenses.* If a member of a group pays or incurs contract research expenses to a person outside the group in carrying on the member's trade or business, that member shall include those expenses as qualified research expenses. However, if the expenses are not paid or incurred in carrying on any trade or business of that member, those expenses may be taken into account as contract research expenses by another member of the group provided that the other member—

(i) Reimburses the member paying or incurring the expenses, and

(ii) Carries on a trade or business to which the research relates.

(4) *Lease payments.* Amounts paid or incurred to another member of the group for the lease of personal property owned by a person outside the group shall be taken into account as in-house research expenses for purposes of section 44F only to the extent of the lesser of—

(i) The amount paid or incurred to the other member, or

(ii) The amount of the lease expense paid to a person outside the group.

The amount paid or incurred to another member of the group for the lease of personal property owned by a member of the group is not taken into account for purposes of section 44F.

(5) *Payment for supplies.* Amounts paid or incurred to another member of the group for supplies shall be taken into account as in-house research expenses for purposes of section 44F only to the extent of the lesser of—

(i) The amount paid or incurred to the other member, or

(ii) The amount of the other member's basis in the supplies.

§ 5c.44F-7 Special rules.

(a) *Allocations*—(1) *Pass-through in the case of a subchapter S corporation.* In the case of an electing small business corporation (as defined in section 1371), the amount of the research credit computed for the corporation for any taxable year shall be apportioned pro rata with the stockholdings among the presons who are shareholders of the corporation on the last day of the corporation's taxable year.

(2) *Pass-through in the case of an estate or trust.* In the case of an estate or trust, the amount of the research credit computed for the estate or trust for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(3) *Pass-through in the case of a partnership*—(i) *In general.* In the case of a partnership, the research credit computed for the partnership for any taxable year shall be apportioned among the persons who are partners during the taxable year in accordance with section 704 and the regulations thereunder.

(ii) *Certain expenditures by joint ventures.* Research expenses to which § 1.44F-2(a)(4)(ii) applies shall be apportioned among the persons who are partners during the taxable year in accordance with section 704 and the regulations thereunder. For purposes of section 44F, these expenses shall be treated as paid or incurred directly by the partners rather than by the partnership. Thus, the partnership shall disregard these expenses in computing the credit to be apportioned under paragraph (a)(3)(i) of this section, and each partner shall aggregate the portion of these expenses allocated to the partner with other research expenses of the partner in making the computations under section 44F. The limitation on the amount of the credit set out in section 44F(g)(1)(B) and in paragraph (c) of this section shall not apply because the credit is computed by the partner, not the partnership.

(4) *Year in which taken into account.* An amount apportioned to a person under this paragraph shall be taken into account by the person in the taxable year of such person in which or with which the taxable year of the corporation, estate, trust, or partnership (as the case may be) ends.

(5) *Credit allowed subject to limitation.* Any person to whom any amount has been apportioned under paragraph (a) (1), (2) or (3)(i) of this section is allowed, subject to section 44F(g), a credit for that amount.

(b) *Adjustments for certain acquisitions and dispositions—Meaning of terms.* For the meaning of "acquisition," "separate unit," and "major portion," see paragraph (b) of 26 CFR 1.26 CFR 1.52–2 (Revised as of April 1, 1982). An "acquisition" includes an incorporation or a liquidation.

(c) *Special rule for pass-through of credit.* The special rule contained in section 44F(g)(1)(B) for the pass-through of the credit in the case of an individual who owns an interest in an unincorporated trade or business, is a partner in a partnership, is a beneficiary of an estate or trust, or is a shareholder in an electing small business corporation shall be applied in accordance with the principles set forth in 26 CFR 1.53–1 (Revised as of April 1, 1982).

(d) *Carryback and carryover of unused credits.* The taxpayer to whom the credit is passed through under paragraph (c) of this section shall not be prevented from applying the unused portion in a carryback or carryover year (under section 44F(a)(2)) merely because the entity that earned the credit changes its form of conducting business. In this regard, the special rules for the carryback and carryover of unused credits in section 44F(g)(2) shall be applied in accordance with the principles set forth in 26 CFR 1.53–1(f) (Revised as of April 1, 1982).

Par. 2. Section 1.174–2 is amended as follows:

1. Paragraph (a)(1) of § 1.174–2 is revised to read as set forth below.

2. Paragraph (a)(2) is redesignated as paragraph (a)(5).

3. Paragraph (a)(3) is redesignated as paragraph (a)(6) and is amended by deleting "subparagraph (2)" and inserting in lieu thereof "subparagraph (5)".

4. New paragraphs (a) (2), (3), and (4) are added to read as set forth below.

§ 1.174–2 Definition of research and experimental expenditures.

(a) *In general.* (1) The term "research or experimental expenditures," as used in section 174, means expenditures incurred in connection with the taxpayer's trade or business which represent research and development costs in the experimental or laboratory sense. The term includes generally all such costs incident to the development or improvement of an experimental or pilot model, a plant process, a product, a formula, an invention, or a similar property. It includes research aimed at the discovery of new knowledge and research searching for new applications of either research findings or other knowledge. The term does not include—

(i) Efficiency surveys or management studies;

(ii) Consumer surveys (including market research) or market testing and development (such as advertising or promotions);

(iii) The routine or ordinary testing or inspection of materials or products for quality control;

(iv) The routine, periodic, or cosmetic alteration or improvement (such as seasonal design or style changes) of existing products, commercial production lines, or other ongoing operations;

(v) The routine design of tools, jigs, molds, and dies;

(vi) The construction of copies of prototypes after construction and testing of the original prototype has been completed;

(vii) Planning for commerical production and trial production runs;

(viii) Engineering follow-through or trouble-shooting during commerical production;

(ix) The adaptation of an existing capability to a particular requirement or customer's need as part of a continuing activity;

(x) Routine data collections; or

(xi) the cost of acquiring another person's patent, model, or production process.

However, the term includes the costs of obtaining a patent, such as attorney's fees expended in making and perfecting a patent application.

(2) The following examples illustrate the application of principles contained in paragraph (a)(1) of this section.

Example (1). X, a designer and manufacturer of automobiles, undertakes to redesign its product line for a new model year. The redesign includes adding accessories, restyling that incidentally improves aerodynamics, and making minor modifications to the engine to improve fuel efficiency. These costs are not research and experimental expenditures as used in section 174 because they are only routine alterations or improvements of an existing product.

Example (2). X in *example (1)* above, also performs research to discover whether light-weight alloys can replace steel in a high stress position in an automobile frame. The costs of that research are research or experimental expenditures within the meaning of section 174.

Example (3). X, in *example (1)* above, designs a new type of engine. The costs incurred by X in producing a pilot engine constitute research and experimental expenditures. However, costs incurred in producing the assembly line that will be used in the first manufacture of this engine are not research and experimental expenditures within the meaning of section 174 because they are either the routine design of tools, jigs, molds and dies or other costs of planning for commercial production.

Example (4). X, in *example (1)* above, also designs a novel type of computer-assisted robot to be used in manufacturing. The costs of developing the manufacturing robot are research or experimental expenditures within the meaning of section 174.

Example (5). Y, which is in the business of making cranes to be used for building construction, uses the same type of parts for each crane it manufactures. Y designs and manufactures each crane differently depending on the type of building being constructed, the situation of the building on the building site, and the distances between the site and the nearest streets. The costs of designing and manufacturing the cranes are not research or experimental expenditures within the meaning of section 174 because they are only costs of adapting an existing capability to a particular requirement or customer's need as part of a continuing commercial activity.

(3) Generally, the costs of developing computer software are not research or experimental expenditures within the meaning of section 174. However, the term "research or experimental expenditures," as used in section 174, includes the programming costs paid or incurred for new or significantly improved computer software. The term does not include costs paid or incurred for the development of software the operational feasibility of which is not seriously in doubt. The costs of modifying previously developed computer software programs, such as the costs of adapting an existing program to specific customer needs, or the costs of translating an existing program for use with other equipment, do not constitute research or experimental expenditures. Whether software is "new or significantly improved" will be determined with regard to the computer program itself rather than the end use of the program. For example, the costs of developing a program to perform exonomic analysis which involves only standard or well known programming techniques are not research or experimental expenditures even if the economic principles embodied in the program are novel. However, if the programming itself involves a significant risk that it cannot be written, the costs of developing the program are research or experimental expenditures regardless of whether the economic principles or formulas embodied in the program are novel.

(4) The following examples illustrate the application of principles contained in paragraph (a)(3) of this section.

Example (1). A, a manufacturing business with old software, updates its software so that it will be more efficient and more versatile. The new program is written by applying known programming techniques. The costs of developing the updated software are not research or experimental expenditures within the meaning of section 174.

Example (2). C, which is in the business of designing computers and developing software, designs a computer using a new central processing system. The costs of modifying C's existing software for use with the new system are not research or experimental expenditures within the meaning of section 174 unless the operational feasibility of modifying the software is seriously in doubt.

Example (3). C, a manufacturing business, purchases a computer with a different central processing system than its old computer and undertakes to update its old software to use the new system. Although experienced programmers would clearly be able to update the software, C's use of inexperienced programmers puts the operational feasibility of modifying the programs seriously in doubt.

The costs of developing the updated software are not research or experimental expenditures within the meaning of section 174.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-1741 Filed 1-20-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 51

[LR-34-82]

Definition of Property for Purposes of the Windfall Profit Tax; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the definition of "property" for purposes of the windfall profit tax.

DATES: The public hearing will be held on March 1, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 15, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-34-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4996 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, November 10, 1982, at page 50924 (47 FR 50924).

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject by February 15, 1983.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director Legislation and Regulations Division.

[FR Doc. 83-1742 Filed 1-20-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment and Opportunity for Public Hearing on Proposed Modifications to the Ohio Regulatory Program and Abandoned Mine Reclamation Plan

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

ACTION: Proposed rule; notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of program amendments submitted by Ohio to the State's Permanent Regulatory Program and the Abandoned Mine Reclamation Plan (hereinafter referred to as the Ohio regulatory program and the AML plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Ohio regulatory program and AML plan and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the information about the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., e.s.t. on February 25, 1983, to be considered in the Secretary's decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program and AML plan. A public hearing on the proposed amendments has been scheduled for February 23, 1983. Any person interested in making an oral presentation at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by February 3, 1983. If no person has contacted Ms. Hatfield by this date to express an interest in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register**.

ADDRESSES: The public hearing will be held between 1 p.m. and 5 p.m. in Room 202 of the Ohio Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227. Written comments and requests for an opportunity to speak at the public hearing should be sent to Ms. Nina Rose Hatfield, Field Office Director, at the above address for the Ohio Field Office.

Copies of the Ohio regulatory program and AML plan, the proposed modifications to the program and plan and all written comments received in response to this notice will be available for public review at the OSM Field Office above and at the OSM headquarters office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224, Telephone: (614) 265-6633

Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Programs Assistance, Office of Surface Mining Reclamation and Enforcement, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On January 22, 1982, the State of Ohio resubmitted to the Department of the Interior its permanent regulatory program under SMCRA. The resubmission followed an initial disapproval, notice of which was published in the **Federal Register** October 1, 1980 (45 FR 64962-64971). After opportunity for public comment and thorough review of the program

resubmission, the Secretary of the Interior determined that the Ohio regulatory program meets the requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies.

Accordingly, the Secretary of the Interior conditionally approved the Ohio program subject to the correction of eleven minor deficiencies. Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688–34718). The approval was effective on August 16, 1982.

In accepting the Secretary's conditional approval, Ohio agreed to correct deficiency (e) by submitting to the Secretary by September 16, 1982, revised program regulations. Ohio did submit to OSM on September 16, 1982, a revised program regulation satisfying condition (e). The Secretary approved the revised regulation and lifted condition (e), notice of which was published in the **Federal Register** January 17, 1983.

Ohio agreed to submit to OSM by February 8, 1983, copies of promulgated regulations and statements of policy amending the State regulatory program to satisfy conditions (d), (f), (g), (i), (j) and portions of conditions (h) and (k).

Ohio also agreed to submit to OSM by August 8, 1983, copies of enacted legislation amending the Ohio Revised Code to satisfy conditions (a), (b), (c) and the remaining portions of conditions (h) and (k).

The Ohio Abandoned Mine Reclamation Plan as submitted on October 20, 1980, was approved by the Assistant Secretary for Energy and Minerals, effective August 16, 1982. Information pertinent to the general background as well as the Department's findings, the disposition of comments and a detailed explanation of the approval of the AML plan can be found in the August 10, 1982 **Federal Register** (47 FR 34718).

On January 6, 1983, Ohio submitted materials to OSM intended to amend the conditionally approved State regulatory program and the approved AML plan. The materials included proposed regulation changes to the following sections of the Ohio Administrative Code:

1501:13–1–01	Effective Date
1501:13–6–03	Small Operator Assistance Program
1501:13–7–01	General Bond Requirements
1501:13–7–03	Form, Condition, and Terms of Performance Bond
1501:13–8–01	Coal Exploration
1501:13–9–04	Protection of Hydrologic System
1501:13–9–07	Disposal of Excess Spoil
1501:13–9–09	Coal Processing Waste Banks
1501:13–9–12	Slides and Other Damage
1501:13–9–13	Contemporaneous Reclamation
1501:13–9–14	Backfilling and Grading
1501:13–9–15	Revegetation
1501:13–12–02	Subsidence Control

The materials included Am. Sub. S.B. No. 240 to amend sections 1513.01, 1513.02, 1513.05, 1513.07, 1513.13, 1513.131, 1513.14, and 1513.16, to enact section 1513.074, and to repeal section 1513.06 of the Revised Code to amend the coal surface mining and reclamation law, to grant the Reclamation Board of Review exclusive original jurisdiction to review on appeal notices of violations, orders, and decisions issued by the Chief of the Division of Reclamation, to repeal the requirement for a license to conduct coal surface mining and reclamation operations, and to make other changes in the coal surface mining and reclamation law.

The materials included Am. Sub. S.B. No. 323 to amend sections 127.16, 1513.02, 1513.07, 1513.08, 1513.17, 1513.18, 1513.27, 1513.28, 1513.32, 1513.37, 1513.99, 3745.11, and 5749.02, to enact section 6111.035, and to repeal section 4153.44 of the Ohio Revised Code and section 5 of Am. Sub. H.B. 1051 of the 113th Ohio General Assembly to revise the coal surface mining permit provisions, to change the names of two funds in the Division of Reclamation and allow additional transfers between funds, to grant the Chief of the Division of Reclamation additional powers to contract for reclamation of defaulted and abandoned lands, to apply the severance tax to reclamation of all defaulted lands, to allow the Director of Environmental Protection to issue general permits for coal mining and reclamation operations, to require the Chief of the Division of Reclamation to submit to the Board on Unreclaimed Strip Mined Lands for review and approval project proposals for specific reclamation projects to be funded from Federal reclamation funds before the expenditure of any such funds to implement any specific reclamation projects, and to repeal a mine reporting requirement.

In addition, the materials submitted included two policy statements of the Division of Reclamation regarding Data Coordination and Exchange and Expenditure of SOAP Operational Funds.

The materials submitted are intended to amend the State regulatory program and the AML plan and to satisfy the conditions of approval of the regulatory program established by the Secretary of the Department of the Interior and published in the **Federal Register** on August 10, 1982 (47 FR 34688–34718).

The materials submitted by Ohio are available for public review at the addresses listed above. The Director seeks comment on whether the materials submitted should be approved and incorporated into the Ohio regulatory program.

Additional Determinations

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

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

3. *Compliance With Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs and AML plans, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OBM is not needed for this program amendment.

List of Subjects in 30 CFR Part 935

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

Dated: January 18, 1983.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 83-1743 Filed 1-20-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2253-4]

Approval and Promulgation and Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On July 14, 1982, the State of Ohio submitted a revision to the total

suspended particulate (TSP) and sulfur dioxide (SO_2) portions of its State Implementation Plan (SIP). This revision is in the form of individual variances for each of the four boilers at the Toledo Edison Company, Bay Shore Station, located in Washington Township (Lucas County) Ohio. The revision includes an alternative particulate emission control strategy "bubble" along with an equivalent visible emission limitation (EVEL), as well as a provision to allow compliance with the existing SO_2 emission limitation to be based on a rolling weighted 30-day average. The purpose of this notice is to discuss EPA's evaluation of the bubble strategy and the SO_2 30-day averaging provision and to solicit public comment on EPA's proposed action.

DATE: Comments on this revision to the Ohio SIP and EPA's proposed action must be received by February 22, 1983.

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

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

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

Comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement, General Principles for Creation, Banking, and Use of Emission Reduction Credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid, and efficient attainment of national ambient air quality standards. This policy statement describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for states and industry to use these less costly control approaches. The April 7, 1982 notice indicates that until EPA takes final action on its policy statement, state actions involving emission trades would be evaluated under the provisions set forth in the proposed policy statement.

In accordance with the provisions contained in the proposed Emissions Trading Policy Statement, the State of Ohio on July 14, 1982, submitted to EPA a revision to the TSP and SO_2 portions of its SIP. This revision is in the form of individual variances for each of the four boilers located at the Toledo Edison Company, Bay Shore Station, in the City of Oregon, Washington Township, Lucas County, Ohio. Washington Township is designated as a secondary nonattainment area for particulates (43 FR 46012). The variances contain particulate and sulfur dioxide emission limitations, equivalent visible emission limitations, and associated test methods and procedures. The State is requesting (1) The establishment of an alternative emission strategy "bubble" that will incorporate the emissions of particulate matter from all four boilers under one limit, and (2) an equivalent visible emission limitation for the common stack serving the four boilers at the facility.

This notice is subdivided into three sections below: (I) Bubble Strategy, (II) Proposed Approval of the Bubble and (III) No Action on Sulfur Dioxide 30-Day Averaging Provisions.

I. Bubble Strategy

• *Particulate Limitation.* Ohio has submitted variances which contain total suspended particulate (TSP) emissions limitations for boilers number 1 through 4 at the Bay Shore Station. The limitations in the variance which are applicable to these sources are derived from Rule 3745-17-10 of the Ohio Administrative Code (OAC). Under Rule 10, the maximum allowable emission limitation for a unit, based on maximum heat input, is determined by referring to either the P-1 or P-2 curves specified in the Figure 1 graph which is part of the rule. EPA has proposed to approve this rule for boilers in a September 21, 1982 notice of proposed rulemaking (47 FR 41584). From the graph in Rule 10 a limit of 0.1 lb/MMBTU is applicable for each boiler stack at the Bay Shore Station.

These limits are identical to those which would be applicable to these sources under the existing Federally approved Ohio SIP regulation, AP 3-11. EPA believes the 0.1 lb/MMBTU limit is an appropriate RACT baseline emission level for this bubble.

Particulate emissions from the four boilers at the Bay Shore Station are now vented to the atmosphere through one stack instead of the individual four stacks used in the past. (Operation with all four boilers being served by the new, single stack began in January 1981). The State is requesting a TSP allowable emission limitation of no greater than 0.1 lb/MMBTU for the four boilers, considering the total heat input to all four boilers, rather than the current limitation of 0.1 lb/MMBTU for each boiler. The bubble would allow the individual boilers to vary above and below the 0.1 lb/MMBTU limitation as long as the weighted average emission are equal to or below that limitation.

• *Visible Emission Limitation.* The variances which Ohio has submitted for the four boilers at the Bay Shore Station also contain visible emission limitations which have been adopted pursuant to Rule 3745-17-07 of the Ohio Administrative Code. This rule specifies, for each stack, a general 20 percent opacity limitation with a 6 minute exemption up to 60 percent opacity. In the September 21, 1982 notice (47 FR 41584) EPA proposed to approve this opacity limitation as an acceptable RACT limit. Subparagraph (F) of Rule 3745-17-07 allows companies to establish equivalent visible emission limitations (EVELs).

An EVEL is an opacity limit which exceeds the general opacity limit but represents the opacity when the source has been found to be in compliance. The State, pursuant to its authority in paragraph F, is requesting EPA approval of an equivalent visible emission limitation of no greater than 29 percent opacity, with a 6 minute exemption up to 60 percent opacity, for the one stack.

• *Compliance with Requested Particulate and Visible Emission Limitations.* The State is requesting a TSP allowable emission limitation of no greater than 0.1 lb/MMBTU for the four boilers, considering the total heat input to these boilers. A demonstration of compliance would be based upon testing at the one stack venting emissions from all four boilers into the atmosphere. On August 18, 1981, three particulate emission stack test runs were conducted in which the four boilers were performing at full load. The three test runs showed actual particulate emission levels of 0.067, 0.042 and 0.070 lb/MMBTU respectively, or an average of .059 lb/MMBTU. Thus, EPA expects that Toledo Edison will be able to achieve compliance with the 0.1 lb/MMBTU limit.

The State is requesting an EVEL of no greater than 29 percent opacity, with a 6 minute exemption of up to 60 percent opacity, for the one stack. The 29 percent EVEL was established in accordance with Ohio Engineering Guides which essentially consist of setting the EVEL as the second highest nonoverlapping 6 minute average that exceeds 20 percent when the source is in compliance with the applicable

particulate limit. When the three emission test runs were conducted on August 18, 1981, in which Bay Shore Station was found to be in compliance with the 0.1 lb/MMBTU limit, three simultaneous test runs were conducted to determine the EVEL. Twenty-nine percent was the second highest average for test run number 1 in which the actual particulate limit was 0.067 lb/MMBTU. Thus, the 29 percent EVEL should ensure that Toledo Edison Company will be in compliance with the 0.1 lb/MMBTU limit.

Under the proposed Emission Trading Policy, no modeling is needed to support the proposed Toledo Edison revision. This is because the trade does not result in a net increase in the appropriate RACT baseline emission level, the relevant sources are located in the same immediate vicinity (i.e., within 60m here), and no increase in emissions will occur at the sources with the lower effective plume height. Thus, the proposed trade passes the Level I screening requirements and, consequently, satisfies the necessary ambient air quality tests of the proposed Emission Trading Policy.

II. Proposed Action on the Bubble Strategy

EPA is proposing to approve the 0.1 lb/MMBTU particulate emission limitation for the combined emissions from boilers 1 through 4 at Toledo Edison Company's Bay Shore Station. EPA believes this to be an appropriate RACT limit for these boilers. EPA is also proposing to approve the EVEL of 29 percent which represents operation of these boilers in compliance with a RACT level of operation.

III. No Action on Sulfur Dioxide (SO_2) 30-Day Averaging Provisions

As stated above, these variances also contain provisions to allow Toledo Edison to achieve compliance with its current Federally approved SO_2 limitation based on a rolling, 30-day weighted average of its fuel. EPA will take no action on this provision. This is consistent with EPA's position in an April 13, 1982 notice (47 FR 15782). In that notice, EPA announced its decision to withhold action on 30-day averaging provisions in the Ohio SO_2 SIP until a general review of 30-day averaging is complete. Since this review is still in process, EPA maintains its position that it is administratively more efficient and equitable to take no action on 30-day averaging at this time.

At this time EPA is proposing action on variances for the Toledo Edison Company's Bay Shore Station, boilers 1 through 4. EPA is not proposing action on Ohio Administrative Code rules 3745-17-07 or 10. Final rulemaking on the adequacy of these rules will be discussed in a separate rulemaking after review of the public comments received in response to EPA's September 21, 1982 (47 FR 41584) notice of proposed rulemaking on the Ohio TSP SIP.

EPA is providing a thirty day comment period on this notice of proposed rulemaking. Public comment received on or before February 22, 1983 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public information at the locations listed in the "Addresses" section of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

(Sec. 110 of the Clean Air Act, as amended)

List of Subjects in 40 CFR Part 52

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

Dated: November 17, 1982.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 83-1616 filed 1-20-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-4-FRL 2264-1; KY-009]

Designation of Areas for Air Quality Planning Purposes, Kentucky; Redesignation for Muhlenberg County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a request by Kentucky to redesignate Muhlenberg County as attainment for the primary sulfur dioxide (SO_2) standards. This is based on the fact that the SO_2 emissions from the Tennessee Valley Authority's Paradise Plant are now attaining an emission rate of 5.2 lbs/MMBTU. The public is invited to submit written comments on these proposed actions.

DATE: To be considered, comments must be received on or before February 22, 1983.

ADDRESS: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Air Management Branch, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365

Division of Air Pollution Control, Kentucky Department for Environmental Protection, 18 Reilly Road, Building #2, Ft. Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Melvin Russell, Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The primary sulfur dioxide (SO_2) nonattainment designation for Muhlenberg County, Kentucky, was based on noncompliance with the applicable SO_2 emission limit (which was 5.2 lbs/MMBTU at the time of the nonattainment designation) by one source (Tennessee Valley Authority's Paradise Plant). This 5.2 lbs/MMBTU limit was subsequently changed to 3.1 lbs/MMBTU to assure protection of the secondary SO_2 standard. EPA's determination of the applicable SO_2 emission limit was based on dispersion modeling. Dispersion modeling indicates that the 5.2 lbs/MMBTU emission rate presently being met by the plant is adequate to attain the primary standard. As a result of the dispersion modeling, on December 1, 1982, Kentucky requested that Muhlenberg County be redesignated as attainment for the primary SO_2 standards as a result of the attainment of an emission rate of 5.2 lbs/MMBTU at the Paradise Plant. Ambient monitoring data for the last three years also shows the area to be in attainment of the primary SO_2 standard.

The 1979 Kentucky State Implementation Plan (SIP) for Muhlenberg County which was approved by EPA in the **Federal Register** on October 31, 1980, (45 FR 72153), states in part that "Modeling with CRS-1 had been done for the August, 1975 State Implementation Plan to obtain the previous emission rate for Class IV Counties of 5.2 lbs of SO_2/MM BTU. However, application of the CRSTER

model demonstrated that the standard was not adequate to attain the 3-hour ambient standard. Subsequent modeling was done by U.S. EPA and the Commonwealth using CRSTER. Based upon these studies, new emission standards were established for TVA-Paradise Plant (3.1 lbs of SO_2/MM BTU) and Kentucky Utilities—Green River Plant (3.5 lbs of SO_2/MM BTU)."

A 5.2 lbs/MMBTU SO_2 emission limit which provides for primary attainment will be a legally enforceable requirement of a proposed amendment to the consent decree which will be filed with the Court in the civil enforcement litigation in the United States District Court for the Middle District of Tennessee (*Tennessee Thoracic Society* v. *Freeman*, Case No. 77–3286 and consolidated cases). This proposed emission limit is being met and all parties have agreed to the amendment to the consent decree. The proposed amendment to the consent decree will require that the Paradise Plant meet the 5.2 lbs/MMBTU limit until November 1, 1983, at which time the plant must meet the 3.1 lbs/MMBTU limit. The 3.1 lbs/MMBTU limit is presently part of the State's EPA approved SIP (45 FR 72153; 10/31/80), and is currently enforceable by EPA.

Action: EPA proposes to approve the redesignation of Muhlenberg County to attainment for the primary SO_2 standards as requested by Kentucky on December 1, 1982. This proposed approval is based on compliance certification that the TVA Paradise Plant is meeting a 5.2 lb/MMBTU emission limit. This limit has been demonstrated through dispersion modeling to be sufficient to protect the primary SO_2 standards. Ambient data supports the modeling results.

As previously stated, written comments must be received on or before February 22, 1983. A thirty (30) day comment period is being used because the SIP submission and the issues involved are not so complex as to warrant a longer comment period. At the close of the comment period, EPA will review all comments and publish a notice of final rulemaking.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks Wilderness area.

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

Dated: December 3, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-1746 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 430

[WH-FRL 2288-7]

Pulp, Paper, and Paperboard Point Source Category, Effluent Limitations Guidelines, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 18, 1982, EPA proposed a regulation under the Clean Water Act limiting the discharge of polychlorinated biphenyls (PCBs) into waters of the United States from mills in the pulp, paper, and paperboard industry where fine and tissue papers are made from deinked wastepaper (47 FR 52066). The comment period was scheduled to expire January 17, 1983. EPA is hereby extending the period thirty days, until February 16, 1983.

DATE: Comments on this proposal must be sumitted to EPA by February 16, 1983.

ADDRESS: Send comments to: Mr. Robert W. Dellinger or Ms. Wendy D. Smith, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attention: Pulp, Paper, and Paperboard Rules.

The entire record for this rulemaking, including the technical and economic documents, is available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM–213 (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Dellinger or Ms. Wendy D. Smith at (202) 382–7137.

SUPPLEMENTARY INFORMATION: On November 18, 1982, EPA proposed regulations to limit discharges of polychlorinated biphenyls (PCBs) into waters of the United States from mills in the pulp, paper, and paperboard industry where fine and tissue papers are made from deinked wastepaper. Comments on the proposal were to be submitted on or before January 17, 1983. Industry representatives petitioned for an extension of the comment period by thirty days, claiming that additional time was required to complete data gathering activities and to review the public record.

After reviewing this request, the Agency has decided to extend the comment period thirty days until February 16, 1983. The vast majority of information supporting the proposed PCB limitations was gathered in response to comments on the effluent limitations reflecting the best available technology economically achievable (BAT) which were proposed by EPA on January 6, 1981 (46 FR 1430). This information was first made available to the public on November 18, 1982, when the proposal appeared in the **Federal Register**. This is in contrast to our normal practice of publishing a preliminary data base (usually in the form of a contractor's draft report) prior to proposal of regulations. Because the period for comment on the proposed PCB limitations is the initial opportunity for the public to review most of the supporting materials, we believe that an extension of the comment period by an additional 30 days is appropriate.

We believe that, by extending the comment period until February 16, 1983, interested parties will have sufficient opportunity to review and comment on the documents and the record supporting this proposed regulation.

Dated: January 14, 1983.

Rebecca W. Hanmer,

Deputy Assistant Administrator for Water.

[FR Doc. 83-1865 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

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

Subcommittee for Biological Stress on Plants; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Biological Stress on Plants of the Technical Advisory Committee for Science and Education Research Grants Program
Date and time: February 28, March 1, and 2, 1983, Monday—9:00 a.m. to 5:30 p.m. Tuesday—9:00 a.m. to 5:30 p.m. Wednesday—9:00 a.m. to 5:30 p.m.
Place: U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia
Type of meeting: Closed
Contact person: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2630
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Stress on Plants Program
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 83-1713 Filed 1-20-83; 8:45 am]
BILLING CODE 3410-03-M

Subcommittee for Biological Stress on Plants; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Biological Stress on Plants of the Technical Advisory Committee for Science and Education Research Grants Program
Date and time: March 10, 11, and 12, 1983, Thursday—9:00 a.m. to 5:30 p.m. Friday—9:00 a.m. to 5:30 p.m. Saturday—9:00 to 5:30 p.m.
Place: U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia
Type of meeting: Closed
Contact person: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2630
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Stress on Plants Program
Agenda: To review and evaluate research proposals and projects as part of the election process for awards
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 83-1714 Filed 1-20-83; 8:45 am]
BILLING CODE 3410-03-M

Subcommittee for Genetic Mechanisms for Crop Improvement; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Genetic Mechanisms for Crop Improvement of the Technical Advisory Committee for Science and Education Research Grants Program
Date and time: May 11, 12, 13, and 14, 1983, Wednesday—9:00 a.m. to 5:30 p.m. Thursday—9:00 a.m. to 5:30 p.m. Friday—9:00 a.m. to 5:30 p.m. Saturday—9:00 a.m. to 5:30 p.m.
Place: U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia
Type of meeting: Closed
Contact person: Machi F. Dilworth, Associate Program Manager, Genetic Mechanisms for Crop Improvement Program, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2642
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Stress on Plants Program.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 83-1712 Filed 1-20-83; 8:45 am]
BILLING CODE 3410-03-M

Economic Research Service

National Agricultural Cost of Production Standards Review Board; Meeting

The National Agricultural Cost of Production Standards Review Board will meet at the U.S. Department of Agriculture, Washington, D.C. on February 9–11. The purpose of this meeting is to organize the Board and to review the methods that USDA currently uses to estimate the costs of producing major agricultural commodities. The meeting's morning session on February 9 will convene at 8:30 in room 104–A, U.S. Department of Agriculture and will end at 12:00 p.m. The afternoon session will convene at 1:00 p.m. in room 330, 500 12th St., SW. and end at 4:30. All sessions on February 10 and 11 will be held in room 330, 500 12th St., SW. The meeting on February 10 will convene at 9:00 a.m. and adjourn at 5:00 p.m. The meeting on February 11 will convene at 9:00 a.m. and adjourn at 3:00 p.m.

All sessions will be open to members of the public who wish to observe.

For further information, contact David Brewster at 202 447–8576.

John E. Lee, Jr.,

Administrator.

[FR Doc. 83–1639 Filed 1–20–83; 8:45 am]

BILLING CODE 3410–16–M

Soil Conservation Service

Galax Roadbank Critical Area Treatment RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Galax Roadbank Critical Area Treatment RC&D Measure, Galax, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area stabilization on the roadbanks and ditches within the City of Galax. The planned work will include installation of lined ditches, jute matting, hydroseeding, and grading and shaping. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable

Dated: January 10, 1983.

Manly S. Wilder,

State Conservationist.

[FR Doc. 83–1350 Filed 1–20–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–003]

Fireplace Mesh Panels From Taiwan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on fireplace mesh panels from Taiwan. The review covers 12 of the 14 known manufacturers and/or exporters of this merchandise to the United States and the period October 1, 1981 through May 31, 1982. The review indicates the existence of dumping margins for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 24616) an antidumping duty order on fireplace mesh panels from Taiwan and announced its intent to conduct an administrative review by the end of June 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of fireplace mesh panels. Such panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening for fireplaces. Fireplace mesh panels are currently classifiable under item numbers 642.8700 and 654.0045 of the Tariff Schedules of the United States Annotated.

The Department knows of 14 manufacturers and/or exporters of Taiwanese fireplace mesh panels to the United States. The review covers 12 of them and the period October 1, 1981 through May 31, 1982. Four of the firms provided inadequate responses to the Department's questionnaires, seven firms did not respond, and one firm had no shipments to the U.S. in the period reviewed. For the firms with inadequate or no responses, we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. The best information available is the highest rate calculated during the original fair value investigation. For the firm with no shipments the cash deposit rate will be the rate calculated for that firm during the fair value investigation. The two remaining firms among the 14 did not begin exporting to the U.S. until after the period of review and therefore, will be covered in the next review.

Preliminary Results of the Review

As a result of our review we preliminarily determine that the following margins exist for the period October 1, 1981 through May 31, 1982:

Manufacturer/exporter	Margin (percent)
Chung Yi Factory/Taipoly Industries Ltd	6.4
Chung Yi Factory/Taiwan Fita Industries	6.4
Foremost Industies Corp	[1]6.4
Fuan Da Industrial Co., Ltd	6.4
Kent & J.M. Enterprise	6.4
Moa Shing Enterprises Co., Ltd	6.4
Taiwan Urano Metalware Co	6.4
Teh We Steel Industrial Co., Ltd	6.4
United Jacob (a.k.a. Jackson Industrial Inc.)	6.4
Ya Seng Manufacturing Co. (a.k.a. Yeh Sheng Wire Mesh & Screen Co., Ltd.)/Tah Chung Iron of Superior Quality Co., Ltd	6.4

[1] No shipments during the period.

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 45 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 such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of Taiwanese fireplace mesh panels from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of 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 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 17, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1701 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-012]

Potassium Chloride, Otherwise Known as Muriate of Potash, From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On March 26, 1982, The Department of Commerce published the preliminary results of its administrative review of the antidumping finding on potassium chloride, otherwise known as muriate of potash, from Canada. The review covers the 15 known exporters still covered by the finding and varying periods through November 30, 1980.

Interested parties were given an opportunity to submit written comments or request disclosure and/or a hearing. Four exporters provided comments. Based on these comments the Department has made adjustments to the margins for two firms. In addition, the Department has changed the period of review for one firm, has deferred appraisement of entries made by that firm, and has deleted one firm from the list of exporters. The margins in the preliminary results remain unchanged for the other twelve firms.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1969, a dumping finding with respect to potassium chloride, otherwise known as muriate of potash ("potash"), from Canada was published in the **Federal Register** as Treasury Decision 69-265 (34 FR 19904). On April 15, 1981, the International Trade Commission ("the ITC") published in the **Federal Register** its determination that an industry in the United States would not be materially injured, not threatened with material injury, by reason of imports of potash from Canada if the finding were to be modified or revoked (46 FR 22083). As a result, the Department of Commerce ("the Department") revoked the finding on June 11, 1981 (46 FR 30842), effective on the date of the ITC's negative injury determination. However, at the time of revocation the Department has not yet reviewed entries made by the 15 known firms still covered by the finding for varying periods ending November 30, 1980. The Department published in the **Federal Register** the preliminary results of its administrative review of these entries on March 26, 1982 (47 FR 13021). The Department has not completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of potassium chloride, otherwise known as muriate of potash, currently classifiable under item 480.5000 of the Tariff Scheduled of the United States Annotated.

The Department knows of 15 Canadian firms, still covered by the finding at the time of revocation, engaged in the manufacture and/or exportation of potash to the United States. The review covers varying periods for these firms through November 30, 1980.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. We received the following comments from four exporters.

(1) *Comment:* Agrico Canada requested the opportunity to submit a belated response to our questionnaire, though the firm had not responded prior to publication of the Department's preliminary results.

Department's Position: Due to mitigating circumstances concerning Agrico's attempts to answer our questionnaire, we are acceding to this request. Accordingly, we are deferring appraisement of entries made by Agrico during this review period, and will analyze Agrico's response in the course of our next section 751 administrative review.

(2) *Comment:* Agrico asserted that the review period given in the preliminary results was incorrect, in that the Treasury Department had issued appraisement instructions ("master lists") covering entries made through December 31, 1976.

Department's Position: We agree. Therefore, the time period to be covered in our next section 751 administrative review will be January 1, 1977 through April 15, 1981.

(3) *Comment:* Texasgulf noted some erroneous choices by the Department for comparison purposes in calculating the foreign market value for certain entries of coarse and granular grade potash made in September 1980. The Department had compared these September shipments with November home market sales. Texasgulf asserted that the comparisons should have been made to home market sales made in June rather than in November.

Department's Position: We agree. When contemporaneous home market sales are not available, it is ordinarily our policy to use the most recent home market sale preceding a given U.S. date of purchase for comparison purposes, up to a maximum of 90 days. When no such sales occurred we use the first home market sale following the given U.S. date of purchase for comparison purposes, up to a maximum of 45 days. We adjusted our calculations accordingly.

(4) *Comment:* L. V. Patteson objected to its being categorized as non-responsive due to the failure of its suppliers to respond to our

questionnaire. The firm asserted that it should have been excluded from the finding, since both of its suppliers had been excluded from the finding in 1976, and the potash obtained from those firms was shipped by L. V. Patteson only to the U.S.

Department's Position: We agree and are deleting L. V. Patteson from the list of exporters covered by the finding.

(5) *Comment:* Tiger Chemicals contended that, since it sold only coarse grade potash in the Canadian market and only standard grade potash in the U.S. market, an adjustment for physical differences in the merchandise is warranted. Tiger claimed that, if such an adjustment were made, it had no sales at less than fair value during our review period.

Department's Position: We agree and have made the appropriate adjustments to the margins based on differences in cost between the two grades.

Final Results of the Review

Based on our analysis of the comments received, we have made adjustments to the margins for two firms. In addition, we have shortened the period of review and have deferred appraisement of entries made by one firm, and have deleted another firm from the list of exporters. Our preliminary results remain unchanged for all other firms.

Manufacturer/exporter	Time period	Margin (percent)
Canadian Fracmaster	01/01/79-11/30/80	13.57
Chemtec Chemical	01/01/79-11/30/80	13.57
C.I.L., Inc	01/01/80-11/30/80	13.57
Dresser Industries	07/01/73-11/30/80	13.57
Edonwold Fertilizer	09/01/79-11/30/80	13.57
Harbec Fertilizer	09/01/68-11/30/80	13.57
Northwest Nitrochemical	09/01/69-11/30/80	13.57
Panther Packaging	01/01/80-11/30/80	0
Panther Packaging/ Prairie Industrial	01/01/79-11/30.80	13.57
Ridgeway Mill & Garden Centre	01/01/78-11/30/80	13.57
Texasgulf	01/01/80-03/31/80	0.12
	04/01/80-06/30/80	0
	07/01/80-09/30/80	0.04
	10/01/80-12/31/80	0
Tiger Chemicals	09/01/79-11/30/80	0
Vanroboys Enterprises	01/01/78-11/30/80	13.57
Wilbur-Ellis	01/01/79-11/30/80	13.57

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 12, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1700 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

[A-427-044]

Stainless Steel Wire Rods From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Anitdumping Finding.

SUMMARY: On August 23, 1982, the Department of Commerce published the preliminary results of its administrative review of the anitdumping finding on stainless steel wire rods from France. The review covers the only known exporter of this merchandise to the United States, Ugine Aciers, and generally the period July 1, 1980 through June 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of the petitioners, we held a public hearing on October 12, 1982. After our analysis of the comments received, we have made no changes in the final results from those contained in our preliminary results of review.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1973, the Treasury Department published in the **Federal Register** an antidumping finding with respect to stainless steel wire rods from France (T.D. 73-243, 38 FR 9094). On August 23, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 36687) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless alloy steel wire rods, tempered, treated or partly manufactured. Such rods are currently classifiable under item 607.4300 of the Tariff Schedules of the United States Annotated.

The Department knows of only one exporter of French stainless steel wire rods to the United States, Ugine Aciers. The review covers the period July 1, 1980 through June 30, 1981, and certain 1979 sales not previously reported and therefore not addressed by the Department's prior section 751 review.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on our preliminary results. The petitioners, Al Tech Specialty Steel Corporation, Armco Inc., Carpenter Technology Corporation, Crucible Stainless Steel Division of Colt Industries, Inc., and Republic Steel Corporation, requested a hearing which was conducted by the Department on October 12, 1982.

(1) *Comment:* The petitioners argue that the Department has failed to show that the Customs Service has not already liquidated entries covered by this review.

Department's Position: On October 4, 1982, the Department notified the Customs Service that assessment instructions issued by the Department in July were in error in that they did not require the continued suspension of liquidation of entries sold to the United States during the period of review. We also asked all Customs ports of entry to determine whether any of the involved entries had been liquidated.

The Customs Service has informed the Department that five entries were liquidated pursuant to the erroneous instructions. The Department has decided to instruct the Customs Service to reliquidate these entries. The Department has separately notified the petitioners of this decision.

(2) *Comment:* The petitioners argue that the Department must verify all information submitted by Ugine Aciers.

Department's Position: In section 751 administrative reviews verification by the Department is discretionary. *See, e.g.*, "Final Results of Administrative Review of Antidumping Finding" with regard to portable electric typewriters from Japan (47 FR 33308) and with regard to animal glue from Yugoslavia (47 FR 42768). We have determined that

verification was not required for this review.

(3) *Comment:* The petitioners argue that the Department must investigate whether Ugine Aciers' sales in its home market during the period were at less than its cost of production.

Department's Position: The Department conducts cost of production investigations whenever it has reasonable grounds to believe or suspect that such sales occurred. The allegations made by the petitioners for this review period are supported by little date concerning the production of stainless steel wire rods from France; most of the data submitted concerns steel production generally. Therefore, the Department does not possess sufficient evidence to justify initiation of a cost of production investigation. In addition, the Department did not receive the allegations until the petitioners submitted their prehearing brief, that is, after the notice of preliminary results was published. We consider any data submitted after our preliminary results to be untimely submitted. *See* "Final Results of Administrative Review of Antidumping Finding" with regard to bicycle speedometers from Japan (47 FR 28978). Although the annual administrative review process was in part created to grant speedy relief to injured domestic industries, it was also intended to relieve importers of the economic uncertainties connected with lengthy delays in assessment of antidumping duties. Any parties in an antidumping proceeding wishing to allege that sales in the home market are at less than cost of production should make their allegations, properly supported by appropriate cost data, at the earliest possible time during the course of a review in order to avoid unduly delaying the review.

Final Results of the Review

After analysis of the comments received, the final results of our review are the same as those presented in our preliminary results of review, and we determine that a *de minimis* margin of 0.3 percent exists for the period July 1, 1980 through June 30, 1981.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Since the most recent margin for Ugine Aciers is less than 0.5 percent and, therefore, *de minimis*, the Department shall waive requirement of a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on all shipments of French stainless steel wire rods entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This waiver of deposit 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 August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 11, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1699 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

[A-475-079]

Viscose Rayon Staple Fiber From Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 8, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on viscose rayon staple fiber from Italy. The review covers the only know exporter of this merachandise to the United States, Snia Fibre S.p.A., and the period June 1, 1981 through May 31, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1979, the Treasury Department published in the **Federal Register** (44 FR 33878-9) an antidumping finding with respect to viscose rayon staple fiber from Italy. On November 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 50539-40) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covers the only known exporter of Italian viscose rayon staple fiber to the United States, Snia Fibre, S.p.A., and the period June 1, 1981 through May 31, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entiries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent margin calculated for the firm, 18.6 percent, shall be required on all shipments of Italian viscose rayon staple fiber 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 June 1984. The Department encourages interested parties to review the public record and submit

applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 17, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1702 Filed 1-20-82; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Mexico; 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 leather wearing apparel from Mexico. The review covers the period January 14, 1981 through December 31, 1981. As a result of this review, the Department has preliminarily determined the amount of net bounty or grant to be zero for three firms (Elegance de Baja California, Karen International, and Manufacturas Industriales de Nogales), and 13.35 percent of the f.o.b. invoice price for all other firms. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot 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 April 10, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 21357) a countervailing duty order on leather wearing apparel from Mexico and announced its intent to conduct an administrative review of the order within twelve months. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. The review covers the period January 14, 1981, the date liquidation of entries was suspended in the preliminary affirmative determination (46 FR 21357), through December 31, 1981, and three programs: CEDI, the countervailable program cited in the final determination, as well as FOMEX and CEPROFI, two programs found countervailable in the final determination on ceramic tile from Mexico.

Analysis of the Programs

(1) CEDI. The Certificado de Devolucion de Impuesto ("CEDI") is a certificate issued by the Government of Mexico in an amount equal to a percentage of the value of exported leather wearing apparel. The CEDI certificates may be used to pay a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties). We preliminarily determine that the CEDI rate, and therefore the amount of net bounty or grant, for exports of leather wearing apparel by uncertified firms during 1981 was 10 percent of the f.o.b. invoice price.

(2) FOMEX. The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust fund administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as trustee. The Bank of Mexico, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters of leather wearing apparel for two purposes: Pre-export (production) financing and export financing.

We found that the maximum annual interest rate that financial institutions may charge borrowers for FOMEX pre-export financing, in Mexican pesos, is 8 percent. The maximum annual interest rate for FOMEX export financing, in the currency of the country of importation, is 6 percent.

The Government of Mexico provided no information on the commercial rate of interest in Mexico for comparable short-term peso or dollar denominated loans. For peso loans, the Department used as the best information available the average cost of funds to Mexican banks during 1981, plus a markup of 12 percent to arrive at the equivalent of a prime rate of interest. For dollar loans, we used interest rate information obtained from the Federal Reserve Board.

Based on this information, we preliminarily determine that, during 1981, comparable peso-denominated loans were available commercially at 40.58 percent, and comparable dollar-denominated loans were available at 21.29 percent.

For the FOMEX loans obtained by firms during 1981, we computed the difference in interest expense between the FOMEX loans and the commercial rates. Both export and pre-export FOMEX loans are considered export subsidies since these loans are given only on merchandise destined for export. For export FOMEX loans, the Government of Mexico was able to identify the loans applicable to exports destined for the U.S. However, for pre-export FOMEX loans, the information supplied by the Government of Mexico covered the loans applicable to exports for all countries. Therefore, we allocated the amount of benefit over the value of total exports during 1981 in the case of pre-export loans, and over the value of exports to the U.S. during 1981 in the case of export loans. The denominator did not include the exports from those certified firms which we preliminarily determine did not receive any benefits.

On this basis, we preliminarily determine the amount of net bounty or grant from FOMEX pre-export loans to be 2.41 percent and from FOMEX export loans to be 0.94 percent, for a total net bounty or grant under FOMEX to uncertified firms in 1981 of 3.35 percent of the f.o.b. invoice price.

(3) CEPROFI. Certificates of Fiscal Promotion ("CEPROFI") are tax certificates which are used to promote the goals of the National Industrial Development Plan and are granted in conjunction with investments in designated priority industrial activities and geographic regions. CEPROFI certificates can be used to pay a wide range of federal tax liabilities.

The Government of Mexico reported that no leather wearing apparel firms applied for or received CEPROFI benefits. Since leather wearing apparel manufacture is not designated as a priority activity, such firms are ineligible to receive CEPROFI benefits. Our verification produced no contradictory evidence. We preliminarily determine the amount of net bounty or grant under

CEPROFI to uncertified firms in 1981 was zero.

Firms not Receiving any Benefits

In the countervailing duty order on creamic tile from Mexico (47 FR 20012, May 10, 1982), the Department set forth a certification process that would allow an adjustment of the rate of cash deposit of estimated countervailing duties to zero for those firms certified and verified as having neither applied for nor received countervailable benefits. On June 17, 1982, the Department sent a letter to the Government of Mexico stating that company and government certificates should be included with the questionnaire response for any companies which wanted to request a zero deposit rate for this administrative review. On July 2, 1982, we received the needed certificates from three firms stating that they have neither applied for nor received benefits under the CEDI, FOMEX or CEPROFI programs and would not do so in the future, as well as certificates from the Government of Mexico stating that these firms have neither applied for nor received benefits under these programs. The three firms covered by the certificates are:

Elegance de Baja California, S.A. ("Elegance")
Karen International, S.A. de C.V. ("Karen")
Manufacturas Industriales de Nogales, S.A. ("M.I.N.S.A.")

Verification

We verified the information presented through examination of documents and records of the Government of Mexico, as well as company books and records.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the aggregate net bounty or grant conferred during the period of review by the three programs was zero for the firms of Elegance, Karen and M.I.N.S.A., and 13.35 percent of the f.o.b. invoice price for all other firms. Section 707 of the Tariff Act provides that the difference between the deposit of an estimated countervailing duty and the final assessed duty under a countervailing duty order shall be disregarded to the extent that the estimated duty is less than the final assessed duty, and refunded to the extent that the estimated duty is higher than the final assessed duty, for merchandise entered, or withdrawn from warehouse, for consumption before the date of the countervailing duty order. The amount of estimated duty under the preliminary affirmative determination of January 14, 1981 was 5.2 percent. Accordingly, the Department intends to instruct the Customs Service to assess no countervailing duties on shipments of this merchandise from Elegance, Karen or M.I.N.S.A. which were entered, or withdrawn from warehouse, for consumption on or after January 14, 1981, and exported on or before December 31, 1981; to assess countervailing duties of 5.2 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after January 14, 1981 but prior to April 10, 1981; and to assess countervailing duties of 13.35 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after April 10, 1981 and exported on or before December 31, 1981.

The Government of Mexico suspended the CEDI program by an executive order published in the *Diario Oficial* (Official Gazette) on August 25, 1982. The order abrogates prior executive orders which contained the lists of products eligible for CEDI. The suspension of the eligibility for the CEDI program was effective the day after publication. Thus, the only program currently in effect for this merchandise is the FOMEX loan program.

Therefore, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of zero on shipments of this merchandise from Elegance, Karen or M.I.N.S.A. and 3.35 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current 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 45 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 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 § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 17, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1704 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

Villanova University et al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-24. Applicant: Villanova University, Villanova, PA 19085. Instrument: Electron Microscope, Model H-600-2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: The instrument is intended to be used for research on the ultrastructure of the synaptic connections and the muscles in the dimorphic claws of snapping shrimps (*Alpheus*). The instrument will be used in the teaching of a graduate course in electron miscroscopy for M.S. students in Biology to enable them to complete theses using the instrument and to enhance their ability to gain employment on graduation or further their research and education. Application received by Commissioner of Customs: October 20, 1982.

Docket No. 83-96. Applicant: U.S. Army Aeromedical Research Laboratory, P.O. Box 577, Fort Rucker,

AL 36362. Instrument: Electron Microscope, EM 10C. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for research in the area of neuroanatomy of vertebrate visual systems. Actual living tissue will be excised from retinas or brains of specific vertebrates which have been properly anesthetized and sacrificed. Once the tissue is extracted, it will be fixed, dehydrated, embedded, sectioned and stained for study. Only small sections taken from specific levels in the vertebrate visual system will be studied at one time. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83-97. Applicant: Loyola University of Chicago, Department of Anatomy, Stritch School of Medicine, 2160 South First Avenue, Maywood, IL 60153. Instrument: Electron Microscope, Model H-600-3. Manufacturer: Hitachi, Japan. Intended use of Instrument: The instrument is intended to be used in conducting research work on the following: (1) lymphatic microcirculation, (2) the effects of environmental lighting on the structure and function of the pineal gland of vertebrates, (3) the role of lymphoid cells in alveolar bone resorption, and (4) investigation of tumor cell invasion of bone surfaces. In addition, the article will be used in the courses (1) Basic Ultrastructure—Anatomy 425 and (2) Advanced Ultrastructure—Anatomy 426. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83-98. Applicant: University of Southern California, Department of Materials Science VHE 602, Los Angeles, CA 90089—0241. Instrument: Electron Microscope, EM 420 and Accessories. Manufacturer: Philips Electronic Instruments Incorporated, The Netherlands. Intended use of instrument: The instrument is intended to be used in a wide range of research projects including but not limited to the following:

(1) Interface studies in ceramics,

(2) The application of materials science principles to the design of low alloy steels,

(3) Crystallization of non-equilibrium structures produced by laser melting,

(4) Laser/interface interactions,

(5) Laser induced interfacial mixing in semiconductor systems,

(6) Superplasticity and creep,

(7) Properties of heavily ion-implanted semiconductors,

(8) Electron energy loss spectroscopy, and

(9) Molecular beam epitaxy and STEM.

The article will also be used in the following courses offered in the Department of Materials Science:

(1) Transmission Electron Microscopy (MASC 535)

(2) Transmission Electron Microscopy Laboratory (MASC 599)

(3) Materials Characterization (MASC 534).

Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83-103. Applicant: Mellon Institute, 4400 Fifth Avenue, Pittsburgh, PA 15213. Instrument: Electron Microscope, Model EM 420 and Accessories. Manufacturer: Philips Electronic Instrument Incorporated, The Netherlands. Intended use of instrument: The instrument is intended to be used for research involving the characterization of a wide variety of materials, including steels, nickel aluminum and titanium based alloys, and glasses. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83-00106. Applicant: Duke University Medical Center, Department of Physiology, Box 3709-PH, Durham, NC 27710. Instrument: Electron Microscope, Model JEM 100CX-II and Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: The instrument is intended to be used by several investigators to carry out high resolution transmission electron microscopy of cell ultrastructural features in conjunction with energy dispersive x-ray analyses of subcellular composition and scanning electron microscopy of cell surface structures. The instrument will also be used in the training of a limited number of post-doctoral fellows and M.D.-Ph. D. students requiring correlation of ultrastructure with subcellular composition in their work. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83-109. Applicant: U.S. Department of Labor, OSHA Analytical Laboratory, 390 Wakara Way, Salt Lake City, UT 84108. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, MS-80. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used to increase the analytical capabilities for confirming the presence of known compounds, very specific quantitation of compounds, and identification of unknown materials that could pose a hazard in the workplace. The organic compounds requested for analysis cover a broad range of structures and properties due to the wide variety of industries inspected by field personnel. All types of solvents, pesticides, carcinogens, and unknown materials from industrial processes are analyzed. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83-111. Applicant: The Ohio State University, Materials Research Laboratory, 174 W. 18th Avenue, Columbus, OH 43210. Instrument: Fourier Transform Optical Spectrometer P/N 1ZM01 with Accessories. Manufacturer: Bomem, Incorporated, Canada. Intended use of instrument: The instrument is intended to be used for studies of composite materials such as mixtures of metals (e.g. Ag) and insulators, (e.g. KCl) as a function of the volume fraction of the metal present in the samples. Of particular interest is the concentration range near the percolation limit where a metal-insulator transition can occur. Mixtures of glass and metal particles will also be studied. The objectives of these experiments are:

(a) To discover new materials and new classes of materials that will be conductors of electricity even though the volume fraction of metal particles in the samples is about 25%.

(b) To study in detail the effects of electron localization in these composite materials.

Application received by Commissioner of Customs: January 6, 1983.

Docket No. 83-112. Applicant: University of Washington, Seattle, WA 98195. Instrument: High Linear Energy Transfer (LET) Clinical Neutron Therapy System and Accessories. Manufacturer: Instrument AB Scanditronix, Sweden. Intended use of instrument: The instrument is intended to be used in the Clinical Neutron Therapy Program to definitively determine if neutron therapy can significantly increase local tumor control over optimal photon therapy, and if so, to quantify the improvement observed. A secondary objective of this program will be to determine if improved local control leads to significantly prolonged disease-free survival of patients with these tumors, and if so, to quantify that improvement. The overall objective of this research program is to accurately define the role of fast neutron beam radiation therapy in the treatment of human malignancies. Application received by Commissioner of Customs: December 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1709 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Quarterly Report (October 1 to December 31, 1982)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of the NVLAP quarterly report.

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions for the fourth quarter of 1982. In addition, the status of all NVLAP laboratory accreditation programs (LAPs) is summarized.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234, (301) 921-3431.

SUPPLEMENTARY INFORMATION: This report has been prepared in accordance with sections 7a.17(a), 7b.17(a), and 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c). In addition, to fulfill NVLAP requirements for monthly reporting of accreditation actions, notice of such actions taken under NVLAP for the month of December is included in this report.

NVLAP accreditation does not relieve the laboratories from the necessity of observing and complying with existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to their operations, including consumer protection and antitrust laws.

Accreditation is granted for a period of one year. However, before expiration, accreditation may be terminated at the request of the laboratory or may be revoked due to violation of the accreditation criteria or other conditions of the laboratory's accreditation. The criteria are described in sections 7a.19–7a.30 of the NVLAP Procedures (15 CFR Parts 7a, 7b, and 7c).

New Accreditations Granted

Two laboratories were newly accredited during December, 1982. The name and address of each laboratory and the test methods for which accreditation has been granted are listed below. In each case accreditation is for the period ending December 31, 1983.

Gulf Coast Testing Laboratories, Inc., Attn: Doyne Reynolds, 1205 North Tancahua Street, P.O. Box 1148, Corpus Christi, TX 78403;

Parratt-Wolff, Inc., Attn: Bruce L. Higgins, Fisher Road, East Syracuse, NY 13057.

Test method	Short title
ASTM C31	Making and Curing Concrete Test Specimens in the Field
ASTM C172	Sampling Fresh Concrete
ASTM C143	Slump of Portland Cement Concrete
ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete
ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method
ASTM C39	Compressive Strength of Cylindrical Concrete Specimens
ASTM C173	Air Content of Freshly Mixed Concrete by the Volumetric Method

Expired Accreditations

The following laboratories chose not to renew their accreditation for 1983.

American Admixtures and Chemicals, Inc.
Armstrong World Industries (Marietta, PA)
Atec Associates, Inc.
Bowser-Morner Testing Laboratories, Inc., Maysville, KY
Bowser-Morner Testing Laboratories, Inc., Dayton, OH
Bowser-Morner Testing Laboratories, Inc., Toledo, OH
Dynatherm Engineering
Hauser Laboratories
Southwestern Laboratories, Inc.
Thermtron Research Laboratory
Trend/Roxbury Div. of WWG Industries
The Upjohn Company, Donald S. Gilmore Laboratories

Accreditation for Engineering Testing Laboratory, City of Akron expired during the fourth quarter of 1982 and it has not applied for renewal as of December 31, 1982.

Renewed Accreditations

The following laboratories were accredited during the fourth quarter of 1982 for one or more test methods available under NVLAP. Each laboratory received a certificate of accreditation and a corresponding list of test methods for which each is accredited. Anyone wishing to know the test methods for which each laboratory is accredited should request the listing from the laboratory directly or from Mr. Locke at the address given above. Note that many of the laboratories change the test methods for which they are accredited from year to year, so the user should be sure to secure the current list of accredited test methods.

LAP Within Which Accreditation Is Granted

Thermal Insulation Materials

Butler Manufacturing Company Research Center
Certainteed Corporation Insulation Group, R & D Lab
Commercial Testing Company, Inc.
Dow Chemical USA, Granville Research Center
Dynatech R/D Company
Factory Mutual Research Corp.
Geoscience Ltd.
Hardwood Plywood Manufacturers Association
Insta-Foam Products, Inc.
Intest Laboratories, Inc.
Jim Walter Research Corporation
Lander Thermal Conductivity Laboratory
Louisiana-Pacific Corporation, Pabco R & D Laboratory
Manville Corporation, R & D Center
NAHB Research Foundation, Inc.
Olin Corporation, Physical Testing Laboratory
Owens-Corning Fiberglas Corp., Technical Center Laboratory
Owens-Corning Fiberglas Corp., Barrington, New Jersey Plant Laboratory
Owens-Corning Fiberglas Corp., Delmar, New York Plant Laboratory
Owens-Corning Fiberglas Corp., Fairburn, Georgia Plant Laboratory
Owens-Corning Fiberglas Corp., Kansas City, Kansas Plant Laboratory
Owens-Corning Fiberglas Corp., Newark, Ohio Plant Laboratory
Owens-Corning Fiberglas Corp., Santa Clara, California Plant Laboratory
Owens-Corning Fiberglas Corp., Waxahachie, Texas Plant Laboratory
Sparrell Engineering Research Corporation
Twin City Testing & Engineering Laboratory, Inc.
Underwriters Laboratories Inc., Northbrook, Illinois
Underwriters Laboratories Inc., Santa Clara, California
United States Testing Company, Inc., Hoboken, New Jersey Laboratory
United States Testing Company, Inc., California Division
United States Testing Company, Inc., Tulsa Division

Freshly Mixed Field Concrete

Aguirre Engineers, Inc.
The Arundel Corporation, Greenspring Laboratory
Capitol Cement
Central Ready Mixed Concrete, Research & Technical Center
Conrock Co.-Laboratory
Construction Technology Laboratory, Division of Portland Cement Assn.
Contractors Supply Corporation of West Virginia, Inc.
The Dolese Company, Engineering Laboratory
Garco Testing Laboratories
General Testing Laboratories, Inc.
Genstar Stone Products Co., Quality Control Laboratory
Gulf Coast Testing Laboratory, Inc.

The H. C. Nutting Company
Hales Testing Laboratories, Inc.
Herron Consultants, Inc.
Kelso Industries, Inc.
Lewis Engineering, Inc.
Material Service Corporation, Quality Control
Northern Testing Laboratories, Inc., Billings Area Laboratory
Northern Testing Laboratories, Inc., Boise Area Laboratory
Northern Testing Laboratories, Inc., Great Falls Area Laboratory
Parratt-Wolff, Inc.
R.W. Sidley, Inc., Sidley Quality Control Lab
Smith Emery Company
Standard Testing & Engineering, Co., Oklahoma City, Oklahoma.
STS Consultants, Ltd.
The Tanner Companies, United Metro Division Laboratory
Testing Engineers, Inc., Oklahoma Division
Testing Engineers, Inc., Santa Clara Division
Texas Testing Laboratories, Inc.
Twin City Testing & Engineering Laboratory, Inc.
W.R. Grace & Company
The Walt Keeler Company, Inc.
Western Technologies, Inc.

Carpet

American Carpet Laboratories, Inc.
Bigelow-Sanford, Inc., Georgia Rug Mill
Bigelow-Sanford, Inc., Technical Services
C. H. Masland and Sons
Certified Testing Laboratories, Inc.
Chisholm Trail Testing and Engineering Company, Inc.
Commercial Testing Company, Inc.
Coronet Carpets, Inc.
E&B Carpet Mills, Inc.
Factory Mutual Research Corp.
Galaxy Carpets Inc., Galaxy Testing Laboratory
Hardwood Plywood Manufacturers Association
Independent Textile Testing Service, Inc.
Shaw Industries, Inc.
Southwest Research Institute, Department of Fire Technology
United States Testing Company, Inc., Hoboken New Jersey Laboratory
United States Testing Company, Inc., California Division
Walter Carpets West Point Pepperell
World Carpets, Inc., R & D

Solid Fuel Room Heaters (Stove)

Arnold Greene Testing Laboratories, Inc.
Energy Systems, Inc.
Energy Testing Laboratory of Maine
PFS Corporation
Underwriters Laboratories, Inc., Northbrook, Illinois
Underwriters Laboratories, Inc., Santa Clara, California

Accreditation for Walter H. Flood & Company, Inc., has been changed to reflect the new name for the laboratory, A & H Flood/Engineering.

This list updates the list in the 1981 Annual Report and Directory of Accredited Laboratories and this notice should be filed with the Annual Report so as to keep it current. The names of all other accredited laboratories are included in the 1981 Annual Report and the July 1-September 30, 1982, quarterly report. The quarterly report was published in the **Federal Register** on October 27, 1982 (47 FR 47625–47626). Copies of these reports are available from Mr. Locke at the address given above.

Insulation LAP Status

The LAP for thermal insulation materials has 63 test methods for which accreditation may be granted. A total of 33 laboratories are currently accredited to perform one or more of these test methods.

Concrete LAP Status

The LAP for freshly mixed field concrete has two groups of test methods and one optional test method for which accreditation can be granted. A total of 46 laboratories are currently accredited under the Concrete LAP.

Carpet LAP Status

The LAP for carpet has 12 test methods for which accreditation may be granted. A total of 23 laboratories are currently accredited for one or more of these test methods.

Stove LAP Status

The LAP for solid fuel room heaters has 21 test methods in three categories for which accreditation may be granted. Six laboratories are currently accredited for one or more of these test methods.

Acoustics LAP Status

The LAP for acoustical testing services has 49 test methods for which accreditation may be granted. A NVLAP orientation for the assessors was held on November 16–17, 1982 at the National Bureau of Standards. The acoustical laboratories scheduled for on-site visits are: Armstrong World Industries, Gold Bond Division of National Gypsum, Jim Walter Research Corporation, Manville Corporation, Owens-Corning Fiberglas Corporation, and Riverbank Acoustical Laboratories. The first set of accreditation actions are expected by the end of March, 1983.

LAPs under Development

Dosimetry LAP—A draft LAP Handbook has been sent to the industry overview committee for comments. A request for proposal (RFP) for procuring the services of a testing laboratory has been distributed to potential contractors. The deadline for submittal was January 14, 1983. An award is expected to be made by April, 1983. Fifty-one persons have indicated interest in serving as technical experts. An evaluation is presently in progress. We expect to announce the formal establishment of this LAP in May, 1983.

Electromagnetic Calibration Services LAP—A draft LAP Handbook is expected to be ready in the second quarter of 1983. Final details for the proficiency testing and the relationship of a Measurement Assurance Program are still being developed.

Dated: January 17, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-1652 Filed 1-20-83; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Dennis Kelly

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Mr. Dennis Kelly, Orange Coast College, 2701 Fairview Road, Costa Mesa, California 92626 (P316).

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Pacific bottlenose dolphins (*Tursiops truncatus*), 200.

4. Type of Take: Potential harassment.

5. Location of Activity: Orange and Los Angeles Counties, California.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 18, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-1764 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-22-M

Modification No. 3 to Permit No. 288; Steven R. Morello

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 288, issued to Steven R. Morello, 60 Kip Avenue, Rutherford, New Jersey 07070 on July 24, 1980 (45 FR 50627), as modified on December 22, 1980 (45 FR 86524) and February 4, 1982 (47 FR 5283), is further modified to extend the period of authorized taking for one year.

Section B-5 is deleted and replaced by:

"5. This Permit is valid with respect to the taking authorized herein until December 31, 1983."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930

Dated: January 18, 1983.

Richard B. Roe,

Acting Director,

Office of Protected Species & Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-1763 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and delete from Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: January 21, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-145.

SUPPLEMENTARY INFORMATION: On June 11, 1982, September 17, 1982, September 30, 1982, October 15, 1982, (October 27, 1982 correction), October 29, 1982, November 12, 1982, and December 10, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 25399, 47 FR 41154, 47 FR 43107, 47 FR 46126, 47 FR 47627, 47 FR 49066, 47 FR 51180, and 47 FR 55512) of proposed additions to and deletion from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevent matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1983:

Class 7210

Blanket, Bed/Bath (Flame-Resistant), 7210-01-141-2458.

Class 7520

Stand, Calendar Pad, 7520-00-162-6156 (For GSA Regions 4, 5, 6, 7, 8, 9, 10).

Class 8115

Box, Wood
8115-00-935-5887
8115-00-935-6518
8115-00-935-6525
8115-00-935-6528
8115-00-935-6530

Class 8415

Apron, Food Handling, 8415-00-899-3026

Apron, Laboratory, 8415-00-634-5023

Class 9920

Cleaner, Tobacco Pipe, 9920-00-292-9946.

Sic 7349

Janitorial/Minor Mechanical Services, Federal Building, 3rd Avenue and 1st Street, Cullman, Alabama

Janitoral Servcie, Annex Building, Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, D.C.

Janitorial/Custorial, Armed Forces Examining Station, and Bureau of Mines Building, 1100 Filmore Street, Amarillo, Texas

Janitorial Service, U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1983:

Class 8465

Cover, Water Canteen, Nylon, 8465-00-860-0256.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-1695 Filed 1-20-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 commodities to be produced by and

services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: February 23, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additons, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 8455

Medal Set, Good Conduct, Air Force, Regular, 8455–00–082–5528
Medal Set, Good Conduct, Army, 8455–00–269–5761
Medal Set, Asiatic-Pacific Campaign, 8455–00–269–5764
Medal Set, Good Conduct, Marine Corps, Regular, 8455–00–261–4501
Medal Set, Good Conduct, Navy, Regular, 8455–00–753–2906
Medal Set, Womens Army Corps, 8455–00–269–5783
Medal Set, World War II Victory, 8455–00–269–5782
Medal Set, Army of Occupation, WWII, 8455–00–269–5763

SIC 7349

Janitorial/Custodial Services, National Zoological Park, Washington, D.C.

Janitorial/Custodial Service for the following locations in Chicago, Illinois:

U.S. Customshouse, 610 South Canal Street
Interagency Motor Pool, 701 South Clinton Street
Federal Parking Facility, 450 South Federal Street
Janitorial Service, U.S. Courthouse, 123 East Walnut Street and Leased Space at 603–11 East 2nd Street, Des Moines, Iowa
Janitorial/Custodial Services, Paul E. Garber Complex, 3904 Old Silver Hill Road, Suitland, Maryland

SIC 7399

Repair of Air Cargo Pallet, Top and Side Nets, Wright-Patterson Air Force Base, Ohio.

SIC 7699

Drill Sharpening, Department of the Navy, U.S. Naval Supply Center, San Diego, California.

SIC 9199

Publications Distribution, Naval Construction Battalion Center, Gulfport, Mississippi.

C. W. Fletcher,

Executive Director.

[FR Doc. 83–1694 Filed 1–20–83; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 14, 1983.

The USAF Scientific Advisory Board ad hoc committee on Software meeting published in the **Federal Register**, Volume 47, page 58341, Thursday, December 30, 1982, has been cancelled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Darwin W. Berg,

Chief, Special Projects Branch, Administration Management Division, 1947 Administration Support Group.

[FR Doc. 83–1690 Filed 1–20–83; 8:45 am]

BILLING CODE 3910–01–M

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 9:00 AM to 5:00 PM on March 3 and 4, 1983 at the Shelter Island Marina Inn; 2051 Shelter Island Drive; San Diego, California 92106.

The purpose of the meeting is to review the development of DoD's computerized adaptive testing (CAT) system scheduled for nationwide implementation as the military operational selection and classification test in FY 1985. The agenda for the next Committee meeting, scheduled for June 1983, in Washington, D.C., will also be discussed.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. W. S. Sellman, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Room 2B271, The Pentagon, Washington, D.C. 20301, telephone (202) 695–5525 no later than February 15, 1983.

January 17, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–1677 Filed 1–20–83; 8:45 am]

BILLING CODE 3810–01–M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 11, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involved classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act", and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–1676 Filed 1–20–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Inactive Uranium Mill Tailings Site Near Grand Junction, Colo.; Compliance With the National Environmental Policy Act; Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings for Remedial Actions

AGENCY: Energy Department.

AGENCY: Notice is hereby given that the Department of Energy intends to prepare an environmental impact statement (EIS) to assess the environmental implications of remedial actions to be performed on the inactive uranium mill tailings pile and vicinity properties near Grand Junction, Colorado.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS, in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), to provide environmental input into the selection of an appropriate remedial action in connection with uranium mill tailings and other residual radioactive materials at an inactive uranium mill near Grand Junction, Colorado and at residences, commercial buildings, and open lands in the Grand Junction area which are contaminated with mill tailings derived from the inactive uranium mill. The DOE's proposed action is to perform remedial action pursuant to Pub. L. 95–604, the Uranium Mill Tailings Radiation Control Act of 1978. Such remedial actions consist of those measures taken to stabilize or control the mill tailings to the extent necessary to ensure that the radiological and non-radiological impacts from the mill tailings do not exceed the standards for the protection of the public health, safety, and environment promulgated by the Environmental Protection Agency (EPA). The EIS will consider the options of remedial action and no remedial action. In addition, the EIS will consider the following remedial action alternatives: stabilization of the tailings in their present location and removal of the tailings to either of three new disposal sites. The DOE is serving as the lead agency for preparation of the EIS; the Nuclear Regulatory Commission (NRC) will participate as a cooperating agency.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS. Comments or suggestions to assist the DOE in identifying significant environmental issues and the appropriate scope of the draft EIS are requested. Comments may be submitted by mail or presented at scoping meetings to be held in Grand Junction, Colorado, on February 8 & 9, 1983. On completion of the draft EIS, its availability will be announced in the Federal Register and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting may be submitted to Mr. James A. Morley, Uranium Mill Tailings Project Office, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115, (505) 844–3941. Envelopes should be marked "DEIS for Grand Junction tailings pile."

General information on the process followed by the DOE in preparing environmental impact statements may be obtained from Office of Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, ATTN: Mr. Steven R. Woodbury, Room 4G–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–4610.

DATES: Written comments postmarked by February 14, 1983, will be considered in the preparation of the DEIS. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held in Grand Junction, Colorado, on February 8 & 9, 1983. Requests to speak at this meeting should be received by J. A. Morley at the above address by February 1, 1983. Requests to speak may also be made during registration for the meeting.

Background Information

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act. Pub. L. 95–604. In this Act the Congress found that uranium mill tailings may pose a potential and significant radiation health hazard to the public and directed the DOE to designate processing sites for remedial action to remove this potential hazard. The DOE has designated 24 sites for remedial action, including the former Climax Uranium Company site near Grand Junction, Colorado. Public Law 95–604 requires that the DOE carry out remedial action at each site in cooperation with other agencies and with the States and Indian tribes affected by the action. The NRC's statutory responsibilities include consulting with the DOE over a range of subjects concerning the conduct of the remedial action, concurring with the selected remedial action and with any cooperative agreement with a State or Indian tribe, and licensing the long-term maintenance and monitoring of each tailings-disposal site after the remedial action is completed. In view of its statutorily-prescribed role in connection with the remedial action program, the NRC has agreed to participate as a "cooperating agency" as defined by the Council on Environmental Quality regulations implementing NEPA (40 CFR 1508.5). In addition, the EPA was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites. Any remedial action must be in accordance with these EPA standards. The EPA published final standards governing the cleanup and disposal of the mill tailings and other residual radioactive materials in the Federal Register of January 5, 1983 (48 FR 590).

Pursuant to Pub. L. 95–604, the DOE and the Sate of Colorado entered into a cooperative agreement, effective October 19, 1981, in order to implement the remedial action program at the nine Colorado processing sites designated by the DOE, including the former Climax Uranium Company site near Grand Junction. The State of Colorado will assist the DOE in scoping, scoping meetings, hearings on the draft EIS, and in connection with other NEPA process matters.

The former Climax Uranium Company site is south of Grand Junction, just outside the city limits. From 1951 to 1970 a mill built on the site processed uranium and vanadium ores. Between 1951 and 1966 uranium and some vanadium was produced under contract to the Federal government. The rest of the vanadium was sold commercially, as was the uranium produced after 1966. The original 203-acre site was owned by the Climax Uranium Company, but between 1970 and 1976 the land was divided and sold. Some of the mill buildings are still standing, and the tailings from the operations remain in one large pile covering about 59 acres. The tailings pile, the mill-building area, and the area of the old effluent ponds now comprise the processing site designated for remedial action by the DOE. Portions of the designated site are owned by the Sand Extraction Company (61 acres), Bess Investments (7 acres), and the State of Colorado (40 acres). The remaining 95 acres, although not included in the designated site, will be considered for clean up as vicinity properties.

In addition, about 300,000 tons of tailings were carried offsite and used locally in building materials and as fill on properties in the vicinity of Grand Junction. In 1972, Congress passed Pub. L. 92–314 (later amended by Pub. L. 95–236) authorizing a cooperative Federal and State program to perform remedial actions on structures in Grand Junction. Several hundred structures have been cleaned up under this program. The tailings and other contaminated materials removed during this work are being temporarily stored on the State-owned portion of the designated site and will be permanently disposed of along with the undisturbed tailings as part of the present remedial action program.

The DOE has made preliminary assessments of the tailings pile at the former Climax Uranium Company site and of possible remedial actions. A document describing the preliminary assessments of the Grand Junction tailings is the "Phase II Title I Engineering Assessment of Inactive Uranium Mill Tailings, Grand Junction Site, Grand Junction, Colorado" (DOE/UMT–0105), which is available for public inspection at the locations listed at the end of this notice. The State of Colorado investigated several areas in which the tailings might safely be permanently disposed of and recommended four of them to the DOE as possible candidate disposal sites for further study. The DOE has selected three of these sites for detailed analysis in the draft EIS.

In order to proceed with the selection of an appropriate remedial action, the DOE will prepare an EIS that will analyze the effects of a range of reasonable alternatives. After the completion of a final EIS, the plan for remedial action on the Grand Junction tailings will be selected, probably in 1984. The remedial action could then begin in 1985 and be completed during 1989, subject to the appropriation of sufficient funds by the Congress and by the State of Colorado to cover the remedial action costs.

Preliminary Identification of Environmental Issues

Major issues to be analyzed during the preparation of the EIS will include:

1. Exposures to radiation that the public and the workers on the project will receive from routine operations.

2. Exposures to radiation from hypothetical accidents that release radioactive material.

3. Effects on surface and ground waters.

4. Effects on transportation networks, including changes in traffic patterns and volumes.

5. Effects of accidents other than effects arising from releases of radioactive material.

6. Impacts to and within the floodplain of the Colorado River.

Other issues to be analyzed will include:

1. Changes in air quality caused by dust and other pollutants.

2. Effects on soils and mineral resources.

3. Effects on plants and animals.

4. Changes in land use.

5. Changes in noise levels during the actions.

6. Effects on scenic, historic, and cultural resources.

7. Changes in population and effects on housing, social structure, services, and economic structure in the communities near the affected places.

8. Expected use of energy and other resources.

9. Benefits of reprocessing the tailings to recover minerals.

The lists are not intended to be all-inclusive nor to be a predetermination of impacts.

Analyses of the listed effects will be made for the mill-tailings site, the disposal sites, the reprocessing sites if any, the transportation routes, and (to the extent feasible) the sites where cover material is obtained. The analyses will cover both the time when the remedial action is in progress and the time after it has been completed.

Preliminary Definition of Alternatives

The DOE will consider all reasonable alternatives to the proposed action and their environmental impacts. The alternative actions presently proposed for analysis in the draft EIS are briefly listed below. This list will be finalized following the scoping process.

Alternative 1: No Action

Under this alternative, the tailings pile would be left in place; no measures would be taken to control or stabilize the tailings.

Alternative 2: Stabilization in Place

This alternative consists of decontaminating Grand Junction vicinity properties and consolidating all residual radioactive materials removed from such properties with the tailings pile at the former Climax Uranium Company site. All mill tailings and residual radioactive materials would then be stabilized at the site, including the emplacement of cover material to reduce the radon flux in accordance with prescribed EPA standards.

Alternative 3: Decontamination of the Former Climax Uranium Company Site and Removal of the Tailings to a New Disposal Site

This alternative involves selecting a site for stabilization and control of the tailings and other residual radioactive materials other than the former Climax Uranium Company site. All residual radioactive materials removed from Grand Junction vicinity properties and the uranium mill tailings pile at the former Climax Uranium Company site would be transported to one of the following State-recommended sites:

a. 6&50 Reservoir Site. The site is about 24 miles northwest of Grand Junction and about 6 miles west of the community of Mack. Route 6&50 runs north of the site, and Interstate 70 passes to the south. The site is used for grazing, and there are no oil and gas leases on the site. The site is underlain by Mancos Formation shale.

b. Cheney Reservoir Site. The site is about 17 miles southwest of Grand Junction and 5 miles southeast of the community of Whitewater. The site lies near Route 50 and is used for grazing. An electric power-transmission line runs across the site. The area just north, along Kannah Creek, is intensively farmed. There are a number of oil and gas leases on the site. Parcels of privately owned land adjoin the site on three sides. The site is underlain by Mancos Formation shale.

c. Lucas Mesa Site. The Lucas Mesa site is 2 miles south of the Colorado River on a mesa that rises about 1000 feet above the surrounding terrain. It is about 4 miles from the town of DeBeque and about 40 miles east of Grand Junction. The site, which is Federally owned, is used for grazing and is subject to several leases for oil and gas exploration. The site is surrounded by privately owned parcels of land, and the land to the north in the Colorado River valley is intensively farmed. The site is underlain by the Wasatch Formation.

Disposal of the Grand Junction tailings at Lucas Mesa is a reasonable alternative only if the Rifle tailings are also disposed of there. The EIS being prepared for remedial action on the Rifle tailings will address the cumulative site-specific impacts of disposal at Lucas Mesa. The decision on the Rifle tailings will be made prior to or concurrently with the decision on the Grand Junction tailings.

The other site nominated by the State is the East Salt Creek site, which is similar to and in the same area as the 6&50 Reservoir site.

Comments and Scoping Meeting

The DOE invites all interested parties to submit written comments or suggestions on the draft EIS and to attend the scoping meetings. The purposes of the meetings and of the request for written comments are to provide the DOE, the NRC, and the State with as much information from as many viewpoints as possible and to provide interested persons with opportunities to express their views. The DOE will then determine, in consultation with the NRC and the State, the scope of the issues to be addressed in the draft EIS and will identify the significant issues related to the remedial action.

Public scoping meetings will be held in Grand Junction, Colorado, on February 8 & 9, 1983. The time and place will be announced in local news publications; they may also be obtained from J. A. Morley at the address given above.

Persons desiring to make oral comments at the meetings should mail their requests to J.A. Morley at the above address and should write "Grand Junction scoping meetings" on the envelope. They should notify the DOE of their desire to speak before February 1, 1983, so that the DOE may arrange a schedule for the presentations.

The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits.

Written comments and suggestions for issues to be addressed in the draft EIS should be sent to J.A. Morley at the address given above by February 14, 1983. Written comments will be considered and given equal weight with oral comments in the preparation of the EIS.

On the completion of the draft EIS, notice of its availability will be announced in the **Federal Register**, and the Department of Energy will again solicit comments. Persons who do not desire to submit comments or suggestions during the scoping period but who wish to receive a copy of the draft EIS for review and comment when it is issued should notify J. A. Morley at the above address. Persons seeking further information may inquire at either of the addresses given above.

Transcripts of the scoping meetings will be prepared by the DOE. Members of the public may inspect the transcripts of the scoping meetings and other documents now planned for use in preparing the draft EIS at the following locations:

Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Bendix Field Engineering Corporation Library, P.O. Box 2557, Grand Junction, Colorado 81502

Mesa County Library, 530 Grand Avenue, Grand Junction, Colorado 81501, Attn: Terry Pickens

Learning Resource Center, Mesa College, P.O. Box 2647, Grand Junction, Colorado 81502, Attn: Mr. Charles Hendrickson

Rifle Branch Library, 337 East Avenue, Rifle, Colorado 81650

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado 80210

Dated at Washington, D.C., this 17th day of January 1983, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83–1609 Filed 1–20–83; 8:45 am]

BILLING CODE 6450–01–M

Inactive Uranium Mill Tailings Sites Near Rifle, Colo.; Compliance With the National Environmental Policy Act; Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for Remedial Actions

AGENCY: Energy Department.

ACTION: Notice is hereby given that the Department of Energy intends to prepare an environmental impact statement (EIS) to assess the environmental implications of remedial actions to be performed on the inactive uranium mill tailings piles and vicinity properties near Rifle, Colorado.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS, in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), to provide environmental input into the selection of an appropriate remedial action in connection with uranium mill tailings and other residual radioactive materials at two inactive uranium mills near Rifle, Colorado, and at residences, commercial buildings, and open lands in the Rifle area which are contaminated with mill tailings derived from the inactive uranium mills. The DOE's proposed action is to perform remedial action pursuant to Pub. L. 95–604, the Uranium Mill Tailings Radiation Control Act of 1978. Such remedial actions consist of those measures taken to stabilize or control the mill tailings to the extent necessary to ensure that the radiological and non-radiological impacts from the mill tailings do not exceed the standards for the protection of the public health, safety, and environment promulgated by the Environmental Protection Agency (EPA). The EIS will consider the options of remedial action and no remedial action. In addition, the EIS will consider the following remedial action alternatives: stabilization of the tailings in their present locations, consolidation and stabilization of the tailings at one of the present locations, and removal of the tailings from both locations to a new disposal site. The DOE is serving as the lead agency for preparation of the EIS; Nuclear Regulatory Commission (NRC) will participate as a cooperating agency.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS. Comments or suggestions to assist the DOE in identifying significant environmental issues and the appropriate scope of the draft EIS are requested. Comments may be submitted by mail or presented at scoping meetings to be held in Rifle, Colorado, on February 7 & 8, 1983. On completion of the draft EIS, notice of its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meetings may be submitted to: Mr. James A. Morley, Uranium Mill Tailings Project Office, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115, (505) 844–3941.

Envelopes should be marked "DEIS for Rifle tailings piles."

General information on the process followed by the DOE in preparing environmental impact statements may be obtained from: Office of

Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, ATTN: Mr. Steven R. Woodbury, Room 4G-064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-4610.

DATES: Written comments postmarked by February 14, 1983 will be considered in the preparation of the DEIS. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held in Rifle, Colorado, on February 7 and 8, 1983. Requests to speak at these meeting should be received by J. A. Morley at the above address by February 1, 1983. Requests to speak may also be made during registration for the meetings.

Background Information

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Pub. L. 95-604. In this Act the Congress found that uranium mill tailings may pose a potential and significant radiation health hazard to the public and directed the DOE to designate processing sites for remedial action to remove this potential hazard. The DOE has designated 24 sites for remedial action, including the two Union Carbide Corporation sites near Rifle. Public Law 95-604 requires that the DOE carry out remedial action at each site in cooperation with other agencies and with the States and Indian tribes affected by the action. The NRC's statutory responsibilities include consulting with the DOE over a range of subjects concerning the conduct of the remedial action, concurring with the selected remedial action and with any cooperative agreement with a State or Indian tribe, and licensing the long-term maintenance and monitoring of each tailings-disposal site after the remedial action is completed. In view of its statutorily-prescribed role in connection with the remedial action program, the NRC has agreed to participate as a "cooperating agency" as defined by the Council on Environmental Quality regulations implementing NEPA (40 CFR 1508.5). In addition, the EPA was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites. Any remedial action must be in accordance with these EPA standards. The EPA published final standards governing the cleanup and disposal of the mill tailings and other residual radioactive materials in the **Federal Register** of January 5, 1983 (48 FR 590).

Pursuant to Public Law 95-604, the DOE and the State of Colorado entered into a cooperative agreement, effective October 19, 1981, in order to implement the remedial action program at the nine Colorado processing sites designated by the DOE, including the inactive Union Carbide Corporation sites near Rifle. The State of Colorado will assist the DOE in scoping, scoping meetings, hearings on the draft EIS, and in connection with other NEPA process matters.

The Old Rifle site is 0.3 mile east of the City of Rifle in Garfield County, Colorado. The 22-acre site is owned by the Union Carbide Corporation. Initially, only vanadium was produced, but in 1946 a uranium-recovery capability was added. Between 1947 and 1958, over 2100 tons of uranium produced by the mill were purchased by the Federal government. After 1958, about half of the tailings originally on the site was transferred to the New Rifle site for reprocessing. The remaining 400,000 tons of tailings occupy about 11 acres. The old mill area occupies the rest of the site, but only one building is still standing. The rather flat tailings pile is stabilized with vegetative cover maintained by the Union Carbide Corporation. On the south the site is separated from the Colorado River by the tracks and embankment of the Denver and Rio Grande Western Railroad; Route 6 & 24 passes just north of the site. Over half of the base of the pile is below the 200-year flood elevation. The pile, however, is separated from the Colorado River by the railroad embankment, which would be barely overtopped by the 200-year flood.

The New Rifle site is 2 miles west of the City of Rifle. The 300-acre site is owned by the Union Carbide Corporation. About half the site is occupied by the mill, which is still in intermittent operation processing vanadium liquors. The New Rifle mill began operating in 1958, and between 1958 and 1970, over 5000 tons of uranium produced by the mill were purchased by the Federal government. The uranium produced during 1971 and 1972 and all of the vanadium produced by the mill were sold commercially. About 2.7 million tons of tailings, which cover about 32 acres, are in a two-level pile, the upper terrace of which is about 70 feet high and the lower terrace of which is about 45 feet high. The pile is stabilized with vegetative cover maintained by the Union Carbide Corporation. In addition to the mill area and the tailings pile, the site includes 2 ore-storage areas, settling and effluent ponds, and a large unused area west of the tailings pile. The site is bounded on the east and south by the Colorado River, and on the south Interstate 70 runs at the edge of the site between the river and the tailings. About half of the base of the pile is below the 200-year flood elevation. A levee on the east protects the site, but the top of the levee is of approximately the same elevation as the 200-year flood. Highway 6 & 24 and the Denver and Rio Grande Western Railroad pass just north of the site.

Vicinity properties contaminated with either windblown tailings or other residual radioactive material from either site will be cleaned up as a part of the remedial action program.

The DOE has made preliminary assessments of the tailings piles at the Rifle sites and of possible remedial actions. A document describing the preliminary assessments of the Rifle tailings is the "Engineering Assessment of Inactive Uranium Mill Tailings, Old and New Rifle Sites, Rifle, Colorado" (DOE/UMT-0108), which is available for public inspection at the locations listed at the end of this notice. The State of Colorado investigated several areas in which the tailings might safely be permanently disposed of and recommended four of them to the DOE as possible candidate disposal sites for further study. The DOE has selected one of these sites for detailed analysis in the draft EIS.

In order to proceed with the selection of an appropriate remedial action, the DOE will prepare an EIS that will analyze the effects of a range of reasonable alternatives. After the completion of a final EIS, the plan for remedial action on the Rifle tailings will be selected, probably in 1984. The remedial action could then begin in 1985 and be completed during 1987, subject to the appropriation of sufficient funds by the Congress and by the State of Colorado to cover the remedial action costs.

Preliminary Identification of Environmental Issues

Major issues to be analyzed during the preparation of the EIS will include:

1. Exposures to radiation that the public and the workers on the project will receive from routine operations.

2. Exposures to radiation from hypothetical accidents that release radioactive material.

3. Effects on surface and ground waters.

4. Effects on transportation networks, including changes in traffic patterns and volumes.

5. Effects of accidents other than effects arising from releases of radioactive material.

6. Impacts to and within the floodplain of the Colorado River.

Other issues to be analyzed will include:

1. Changes in air quality caused by dust and other pollutants.

2. Effects on soils and mineral resources.

3. Effects on plants and animals.

4. Changes in land use.

5. Changes in noise levels during the actions.

6. Effects on scenic, historic, and cultural resources.

7. Changes in population and effects on housing, social structure, services, and economic structure in the communities near the affected places.

8. Expected use of energy and other resources.

9. Benefits of reprocessing the tailings to recover minerals.

The lists are not intended to be all-inclusive nor to be a predetermination of impacts.

Analyses of the listed effects will be made for the mill-tailings site, the disposal sites, the reprocessing sites if any, the transportation routes, and (to the extent feasible) the sites where cover material is obtained. The analyses will cover both the time when the remedial action is in progress and the time after it has been completed.

Preliminary Definition of Alternatives

The DOE will consider all reasonable alternatives to the proposed action and their environmental impacts. The alternative actions presently proposed for detailed analysis in the draft EIS are briefly listed below. This list will be finalized following the scoping process.

Alternative 1: No Action

Under this alternative, the tailings piles would be left in place; no measures would be taken to control or stabilize the tailings.

Alternative 2: Stabilization in Place

This alternative consists of decontaminating the Rifle vicinity properties and consolidating all residual radioactive materials removed from such properties with the tailings piles at the Union Carbide Corporation sites. All mill tailings and residual radioactive materials would then be stabilized at the sites; stabilization will include the emplacement of cover material to reduce the radon flux in accordance with EPA standards.

Alternative 3: Consolidation and Stabilization in Place at the Union Carbide Corporation New Rifle Site

This alternative involves consolidating all residual radioactive materials from Rifle vicinity properties and the tailings from one of the Union Carbide Corporation sites at the remaining Union Carbide Corporation site. The New Rifle site is the only one of the two sites with enough unused area to conveniently accommodate additional tailings. The uranium mill tailings from the Old Rifle site would be moved to the New Rifle site, and the former would be decontaminated and released for other use. The material consolidated at the New Rifle site would be stabilized as in Alternative 2 above.

Alternative 4: Decontamination of the Union Carbide Corporation Sites and Removal of the Tailings to a New Disposal Site

This alternative involves selecting a site for stabilization and control of the tailings and other residual radioactive materals other than the Union Carbide Corporation sites. All residual radioactive materials removed from Rifle vicinity properties and the uranium mill tailings piles at the Union Carbide Corporation sites would be transported to a State-recommended site on Lucas Mesa. The Lucas Mesa site is 2 miles south of the Colorado River on a mesa that rises about 1000 feet above the surrounding terrain. It is about 4 miles from the town of DeBeque and about 33 miles west of Rifle. The site, which is Federally owned, is used for grazing and is subject to several leases for oil and gas exploration. The site is surrounded by privately owned parcels of land, and the land to the north in the Colorado River valley is intensively farmed. The site is underlain by the Wasatch Formation.

The other sites nominated by the State include the East Salt Creek site and the 6 & 50 Reservoir site, both of which are west of Grand Junction, and the Cheney Reservoir site, which is southeast of Grand Junction. They are more suitable for disposal of the tailings from the Grand Junction site, and two of them will be examined in detail in a separate EIS on the Grand Junction tailings. In addition, disposal of the Grand Junction tailings at the Lucas Mesa site is being considered, and any cumulative site-specific impacts will be addressed in the present EIS. Lucas Mesa is a reasonable alternative for disposal of the Grand Junction tailings only if the Rifle tailings are being disposed of there. The decision on the Rifle tailings will be made prior to or concurrently with the decision on the Grand Junction tailings.

Comments and Scoping Meeting

The DOE invites all interested parties to submit written comments or suggestions on the draft EIS and to attend the scoping meetings. The purposes of the meetings and of the request for written comments are to provide the DOE, the NRC, and the State with as much information from as many viewpoints as possible and to provide interested persons with opportunities to express their views. The DOE will then determine, in consultation with the NRC and the State, the scope of the issues to be addressed in the draft EIS and will identify the significant issues related to the remedial action.

Public scoping meetings will be held in Rifle, Colorado, on February 7 & 8, 1983. The times and place will be announced in local news publications; they may also be obtained from J. A. Morley at the address given above.

Persons desiring to make oral comments at the meetings should mail their requests to J. A. Morley at the above address and should write "Rifle scoping meetings" on the envelope. They should notify the DOE of their desire to speak before February 1, 1983, so that the DOE may arrange a schedule for the presentations.

The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits.

Written comments and suggestions for issues to be addressed in the draft EIS should be sent to J. A. Morley at the address given above by February 14, 1983. Written comments will be considered and given equal weight with oral comments in the preparation of the EIS.

On the completion of the draft EIS, its availability will be announced in the **Federal Register**, and the Department of Energy will again solicit comments. Persons who do not desire to submit

comments or suggestions during the scoping period but who wish to receive a copy of the draft EIS for review and comment when it is issued, should notify J. A. Morley at the above address. Persons seeking further information may inquire at either of the addresses given above.

Transcripts of the scoping meetings will be prepared by the DOE. Members of the public may inspect the transcripts of the scoping meetings and other documents now planned for use in preparing the draft EIS at the following locations:

Freedom of Information Reading Room, Room 1E-190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585
Bendix Field Engineering Corporation Library, P.O. Box 2567, Grand Junction, Colorado 81502
Mesa County Library, 530 Grand Avenue, Grand Junction, Colorado 81501, Attn: Terry Pickens
Learning Resource Center, Mesa College, P.O. Box 2647, Grand Junction, Colorado 81502, Attn: Mr. Charles Hendrickson
Rifle Branch Library, 337 East Avenue, Rifle, Colorado 81650
Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado 80210

Dated at Washington, D.C., this 17th day of January 1983, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-1610 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Dalco Petroleum Corp. and Subsidiaries and Louis Porter; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Dalco Petroleum Corporation and its subsidiaries and Louis Porter and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by February 22, 1983.

ADDRESS: Send comments to: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 S. Houston, Room 306, Tulsa, OK 74127.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 South Houston, Room 306, Tulsa, Oklahoma 74127, (918) 581-7781.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On December 28, 1982, the ERA executed a proposed Consent Order with Dalco Petroleum Corporation, an Oklahoma Corporation, and Louis Porter of Tulsa, Oklahoma. Under 10 CFR 205.199J(b) a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

The Consent Order

Dalco Petroleum Corporation, with its home office located in Tulsa, Oklahoma, and Louis Porter, an individual, engaged in the resale of crude oil and the sale of natural gas liquids and natural gas liquid products. Dalco Petroleum Corporation and Louis Porter were subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, and 213 in connection with Dalco Petroleum Corporation's and Louis Porter's transactions involving the resale of crude oil and sales of natural gas liquids and natural gas liquid products during the period April 1, 1974 through January 27, 1981 ("the period covered by this Consent Order"), the ERA, Dalco Petroleum Corporation, and Louis Porter entered into a Consent Order, the significant terms of which are as follows:

A. During the period March 1976 through January 27, 1981, Dalco Petroleum Corporation and its subsidiaries and Louis Porter engaged in the resale of crude oil. During the period April 1974 through January 27, 1981 Dalco Petroleum Corporation and its subsidiaries and Louis Porter engaged in the sale of natural gas liquids and natural gas liquid products.

B. DOE has alleged that during the period covered by this Consent Order, Dalco Petroleum Company and Louis Porter improperly priced and certified crude oil in violation of 10 CFR Part 212, Subparts F and L and improperly priced propane and butane in violation of 10 CFR Part 212, Subparts E, F, and K.

C. The execution of this Consent Order constitutes neither an admission by Dalco Petroleum Corporation and its subsidiaries or Louis Porter nor a finding by DOE of any violation by the Dalco Petroleum Corporation and its subsidiaries or Louis Porter of any statute or regulation administered by DOE.

II. Refunds

Under this Consent Order, Dalco Petroleum Corporation will pay the sum of four million dollars ($4,000,000) to DOE for deposit in the U.S. Treasury as miscellaneous receipts in twelve yearly installments commencing August 31, 1983. If installment payments are not made as provided in the Consent Order, Dalco shall pay installment interest on the unpaid payment from the date due until paid at the average prime rate for that calendar quarter and for each subsequent calendar quarter. Payment of the sums is secured by the assignment to DOE of an interest in the net proceeds from the sale of oil and gas production attributable to the working interest held by Dalco in a well located in Pointe-Coupee Parish, Louisiana. DOE shall receive the greater of four million dollars or the amount attributable to the assignment of net proceeds. Upon full satisfaction of the terms and conditions of this Consent Order by Dalco Petroleum Corporation, the DOE releases Dalco Petroleum Corporation from all civil claims that the DOE may have arising out of Dalco Petroleum Corporation's and its subsidiaries' compliance with the statutes and regulations administered by the DOE during the period covered by this Consent Order.

Under this Consent Order, Louis Porter will pay the sum of one million dollars ($1,000,000) to DOE for deposit in the U.S. Treasury as miscellaneous receipts in four installments commencing January 2, 1984. Payment of the sums is secured by the assignment by Louis Porter of certain assets to an escrow agent as agent for the DOE. If installment payments are not made as provided in the Consent Order, Louis Porter shall pay installment interest from the date due until paid at the

average prime rate for that calendar quarter and for each subsequent calendar quarter. Upon full satisfaction of the terms and conditions of this Consent Order by Louis Porter, the DOE releases Louis Porter from all civil claims that the DOE may have arising out of Louis Porter's compliance with the statutes and regulations administered by the DOE during the period covered by the Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Dalco Petroleum and Louis Porter Consent Order". The ERA will consider all comments it receives by 4:30 pm, local time, on February 22, 1983. Any information or data considered confidential by the person submitting it may be identified as such in accordance with the procedure in 10 CFR 205.9(f).

Issued in Tulsa, Oklahoma on the 7th day of January 1983.

James E. Pohl,

Acting Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83-1605 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Santa Fe Energy Company; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Santa Fe Energy Company as a final order of the Department.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002.

SUPPLEMENTARY INFORMATION: On November 30, 1982, ERA published a notice in the **Federal Register** (47 FR 53941) that it had executed a proposed Consent Order with Santa Fe Energy Company on November 9, 1982 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The proposed Consent Order involved the resolution of certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with certain Santa Fe transactions involving first sales of domestic crude oil during the period September 1, 1973 through January 28, 1981. Pursuant to the proposed Consent Order, Santa Fe Energy Company will pay the sum of $2,700,000 within thirty (30) days of the effective date of the Consent Order for deposit in the U.S. Treasury as miscellaneous receipts.

Comments were received from four states. Although none of the commentors objected to the terms of the proposed Consent Order, they did object to the method of distributing the refund contemplated by the proposed Consent Order and suggested instead that the refund be distributed to the various states.

Because the sales of crude oil were to refiners that were able to pass on the alleged overcharges to subsequent purchasers, ERA was unable to identify specific parties, if any that ultimately may have been injured.

In this case ERA has determined that deposit in the U.S. Treasury is an appropriate remedy under these circumstances. Therefore, the proposed Consent Order was made final and effective without modification on January 7, 1983.

Issued in Houston, Texas on the 7th day of January, 1983.

Sandra K. Webb,

Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1604 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-025]

American Cyanamid Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On February 3, 1982, American Cyanamid Company (American Cyanamid), One Cyanamid Plaza, Wayne, New Jersey 07470, was granted a recertification of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81-CERT-028, effective February 5, 1982). The certification involved the purchase of natural gas from Conecuh-Monroe Counties Gas District for use by American Cyanamid at its acrylic fiber plant located in Pensacola, Florida. The ERA certificate expires on February 4, 1983.

On December 15, 1982, American Cyanamid filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Pensacola plant pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA Natural Gas Division Docket Room, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, American Cyanamid states that the volume of natural gas for which it requests recertification is up to 3,000 Mcf per day. The use of this gas is estimated to displace the use of up to 20,000 gallons (476 barrels) of No. 6 fuel oil (2.5 percent sulfur) per day at the Pensacola plant. The eligible seller of the natural gas is Conecuh-Monroe Counties Gas District, P.O. Box 310, Evergreen, Alabama 36401. The gas will be transported by United Gas Pipe Line Company, 700 Milam, P.O. Box 1478, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to American Cyanamid and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on January 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-1606 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-035]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulation Administration, Energy.

ACTION: Notice of Approval of Conservation Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, telephone (202) 252-6020. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on January 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Edward Peters, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073 G, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-8162;

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D-033, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6947

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA) amended FUA by adding a new Section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such proposed conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities meet the requirements for approval contained in 10 CFR 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR Part 1500 *et seq.*). Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to 10 CFR 508.5 and section 808 (d)(1) of FUA, DOE hereby approves the electric utility conservation plans submitted by the utilities listed below.

Each of the electric utilities whose plans are approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983. The report shall be sent to: Steven Ferguson, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-093, 1000 Independence Avenue, SW., Washington D.C. 20585.

The following utilities conservation plans are approved:

Utilities	FC Case No.
Chugach Electric Association, Anchorage, Alaska	50552-9999-99-49
City of Alexandria, Alexandria, La	50043-9999-99-49
Hutchinson Utilities Commission, Hutchinson, Minn	51375-9999-99-49
City of Ottawa, Ottawa, Kans	52204-9999-99-49
City of Winfield, Winfield, Kans	53320-9999-99-49
Columbus & Southern Ohio Electric Co., Columbus, Ohio	50633-9999-99-49
Montana Dakota Utilities Co., Bismarck, N. Dak	51913-9999-99-49
New Mexico Electric Service Co., Hobbs, N. Mex	52023-9999-99-49
Tennessee Valley Authority, Chattanooga, Tenn	52987-9999-99-49
The Empire District Electric Co., Joplin, Mo	50904-9999-99-49
Tucson Electric Power Co., Tucson, Ariz	52970-9999-99-49
Wisconsin Public Service Corp., Green Bay, Wis	53333-9999-99-49

Issued in Washington, D.C. on January 13, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-1907 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Bruin Corp. and Bruin Marketing, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Bruin Corporation and Bruin Marketing, Inc. (Bruin), Capital National Bank Building, 1300 Main Street, Houston, Texas 77002. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violations for the period September 1978 through December 1979 is $188,627.26.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may

file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 5th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1600 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Hideca Petroleum Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Hideca Petroleum Corp. (Hideca), One Riverway, Suite 2480, Houston, Texas 77056. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62(c), and 205.202. The principal amount of the alleged violations for the period October 1978 through November 1979 is $7,847,940.48.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 6th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1601 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Kelly Trading Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(C), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Kelly Trading Corporation (Kelly), 5065 Westheimer, Suite 805 East, Houston, Texas 77056. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violations for the period January through November 1980 is $360,986.25.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 6th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1603 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Osborne Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Osborne Energy Corporation and its President E. O. White, Eleven Greenway Plaza, Suite 626, Houston, Texas 77046. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violations for the period October through December 1980 is $3,002,024.71.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 6th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1602 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulation Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective February 1, 1983. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, SW., Room BE-034, Washington, D.C. 20585, telephone (202) 252-6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine

the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.90
Arizona [1]	3.82
Arkansas [1]	3.66
California	3.80
Colorado [2]	3.77
Connecticut [1]	4.01
Delaware [1]	3.96
Florida	3.83
Georgia [1]	3.96
Idaho [2]	3.77
Illinois [1]	3.83
Indiana	3.65
Iowa [1]	3.86
Kansas [1]	3.86
Kentucky [1]	3.83
Louisiana [1]	3.66
Maine [1]	4.01
Maryland [1]	3.96
Massachusetts	3.91
Michigan	3.57
Minnesota	3.69
Mississippi [1]	3.96
Missouri [1]	3.86
Montana [2]	3.77
Nebraska [1]	3.86
Nevada [1]	3.82
New Hampshire [1]	4.01
New Jersey	3.86
New Mexico	3.37
New York [1]	3.96
North Carolina [1]	3.96
North Dakota [1]	3.86
Ohio	3.69
Oklahoma [1]	3.66
Oregon [1]	3.82
Pennsylvania [1]	3.96
Rhode Island [1]	4.01
South Carolina [1]	3.96
South Dakota [1]	3.86
Tennessee [1]	3.96
Texas	3.60
Utah [2]	3.77
Vermont [1]	4.01
Virginia [1]	3.96
Washington [1]	3.82
West Virginia [1]	3.83
Wisconsin	3.72
Wyoming [2]	3.77

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79-21.
[2] Region based price computed as the weighted average price of Regions E, F, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during November 1982 was $41.59 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective February 1, 1983, is $9.32 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of September 1982, October 1982, and November 1982.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective February 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, September 1982, October 1982, and November 1982. Reported prices for sales in September 1982 were adjusted by the percent change in the nationwide volume-weighted average price from September 1982 to November 1982. Prices for October 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from October 1982 to November 1982. The volume-weighted 3-month average of the adjusted September 1982 and October 1982, and the reported November 1982 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B. (1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section II.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were no reported sales in Region G for the months of September, October, and November 1982. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States.

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending January 14, 1983, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of November 1982. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region. States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region B

Delaware, Maryland, New Jersey, New York, Pennsylvania

Region C

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia

Region D

Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Wisconsin

Region E

Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, South Dakota

Region F

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region G

Colorado, Idaho, Montana, Utah, Wyoming

Region H

Arizona, California, Nevada, Oregon, Washington

Issued in Washington, D.C., January 18, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-1796 Filed 1-19-83; 11:23 am]

BILLING CODE 6450-01-M

Office of Energy Research

Materials R&D Panel Energy Research Advisory Board; Meeting:

Notice is hereby given of the following meeting:

Name: Materials R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and Time: February 25, 1983; 8 a.m. to 4 p.m.

Place: Department of Energy, Room 4A-110, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

Contact: William Woodard, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-8, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide lone-range guidance in these areas to the Department.

Tentative agenda

—Discussion of Initial Working Outline for Draft Report

—Future Meetings Outside Washington, D.C.

—Overview of Other Federal Agencies' Programs in Materials R&D

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 17, 1983.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 83-1908 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-11893-000, et al.]

Mobil Producing Texas & New Mexico Inc., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

January 17, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11893-000, D, Jan. 3, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Eunice Area, Lea County, New Mexico.	(1)	
G-18041-000, D, June 2, 1982	Coastal Oil & Gas Corporation, Nine Greenway Plaza, Houston Texas 77046.	Columbian Fuel Corporation, Jefferson Field (Sharp-McMillan Lands), Nicholas County, West Virginia.	(2)	
G-18041-001, D, June 2, 1982	do	Columbia Gas Transmission Corp. (formerly United Fuel Gas Co.), Scott Field, Putnam County, West Virginia.	(3)	
G-18041-002, D, June 2, 1982	do	Consolidated Gas Supply Corp., Crook Field, Boone and Raleigh Counties, West Virginia.	(3)	
G-18041-003, D, June 2, 1982	do	Consolidated Gas Supply Corp., Triadelphia Field (Eunice Lands), Wyoming and Logan Counties, West Virginia.	(3)	
CI62-249-002, D, June 2, 1982	do	Columbia Gas Transmission Corp. (formerly United Fuel Gas Co.), Stafford Field (Skillet, Fork, and Hare Lands), Mingo County, West Virginia.	(3)	
CI63-1128-000, D, June 2, 1982	do	Consolidated Gas Supply Corporation, Crook Field (Y and O Lands), Boone County, West Virginia.	(3)	
CI80-429-001, D, December 9, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Comapany, Vermilion Block 251 Area, Offshore Louisiana.	(4)	14.73
CI83-105-000 (CI69-800), B, Dec. 27, 1982.	Sun Exploration and Production Company, formerly Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	United Gas Pipe Line Company, State Tract 773-L, Mustang Island Area, Offshore Nueces County, Texas.	(5)	
CI83-106-000, A, Dec. 27, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	West Lake Arthur Corporation, Vermilion Block 251, Offshore Louisiana.	(6)	15.025
CI83-107-000 (CI63-1025), B, Dec. 27, 1982.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, North Carter Field, Beckham County, Oklahoma.	(7)	
CI83-108-000 (CI66-320), B, Dec. 29, 1982.	Charles F. Lucas Jr. and Genaviee J. Anderson (successor to L & H Drilling Company, Inc.), 4631 Old Hartford Road, Owensboro, Kentucky 42301.	Texas Gas Transmission Corporation, Sugar Creek Gas Field, Hopkins County, Kentucky.	(7)	
CI83-109-000 (CI67-187), B, Dec. 29, 1982.	do	Texas Gas Transmission Corporation, New Hope Gas Field, Hopkins County, Kentucky.	(7)	
CI83-110-000 (CI76-621), B, Jan. 3, 1983.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, East Cameron Parish, Louisiana.	(4)	
CI63-111-000 (CI81-139-000), B, Jan. 3, 1983.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Cold Springs Field, San Jacinto County, Texas.	(8)	
CI83-112-000 (G-15511), B, Jan. 3, 1983.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	West Lake Natural Gasoline Company, Nena Lucia Field, Nolan County, Texas.	(10)	
CI83-113-000 (G-20585), B, Jan. 3, 1983.	do	do	(10)	
CI83-114-000 (G-15510), B, Jan. 3, 1983.	do	do	(10)	
CI83-115-000, A, Jan. 3, 1983	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	Tennessee Gas Pipeline Company, South East Tomball Field, Harris County, Texas.	(11)	14.73
G-18731-000, Jan. 6, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Lone Star Gas Company, Big Mineral Creek Field, Grayson County, Texas.	(12)	14.73

[1] By assignment and Bill of Sale dated October 19, 1982, to be effective November 1, 1982, Mobil Producing Texas & New Mexico Inc. assigned to Bliss Petroleum Inc. a certain lease.
[2] Leases subject to rate schedule were assigned to W. C. DeArman effective February 1, 1974. Coastal retained the undeveloped deep rights.
[3] Applicant is filing under Gas Purchase Contract dated July 18, 1960.
[4] Sun released rights to this lease because the reserves are depleted and the wells have been plugged and abandoned.
[5] Applicant is filing under Gas Purchase and Sales Agreement dated December 23, 1982.
[6] ARCO released all leases covered by the May 3, 1961 Gas Purchase Contract and no longer owns any working interest in the properties. The contract expired on its own terms on August 1, 1981, and was cancelled effective that date.
[7] Field depleted.
[8] Depletion of gas reserves & release of acreage by virtue of release dated July 31, 1973.
[9] On July 26, 1982, Getty Oil Company assigned all its interest in the dedicated acreage to Mr. Joe E. Smith.
[10] Original contract containing percentage-of-fixed-sum minimum price provision has been cancelled and superceded by a bonafide percentage-of-proceeds contract.
[11] Applicant is filing under Gas Purchase Agreement dated October 16, 1981.
[12] Applicant is filing under Gas Sales Contract dated September 15, 1981, amended by amendment dated April 15, 1982.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-1565 Filed 1-20-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of December 20 Through December 24, 1982

Correction

In FR Doc. 83-1468 beginning on page 2426 in the issue of Wednesday, January 19, 1983, second column, in the heading, the Subagency now reading **"Federal Energy Regulatory Commission"** should read as set forth above.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2288-5]

Availability of Environmental Impact Statements Filed January 10 Through January 14, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 382-5076.

Corps of Engineers:

EIS No. 830022, Draft, COE, SEV, OR, WA, Mouth of the Columbia River, Navigation Channel Improvement, Due: Mar. 7, 1983

EIS No. 830013, DSuppl, COE, OK, Kaw Lake Hydropower & Multipurpose Project, Kay/Osage/Cowley Counties, Due: Mar. 7, 1983

Department of Interior:

EIS No. 830016, Draft, BLM, SEV, UT, WY, Chevron Phosphate Project, C/O, Right-of-Way Permit, Due: Mar. 15, 1983

EIS No. 830020, Final, BLM, UT, Price River Resource Area Grazing Mgmt. Plan, Carbon and Emery Cos., Due: Feb. 21, 1983

Department of Transportation:

EIS No. 830012, Draft, FHW, MD, I-595 Construction, I-95 to I-170, Baltimore County, Due: Mar. 11, 1983

EIS No. 830024, Draft, FHW, IL, Lake Front Highway Construction, I-94 to IL-132, Lake County, Due: Mar. 12, 1983

EIS No. 830014, Final, FHW, TN, Carthage

Bypass Construction, TN-53 to TN-25, Smith County, Due: Feb. 21, 1983
Department of Housing and Urban Development:
EIS No. 830015, Final, HUD, WY, Trails West Addition/Cottonwood Replat, Mortgage Ins., Natrona County, Due: Feb. 21, 1983
EIS No. 830025, Final, CDB, IL, Woodlawn Village Water/Sewer Facilities, UDAG, Jefferson County, Due: Feb. 21, 1983
EIS No. 830019, Final, HUD, UT, Utah Housing Development, Areawide Study, Due: Feb. 21, 1983
Environmental Protection Agency:
EIS No. 830017, Draft, EPA, SEV, FL, AL, MS, Pensacola/Mobile/Gulfport Disposal Sites, Designation, Due: Mar. 7, 1983
EIS No. 830023, Draft, EPA, AK, City of Anchorage Wastewater Treatment Facilities Expansion, Grant, Due: Feb. 21, 1983
Department of Defense, Navy:
EIS No. 830021, Final, USN, CA, West Coast Landing Craft Air Cushion Operational Base, San Diego, Co., Due: Feb. 21, 1983
Nuclear Regulatory Commission:
EIS No. 830018, Final, NRC, SC, Catawba Nuclear Station Units 1 and 2, Operating License, York County, Due: Feb. 21, 1983
Amended Notices:
EIS No. 820224, Draft, AFS, AK, Situk River Wild and Scenic Designation Study, Published FR Apr. 30, 1982—Review reopened, Due: Feb. 11, 1983
EIS No. 741082, Draft, NPS, UT, Capitol Reef National Park, Wilderness, Officially withdrawn
EIS No. 741725, Draft, NPS, SEV, NC, TN, Great Smokey Mountain National Park Wilderness Area, Officially withdrawn
EIS No. 760871, Draft, NPS, ME, Acadia National Park, General Management Plan, Officially withdrawn
EIS No. 761093, Draft, NPS, AZ, Grand Canyon National Park Wilderness Area, Officially withdrawn
EIS No. 760774, Draft, IBR, AZ, Orme Dam and Reservoir Construction, Central Arizona Project, Officially withdrawn

Dated: January 18, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83-1664 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2281-1]

Availability of Environmental Impact Statements Filed December 27 Through December 30, 1982 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83-471 on page 863 in the issue of Friday, January 7, 1983, make the following correction:

In the second and third columns, under "Amended Notices," remove the references to footnote 1 from all the entries except the first one, EIS No. 820815.

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Penn Square Bank, N.A., Oklahoma City, Oklahoma; Issuance of Powers of Attorney

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Public Notice.

SUMMARY: On October 27, 1982, the Federal Deposit Insurance Corporation (hereafter "FDIC") published notice of its appointment as Receiver of the Penn Square Bank N.A., Oklahoma City, Oklahoma, and of the issuance by the FDIC of general powers of attorney in favor of Thomas R. Procopio, liquidator, and six assistant liquidators (See 47 FR 47677, October 27, 1982). The notice was published in order to facilitate FDIC's discharge of its responsibilities as Receiver and specifically to comply with the provisions of title 16, section 20 of the Oklahoma Statutes (16 O.S. section 20), which creates an exception, based upon such publication, to the otherwise applicable requirement that powers of attorney be recorded locally in order to effect conveyances of interests in property. This notice supplements and updates the prior October 27, 1982 notice.

Notice

On January 6, 1983, the Director of the FDIC's Division of Liquidation appointed Thomas McAllister and John W. White acting assistant liquidators and provided each of them with power of attorney to act on behalf of the FDIC. On the same date powers of attorney that has previously been issued to Lewis F. Greene and Lamar C. Kelly, Jr., were revoked. Accordingly, with respect to both Mr. White and Mr. McAllister, each has been authorized and empowered to:

Sign, seal, and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery by the FDIC of any and all sums, moneys and properties of every kind and nature whatsoever for and on behalf of the FDIC, and to give receipts and acquittances therefor in the name and on behalf of the FDIC, for any and all such sums, moneys and properties received or taken into his possession; and further, without limitation on the generality of the foregoing, each is authorized and empowered for and in the name of the FDIC, to release, discharge or assign any and all judgments, mortgages on real estate or personal property, including the release and discharge of the same of record in the office of any prothonotary or register of deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the parties debtor, to endorse receipt of such payment upon the records in any such office or in any other appropriate public office; also to receipt, collect and give all proper acquittances for any other sums of money owing the FDIC or payable to the FDIC for any asset which he may sell or dispose of; also to execute any and all transfers and assignments as may be necessary to assign any shares, bonds, securities or other choses in action; also to sign, seal, acknowledge and deliver any and all leases and agreements as he shall deem necessary or proper in the care and management of the foregoing assets; to sign effectual receipts for the payment of all rents and profits due or to become due thereon; also to extend, postpone, release and satisfy or do any other thing advisable in his discretion affecting the lien of any mortgage or mortgages now or hereafter held, standing or appearing upon the records in any public office wherever located; also to execute, acknowledge, and deliver, in the name of the FDIC, a power of attorney, wherever necessary or required by law, to any attorney employed by the FDIC, and in its name and stead, to foreclose any mortgages, or other securities on either real or personal property, wherever located, which it may not own or hereafter acquire, and generally to do and perform every act necessary, convenient or desirable in the use, liquidation and collection of the foregoing assets held by the FDIC wherever located.

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-1611 Filed 1-20-83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

Valley First Federal Savings and Loan Association El Centro, California; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 5(d)(6)(A) of the Home Owners Loan Act, as amended (12 U.S.C. 1464(d)(6)(A) (1976)), and Section 406(b) of the National Housing Act, as amended (Garn—St Germain Depository Institutions Act of 1982, Pub. L. 97-320 (October 15, 1982), section 122(b), 96 Stat. 1469, 1481-1482, to be codified at 12 U.S.C. 1729(b)), the Federal Home Loan Bank Board appointed the Federal

Savings and Loan Insurance Corporation as sole receiver for Valley First Federal Savings and Loan Association, El Centro, California, effective January 14, 1983.

Dated: January 17, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83-1698 Filed 1-20-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

American Fletcher Corp. 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 115.4(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 interests, 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 hearing 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 Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation,* Indianapolis, Indiana, (consumer finance and related insurance activities; Indiana): To engage through its subsidiary, American Fletcher Financial Services, Inc., in making or acquiring loans or other extensions of credit for personal family or household purposes, including loans secured by home equities, purchasing consumer installment sales finance contracts and acting as agent with respect to credit life and disability insurance on borrowing customers and insurance on property taken as collateral for such loans and contracts. These activities will be conducted from an office in Columbus, Indiana serving Bartholomew County, Indiana. Comments on this application must be received not later than February 10, 1983.

2. *Larch Bancorporation, Inc.,* Larchwood, Iowa (personal property leasing activities; Minnesota): To engage in making leases of personal property in accordance with the Federal Reserve Board's Regulation Y Section 225.4(a)(6). Specifically, the Larch Bancorporation, Inc., is seeking approval to lease one complete computer system to an affiliated bank, namely the Exchange State Bank of Hills, Hills, Minnesota. These activities would be conducted from its office located in the Security Savings Bank Building, in Larchwood, Iowa, and serving northwest Lyon County, Iowa, and southeast Rock County, Minnesota. Comments on this application must be received not later than February 5, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (travelers check sales activities; worldwide geographic service area): To engage, through a de novo office of its direct subsidiary, BA Cheque Corporation, a Delaware corporation, in the activity of selling travelers checks. Such activity will include, but not be limited to, processing customer claims for refunds for lost or stolen travelers checks. The activity will be conducted from a de novo office located in London, England, having a worldwide geographic service area. Comments on this application must be received not later than February 11, 1983.

2. *First Interstate Bancorp,* Los, Angeles, California (financing and servicing activities, provision of investment or financial advice; worldwide): Through its subsidiary, First Interstate Merchant Bankers, Ltd., to engage in extending and arranging credit for specialized projects; in servicing such extensions of credit; and in acting as investment or financial advisor by providing general economic information and advice, general economic statistical forecasting services and industry studies to projects for which financing is arranged. These activities would be conducted from offices in Los Angeles, California, serving North America, Central America, South America, Australia, and the rest of the world. Comments on this application must be received not later than February 16, 1983.

3. *Security Pacific Corporation,* Los Angeles, California (finance and credit life and credit accident and health insurance activities; New Jersey): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located in Paramus, New Jersey, serving the State of New Jersey and would constitute a relocation of an existing office of Security Pacific Finance Corp. which is currently located in Westwood, New Jersey. Comments on this application must be received not later than February 11, 1983.

4. *Security Pacific Corporation,* Los Angeles, California (finance and credit life and credit accident and health insurance activities; Mississippi): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located in Jackson, Mississippi, serving the State of Mississippi. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1630 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Bartow Bancshares, Inc., 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 a bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Bartow Bancshares, Inc.*, Cartersville, Georgia; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bartow County Bank, Cartersville, Georgia. Comments on this application must be received not later than February 11, 1983.

2. *CCB Bancshares, Inc.*, Hahira, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank of Hahira, Hahira, Georgia. Comments on this application must be received not later than February 11, 1983.

3. *Hartsville Bancshares, Inc.*, Hartsville, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Hartsville, Hartsville, Tennessee. Comments on this application must be received not later than February 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Naperville Financial Corporation*, Naperville, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Naperville National Bank and Trust Company, Naperville, Illinois. Comments on this application must be received not later than February 11, 1983.

2. *South Central Bancorp*, Edinburg, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Edinburg State Bank, Edinburg, Indiana. Comments on this application must be received not later than February 4, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Financial Services, Inc.*, Brownsville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Brownsville, Tennessee. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1636 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

First Financial Bancorp 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 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. *First Financial Bancorp*, Monroe, Ohio; to become a bank houlding company by acquiring 100 percent of the voting shares of First National Bank of Southwestern Ohio, Monroe, Ohio and The Citizens Commercial Bank & Trust Company, Celina, Ohio. Comments on this application must be received not later than February 16, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Gueydan Bancshares, Inc.*, Gueydan, Louisiana; to become a bank holding company by acquiring up to 100 percent of the voting shares of Bank of Gueydan, Gueydan, Louisiana. Comments on this application must be received not later than February 16, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Intercity Bancorporation, Inc.*, Schofield, Wisconsin; to become a bank holding company by acquiring 95 percent or more of the voting shares of Intercity State Bank, Schofield, Wisconsin. Comments on this application must be received not later than February 16, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Derby Financial Corporation*, Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Derby Bancshares, Inc., and thereby indirectly acquire 96.7 percent of the shares of First National Bank of Derby both in Derby, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

2. *Garden Banc Shares, Inc.*, Hutchinson, Kansas; to become a bank holding company by acquring 100 percent of the voting shares of The Fourth Bank of Garden City, N.A., Garden City, Kansas, a de novo bank. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be recived not later than February 16, 1983.

3. *Texas Gulf Coast Bancshares*, Bay City, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Bay City Bank & Trust Co., Bay City, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 16, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1626 Filed 1-20-83; 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 115.4(b)(1)), for permission to engagee 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 convience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comments 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 hearing 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 Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (mortgage banking and insurance agency activities; New Jersey): To engage through its direct subsidiary, Fleet Mortgage Corp. (formerly Mortgage Associates, Inc.), in the origination, sale and servicing of residential mortgage loans, commercial mortgage loans and loans secured by junior liens on residential real estate and the sale of credit life and credit accident and health insurance directly related to extensions of credit. These activities would be conducted from a new office to be located in Cranford, New Jersey, serving the State of New Jersey. Comments on this application must be received not later than February 14, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and Barclays Bank International Limited, London, England (leasing activities; New York and contiguous states): To engage through their subsidiary, Barclays-American/Leasing, Inc. ("BAL"), in leasing financing of personal property by means of leases that meet the standards of section 225.4(A)(6) of Regulation Y. These activities would be conducted from an office of BAL in New York, New York, serving New York state and contiguous states. Comments on this application must be received not later than February 14, 1983.

2. *Chemical New York Corporation*, New York, New York (financing and insurance activities; Mesa, Arizona): To continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of generating and servicing loans and other extensions of credit; making or acquiring loans to consumers; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to businesses (including but not limited to, inventory financing); making or acquiring extensions of credit secured by personal property lease contracts; making available to its debtors credit life, credit accident and health, mortgage disability, and property and casualty insurances, all directly related to such extensions of credit. These activities will be conducted from an office in Mesa, Arizona, servicing the State of Arizona. This application is for the relocation of an office. Comments on this application must be received not later than February 14, 1983.

3. *Hubco, Inc.*, union City, New Jersey (data processing activities; New York): To provide data processing services relating to leasing activities, through a wholly-owned subsidiary, Hub Financial Services, Inc., including access to proprietary soft-ware, where the soft-ware had been acquired in connection with that subsidiary's previously approved leasing activities. These activities would be conducted from offices in Union City, New Jersey, serving the major New York Metropolitan Area. Comments on this application must be received not later than February 11, 1983.

4. *Manufactuers Hanover Corporation*, New York, New York (mortgage banking activities; Texas): to engage through its subsidiary, Manufacturers Hanover Mortgage Corporation, in making or acquiring, for its own account or for the account of others loans and other extensions of credit such as would be made by a mortgage company, and servicing such loans and other extensions of credit for any person. These activities would be conducted from a de novo office of Manufacturers Hanover Mortgage Corporation in Dallas, Texas, serving Dallas, Collon, Tarrant, Denton, Ellis, and Johnson Counties, Texas. Comments on this application must be received not later than February 14, 1983.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (commercial lending and leasing activities; United States and overseas); To engage through its subsidiary, Mellon Financial Services Corporation, in commercial lending, including accounts receivable and inventory financing, and permissible personal property leasing, including acting as agent, broker, or adviser in leasing such property. These activities would be conducted from an existing office of Applicants' subsidiary in Oak Brook, Illinois, serving the United States and overseas clients as well. Comments on this application must be received not later than February 16, 1983.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W. Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida (check verification services; North and South Carolina): To engage through its subsidiary, Verifications, Inc., in offering from additional offices, check verification services, including authorizing subscribing merchants to accept certain personal purchase money checks and obligating Verifications, Inc. to purchase properly verified checks which are subsequently dishonored. These activities would be conducted from additional offices in Durham, Greensboro, and Winston-Salem, North Carolina; and Charleston, and Greenville, South Carolina, as well as from existing offices of Verifications, Inc. in North and South Carolina and would be offered throughout the States of North and South Carolina. Comments

on this application must be received not later than February 11, 1983.

E. Federal Reserve Bank of San Francisco (Harry W. Green, vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities; de novo office; Virginia and the District of Columbia): To engage, through its indirect subsidiary, FinanceAmerica Mortgage Services Company, a Virginia corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered by the above-named corporation. Such activities will include, but not be limited to, making loans and other extensions of credit to businesses, purchasing installment sales finance contracts, making loans secured by real and personal property, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Mortgage Services Company. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Mortgage Services Company. These activities will be conducted from a de novo office located in Annandale, Virginia, serving the entire State of Virgina and the District of Columbia. Comments on this application must be received not later than February 16, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc.83-1631 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Interstate Financial 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. *Interstate Financial Corporation*, Dayton, Ohio; to acquire 100 per cent of the voting shares or assets of The Waynesville National Bank, Waynesville, Ohio. Comments on this application must be received not later than February 11, 1983.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 per cent of the voting shares or assets of First City Bank-MOPAC, N.A., Austin, Texas. This application may be inspected at the offices of the Board of Governors, or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1635 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Metter Financial Services, Inc.; Formation of Banking Holding Company

Metter Financial Services, Inc., Metter, Georgia, 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 100 per cent of the voting shares of Metter Banking Company, Metter, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Metter Financial Services, Inc., Metter, Georgia, 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 Metter System, Inc., Metter, Georgia.

Applicant states that the proposed subsidiary would engage in data processing activities. These activities would be performed from offices of Applicant's subsidiary in Metter, Georgia, and the geographic area to be served in the State of Georgia. 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 procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 9, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1637 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Northwest Pennsylvania 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 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. *Northwest Pennsylvania Corp.*, Oil City, Pennsylvania; to acquire 100 percent of the voting shares or assets of Union Bank & Trust Co., Erie, Pennsylvania. Comments on this application must be received not later than February 16, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Illinois Corporation*, Evanston, Illinois; to acquire 100 percent of the voting shares or assets of Northwest Trust & Savings Bank, Arlington Heights, Illinois. Comments on this application must be received not later than February 15, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Rice Lake Bancorp., Inc.*, Rice Lake, Wisconsin; to acquire 100 percent of the voting shares or assets of Citizens State Bank, Birchwood, Wisconsin. Comments on this application must be received not later than February 16, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Arkansas Valley Banc Shares, Inc., Northwest Kansas Banc Shares, Inc., Santa Fe Trail Banc Shares, Inc., Southwest Kansas Banc Shares, Inc.*, all in Hutchinson, Kansas; to each acquire 16.67 percent of the voting shares or assets of Garden Banc Shares, Inc., Hutchinson, Kansas, a proposed bank holding company with respect to The Fourth Bank of Garden City, N.A., Garden City, Kansas, a *de novo* bank. This application may be inspected at the offices of he Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

2. *Chisholm Trail Financial Corporation*, Wichita, Kansas; to acquire 24.9 percent of the voting shares or assets of Derby Financial Corporation, Wichita, Kansas, and thereby indirectly acquire shares of Derby Bancshares, Inc. and First National Bank of Derby, both in Derby, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

3. *Republic Bancshares of Missouri, Inc.*, Kansas City, Missouri; to acquire at least 90 percent of the voting shares or assets of St. James Bank, St. James, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1629 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Philadelphia National Corp. and National Central Financial Corp.; Consolidation of Bank Holding Companies

Philadelphia National Corporation, Philadelphia, Pennsylvania ("PNC") and National Central Financial Corporation, Lancaster, Pennsylvania ("NCFC"), have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842 *et seq.*) to consolidate their operations. NCFC would establish a new subsidiary corporation that would merge with PNC, which would be the surviving corporation. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Philadelphia National Corporation, Philadelphia, Pennsylvania, and National Central Financial Corporation, Lancaster, Pennsylvania, also engage in the following nonbank activities: mortgage banking; consumer financing; underwriting credit life and credit accident and health insurance; commercial financing and factoring; investment management and advisory services; and the ownership of a small business investment company.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

National Central Financial Corporation would also acquire Philadelphia International Bank, New York, New York, Philadelphia, Pennsylvania, and Los Angeles, California, and Philadelphia International Investment Corporation, Philadelphia, Pennsylvania, two corporations organized pursuant to section 25(a) of the Federal Reserve Act.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 12, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1634 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Warroad Bancshares, Inc., 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 Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Warroad Bancshares, Inc., Warroad, Minnesota*; to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank of Warroad, Warroad, Minnesota. Comments on this application must be received not later than February 11, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lafayette County Bancshare, Inc.*, Lexington, Missouri; to become a bank holding company by acquiring 82.59 percent or more of the voting shares of Lafayette County Bank of Lexington/Wellington, Lexington, Missouri. Comments on this application must be received not later than February 11, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Commonwealth Bancshares, Inc.*, Bellaire, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Commonwealth Bank, Bellaire, Texas. Comments on this application must be received not later than February 11, 1983.

2. *Lincoln Bancshares, Inc.*, Ruston, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Lincoln Bank & Trust Co., Ruston, Louisiana. Comments on this application must be received not later than February 11, 1983.

3. *Nichols Bancshares, Inc.*, Kenedy, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Nichols National Bank of Kenedy, Kenedy, Texas. Comments on this application must be received not later than February 11, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Capital Bancorp*, Downey, California; to become a bank holding company by acquiring 100 percent of the voting shares of Capital Bank, Downey, California. Comments on this application must be received not later than February 11, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First State Bancorp of Princeton, Illinois, Inc.*, Princeton, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First State Bank of Princeton, Princeton, Illinois, and 80 percent or more of the voting shares of Farmers' State Bank of Sheffield, Illinois, Sheffield, Illinois. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1633 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79N-0113; DESI 2847]

Certain Parenteral Multivitamin Products; Drug Efficacy Study Implementation; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for certain parenteral multivitamin products for which FDA offered an opportunity for a hearing, but for which no hearing was requested. The products lack substantial evidence of effectiveness.

EFFECTIVE DATE: February 22, 1983.

ADDRESS: Requests for opinion of the applicability of this notice to a specific drug product should be identified with Docket No. 79N-0113 and the reference number DESI 2847 and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 5, 1982 (47 FR 44022), the Director of the National Center for Drugs and Biologics revoked the temporary exemption that had allowed certain parenteral multivitamin products to remain on the market beyond time limits established under the Drug Efficacy Study Implementation program. That notice also proposed to withdraw approval of the new drug applications that provide for these products and offered an opportunity for a hearing on the proposal. No hearing requests were received. The approval of the following new drug applications is now being withdrawn.

1. NDA 4-895; Parbexin Injectable containing thiamine hydrochloride, niacinamide, dexpanthenol, riboflavin, and pyridoxine hydrochloride; Cooper Vision Pharmaceuticals, P.O. Box 367, San German, Puerto Rico 00753.

2. NDA 6-373; Vi-Syneral Injectable containing Vitiamin A, ergocalciferol, ascorbic acid, thiamine hydrochloride, riboflavin, niacinamide, pyridoxine hydrochloride, dexpanthenol, dl-alpha tocopheryl acetate; Fisons Corp., Pharmaceutical Division, 2 Preston Ct., Bedford, MA 01730.

3. NDA 7-094; Soluzyme Injectable containing cyanocobalamin, folic acid, thiamine hydrochloride, sodium pantothenate, and niacinamide; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

4. That part of NDA 7-590 pertaining to Manibee Injectable containing thiamine hydrochloride, niacinamide, dexpanthenol, pyridoxine hydrochloride, and riboflavin; Endo Laboratories, Inc., subsidiary of E. I. Dupont de Nemours & Co., Inc., 1000 Stewart Ave., Garden City, NY 11530.

5. NDA 7-619; Betolake Improved Injectable containing thiamine hydrochloride, riboflavin, niacinamide, pyridoxine hydrochloride and dexpanthenol; Merrell Dow Pharmaceuticals Inc., 2110 E. Galbraith Rd., Cincinnati, OH 45215.

6. NDA 6-141 Folbesyn Injectable containing thiamine hydrochloride, sodium panthothenate, niacinamide, riboflavin, pyridoxine hydrochloride, cyanocobalamin, ascorbic acid, and folic acid, Lederle Laboratories, P.O. Box 500, Pearl River, NY 10965.

Approval of the following new drug applications was previously withdrawn for failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). Conclusions that certain parenteral multivitamins lack substantial evidence of effectiveness are applicable to these products also.

1. NDA 2-847; Breonex L Injectable and Breonex M Injectalbe, both containing thiamine hydrochloride, riboflavin, pyridoxine hydrochloride, panthenol, niacinamide, and cyanocobalamin; Cooper Laboratories,

Inc., 3145 Porter Dr., Palo Alto, CA 94304.

2. NDA 4-635; Beclysyl Injection containing dextrose, sodium chloride, thiamine hydrochloride, riboflavin, niacinamide, pyridoxine hydrochloride, and cyanocobalamin; Abbott Laboratories, 14th & Sheridan Rd., North Chicago, IL 60064.

3. That part of NDA 7-590 pertaining to Manibee-C500 Injectable containing thiamine hydrochloride, niacinamide, dexpanthenol, pyridoxine hydrochloride, riboflavin, and ascorbic acid; Endo Laboratories Inc.

Any drug product that is identical, related, or similar to a drug product named above and is not the subject of an approved new drug application or conditionally approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

Based on new information on the drug product, and the evidence available when the applications were approved, the Director of the National Center for Drugs and Biologics, under the Federal Food, Drug and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** on June 22, 1982), finds that there is lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of the new drug applications or portions of new drug applications listed above as having an approval in effect, and all amendments and supplements thereto, is withdrawn effective February 22, 1983.

Shipment in interstate commerce of the above products or any identical, related, or similar product that is not the subject of an approval or conditionally approved new drug application will then be unlawful.

Dated: January 13, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-1419 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Baltimore District Office, chaired by Thomas L. Hooker, District Director.

DATE: Wednesday, February 23, 1983, 10 a.m. to 12 m.

ADDRESS: Community College of Baltimore/Harbor Campus, Lombard St. at Market Place, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT:

Anne Lane, Consumer Affairs Officer, Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21202, 301-962-3731

Cincinnati District Office, chaired by James C. Simmons, District Director.

DATE: Wednesday March 2, 1983, 1 p.m.

ADDRESS: Federal Bldg., Rm. 418, 234 Summit St., Toledo, OH 43604.

FOR FURTHER INFORMATION CONTACT:

Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216-522-4844.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1319 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held from 3:30 P.M. to 5:30 p.m., Monday, January 24, 1983.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC, Rm. 703-727A.

FOR FURTHER INFORMATION CONTACT: Stuart L. Nightingale, M.D., Associate Commissioner for Health Affairs (HFY-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6143.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care. The agenda items for discussion at the meeting include updates on the medical/scientific and policy implications of important current issues.

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1613 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 78N-0158]

Food Labeling; Safe and Suitable Ingredients in Food Standards

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that there will be no immediate revision in its current policy to allow the use of "safe and suitable" optional ingredients in standardized foods. FDA announced intentions to propose a modification of the policy by limiting its use to optional ingredients that are used in quantities of less than 5 percent and do not alter the basic characteristics of the food. FDA has determined that such a policy change would not be in the best interest of consumers or the regulated industry. Therefore, FDA will continue to provide in food standards, where appropriate, for the use of functional categories of safe and suitable optional ingredients.

FOR FURTHER INFORMATION CONTACT: Prince G. Harrill, Bureau of Foods (HFF-210), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 21, 1979 (44 FR 75990), FDA, the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announced their tentative positions on a variety of food labeling issues. FDA's policy on the use of "safe and suitable" optional ingredients in standardized foods was

among the issues discussed in that notice.

As indicated in the notice, under authority of the Federal Food, Drug, and Cosmetic Act, FDA issues standard of identity regulations that describe what ingredients may or must be used in making traditional foods. Mandatory ingredients are specifically indentified in the standard, must be used in the food as prescribed in the standard, and need not be declared on the label of the standardized product. Standards of identity also currently allow for the use of optional ingredients that are "safe and suitable," that perform specific functions as indicated in the standard, and that would be declared on the label.

Under 21 CFR 130.3(d), the phrase "safe and suitable" means that the ingredient it describes:

(1) Performs an appropriate function in the food in which it is used.

(2) Is used at a level no higher than necessary to achieve its intended purpose in that food.

(3) Is not a food additive or color additive as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used in that food or is a food additive or color additive as so defined and is used in conformity with regulations established pursuant to section 409 or 706 of the act.

Thus, any safe and suitable optional ingredient used in a standardized food is either (1) an approved food or color additive, or (2) prior sanctioned, or (3) generally recognized as safe—a category known by the acronym "GRAS".

Before enactment of the Food Additives Amendment of 1958 and the Color Additive Amendments of 1960 to the act, all ingredients is standardized foods were prescribed by regulation. Food standards promulgated at that time were almost strict recipes, specifically listing the mandatory and optional ingredients that could be used, except for a few ingredients such as colors, flavors, and spices. In 1961, the issuance of the breaded shrimp standard (21 CFR 161.175) represented a shift toward greater flexibility in the use of safe and suitable optional ingredients. Although the food standard specified that breaded shrimp must contain 50 percent shrimp, it permitted the use of "any" safe and suitable batter or breading. This shift in policy was made possible because, as a result of the food and color additive amendments, the agency no longer had to rely on food standards as the mechanism for premarket review of the safety of substances added to foods.

Recognizing that there were only a limited number of food standards for which such broad, general flexibility would be appropriate, FDA also began to increase the flexibility of food standards by allowing for the use of safe and suitable optional ingredients according to general functional categories, that is, food standards began to allow for use of any safe and suitable ingredient that performed a particular function specified in the standard. For example, food standards allowed for the use of "safe and suitable emulsifiers" or "safe and suitable preservatives" without specifically naming the emulsifiers and preservatives that would be safe and suitable. Issues related to the ingredient's safety were then resolved according to other sections of the act.

The latter approach of indicating in the food standard the general functional categories of safe and suitable optional ingredients that may be used has often been referred to as the agency's safe and suitable policy, as distinguished from the traditional, strict recipe-type listing of optional ingredients. In actuality, however, all optional ingredients used in standardized foods must be safe and suitable, regardless of the manner in which they are designated in the standard.

The agency announced in the December 21, 1979 notice that it would propose to change its safe and suitable ingredients policy. The new policy would:

1. Apply only to optional functional ingredients used in quantities of less than 5 percent. For the purpose of the new policy, the term "functional ingredients" would be defined as ingredients that do not alter the basic characteristics of the food.

2. Require the declaration on the product's label of any ingredient contained in the product (as now required—with the exception of colors, flavors, and spices—for nonstandardized foods regulated by FDA and all USDA-regulated foods).

3. Change the descriptive phrase "safe and suitable" to one, such as "permitted functional ingredient," that is less confusing and more accurately descriptive of the concept.

FDA asked for public comment on the tentative revised policy. Comments were received from consumers, consumer organizations, industry, and trade associations. Most of the comments did not address the specific points of the agency's tentative policy, nor did they provide information relevant to the agency's current "safe and suitable" policy or the announced tentative position.

Some of the comments from industry and industry representatives objected to establishing a 5-percent limit on the level at which general functional category designations of "safe and suitable" optional ingredients would be used. One comment said that use of the 5-percent limit would be extremely costly to regulatory agencies, consumers, and the industry because all existing food standards would have to be reevaluated, and possibly revised, under the new policy. Several comments also contended that the limit was arbitrary, would reduce the flexibility of some food standards, and could not be justified on the basis of health and safety considerations.

A few of the industry comments expressed general support for the tentative position, particularly if there would be no change in the optional ingredients approach. A few comments specifically stated that they had no objections to changing from the descriptive phrase "safe and suitable" to "permitted functional ingredients."

The idea most often expressed in consumer comments was that all ingredients should be declared on the labels of all foods.

After reviewing and evaluating the comments received in response to FDA's tentative position on safe and suitable ingredients in food standards, the agency has reconsidered that position and determined that it would not be in the consumers' or the regulated industry's best interest to initiate rulemaking procedures to establish the 5-percent limit. Thus, FDA's current policy for the use of safe and suitable optional ingredients in standardized foods will remain in effect, and FDA will continue, where appropriate, to provide for the use of functional categories of safe and suitable ingredients. Whenever appropriate for a particular standard, however, the agency will list by name in the food standard those ingredients it considers to be suitable to accomplish an intended technical effect in the food.

Further, although there were no major objections to changing the descriptive phrase "safe and suitable" to "permitted functional ingredients," there also were no persuasive arguments presented in favor of the change. Thus, FDA is not proceeding with the change. The phrase "safe and suitable" will continue to be used to indicate the agency's policy for listing safe and suitable ingredients in food standards by general functional categories.

Dated: January 17, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-1814 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, March 4, 1983, at the University of Texas, Houston Main Building, 10th Floor, 1100 Holcombe Boulevard, Houston, Texas 77030. The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Director, National Cancer Institute, and the Chairman, President's Cancer Panel; and discussions to obtain information on grants supported by the National Cancer Institute from scientists of the universities in the Houston area. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A35, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: January 12, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–1624 Filed 1–20–83; 8:45 am]

BILLING CODE 4140–01–M

President's Cancer Panel ad hoc Working Group To Consider the Parameters of Outstanding Investigator Awards; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the ad hoc Working Group To Consider the Parameters of Outstanding Investigator Awards, President's Cancer Panel, National Cancer Institute, February 7, 1983, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open on February 7 from 8:30 a.m. to adjournment. Attendance by the public will be limited to space available.

The meeting will be for the consideration of working drafts to propose a series of alternatives and the establishment of an Outstanding Investigator Award Mechanism.

Requests for information on the meeting should be directed to Dr. Elliott Stonehill, National Cancer Institute, Building 31, Room 11A35, Bethesda, Maryland 20205 (301/496–1148).

Dated: January 10, 1983.

Betty Beveridge,

Committee Management Officer, NCI.

[FR Doc. 83–1625 Filed 1–20–83; 8:45 am]

BILLING CODE 4140–01–M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis Advisory board on February 23, 1983, 9:00 a.m. to 5:00 p.m., at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Certain subcommittees of the Board will meet the day before, February 22. Further information, times and meeting locations of the subcommittees may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496–1991. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31A, Bethesda, Maryland 20205, (301) 496–5765.

Dated: January 12, 1983.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 83–1626 Filed 1–20–83; 8:45 am]

BILLING CODE 4140–01–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on January 14.

Public Health Service

Office of the Assistant Secretary for Health

Subject: Parental Notification and Recordkeeping Requirements Applicable to Projects for Family Planning Services Funded Under Title X of the Public Health Service Act—New

Respondents: Title X project directors; directors and staff or Federally funded family planning clinics

OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: State Social Security Wage Contribution Return (SSA–3961)—Revision

Respondents: State or local governments

Subject: SSA/State SSI Information Exchange (SSA–8220 (1–83))—Revision

Respondents: State or local government

OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Freedom of Choice Waiver Requests: Information Collection Requirements in 42 CFR 431.55 (HCFA–8002)—New

Respondents: State Medicaid agencies

Subject: Uniform Hosptial Bill (HCFA–1450)—New

Respondents: Hospitals

Subject: Billing Form for Long Term Care Demonstration in North San Diego County (HCFA–1487D)—Extension/no changes

Respondents: Hospitals and social service agencies participating in the demonstration

OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Child Welfare Indicators Survey—New

Respondents: Child welfare county agencies

Subject: Comparative Study of State Case Review Systems: Dispositional Hearings—New

Respondents: State and local agencies for foster care services, judges, court personnel

OMB Desk Office: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–7024.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201
OMB Reports Managment Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)
Dated: January 17, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–1688 Filed 1–20–83; 8:45 am]

BILLING CODE 4150–04–M

Advisory Council on Social Security; Public Hearing

AGENCY: Health and Human Services Department.

ACTION: Notice of cancellation of public hearing.

SUMMARY: Notice is hereby given that the one day public hearing scheduled for Atlanta on February 1 is cancelled. This hearing was announced in 47 FR 56723; however, due to a minimal response to the invitation to present oral testimony, it has been decided that holding the hearng would not be justified. Statements for the record will be accepted until March 15, 1983.

FOR FURTHER INFORMAITON CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone 202–755–8670 or 755–8671.

Thomas R. Burke,

Executive Director.

[FR Doc. 83–1852 Filed 1–20–83; 9:41 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI–107]

Intended Environmental Impact Statement, Ardenwood Forest Project, Patterson Ranch Residential Development in Fremont, California

The U.S. Department of Housing and Urban Development (HUD) gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Ardenwood Forest Project, Patterson Ranch Residential Development in Fremont, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Parts 1500)

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., January 13, 1983.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

The U.S. Department of Housing and Urban Development (HUD) San Francisco Area Office gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for a residential development project in the City of Fremont, California and solicits information and comments for consideration in the EIS. Because parts of the proposed project will be located in a floodplain the EIS will discuss the impact of the project on said floodplain. The procedural requirements of E.O. 11988 Floodplain Management and E.O. 11990 Protection of Wetlands will be carried out separately from the intended EIS.

Description: The proposed residential development project is identified as Ardenwood Forest Project, Patterson Ranch Residential Development and is seeking loan assistance from the Department under its Title X program.

Residential development is proposed for approximately 3,800 dwelling units on an area of approximately 1,300 acres. The project will include supporting commercial uses, school sites, recreation facilities, open space and services uses. The project is generally bounded by Union City on the north, Coyote Hills Regional Park on the west, Freeway I–580 and Newark City on the south and State Freeway 17 on the east.

Early Start: HUD will conduct an environmental assessment to ascertain if it can participate in an initial development phase under 24 CFR 50.21(h).

Need: An EIS is proposed due to HUD threshold requirement in accordance with housing program environmental regulations and probable impact on: topography, water quality, air quality, noise, vegetation, soils, utilities, and traffic volumes.

Alternatives: At this time the HUD alternatives are: accept the proposed development as submitted, accept the proposed development with modifications, or reject the proposed development.

Scoping: Interested individuals, organizations, and agencies are invited to comment on significant issues in writing within 30–days from the date of this notice to the HUD San Francisco Area Office address below.

State Required Environmental Assessment: Comments may consider the City of Fremont Environmental Impact Report prepared December 1981 under State of California requirements. Material from this Environmental Assessment will be utilized in the preparation of this EIS.

Comments: Comments regarding this proposal should be sent within 30–days of the date of this notice to: Henry D. Dishroom, Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111. Attention: Tad Masaoka, Environmental Clearance Officer. The Area Office phone number is (415) 556–2238.

[FR Doc. 83–1729 Filed 1–20–83; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. NI–106]

Intended Environmental Impact Statement (EIS) for the Elkhorn Valley Development, Evansville, Wyoming

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Elkhorn Valley Development, Evansville, Wyoming. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisidiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., January 13, 1983.

Francis G. Hass,

Deputy Director, Office of Environment and Energy.

Appendix

The HUD Area Office in Denver, Colorado, intends to prepare an EIS on the Elkhorn Valley Development, described below, and requests information and comments for consideration in the EIS.

Description: Approximately 4,021 single/multi-family and mobile home dwelling units will be constructed in this project as well as commercial, industrail, school site, park and recreational land uses on appoximately 1,092.5 acres.

Need: An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives: The alternatives are HUD Participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or rejection of participation in the development.

Scoping: A scoping meeting will not be held. HUD will request input from the appropriate Government agencies and service organizations. This notice will also appear in a paper of local circulation in Casper, Wyoming.

Comments: Comments should be forwarded within 21 days of publication of this Notice to: Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 83-1728 Filed 1-20-83; 8:45 am]
BILLING CODE 4210-29-M

Office of Administration

[Docket No. N-83-1200]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Officer of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chaper 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above.

Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Voucher for Payment of Annual Contributions and HAPP Operating Statement
Office: Housing
Form Nos.: HUD-52681 and HUD-52682
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 16,800
Status: New
Contact: Myra Newbill, HUD, (202) 755-5353; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Requisition of Funds, Requisition for Partial Payment of Annual Contributions (HAPP)
Office: Housing
Form No. HUD-52663
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 2,080
Status: New
Contact: Myra Newbill, HUD, (202) 755-5353; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Assistance Payments Program
Office: Housing
Form No. HUD-52671, 52672 and 52673
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 11,200
Status: New
Contact: Myra Newbill, HUD, (202) 755-5353; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Low-Income Housing Program Operating Budget
Office: Housing
Form No. HUD–52598 and HUD–52656
Frequency of Submission: Semiannually
Affected Public: State or Local Governments
Estimated Burden Hours: 360,000
Status: Revision
Contact: Kenneth Moul, HUD, (202) 755–8145; Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–1730 Filed 1–20–83; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–83–1201]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Evaluation of the Congregate Housing Services Program: Performance and Impact Evaluation
Office: Policy Development and Research
Form No. None
Frequency of Submission: Annually
Affected Public: Individuals or Households
Estimated Burden Hours: 3,399
Status: Extension
Contact: Deborah Greenstein, HUD, (202) 755–5574 Robert Neal, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–1731 Filed 1–20–83; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Navajo Tribe; Plan for the Use and Distribution of Navajo Tribe Judgment Funds in Docket 229 Before the United States Court of Claims

January 7, 1983.

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

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian Tribe. Funds were appropriated on October 23, 1981, in satisfaction of the award granted to the Navajo Tribe in United States Court of Claims in Docket 229. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated July 26, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on July 28, 1982, and by the Senate on July 29, 1982. The plan became effective on December 12, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on October 23, 1981, in satisfaction of an award granted by the United States Court of Claims in Docket 229 to the Navajo Tribe, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided:

A. The Secretary shall transfer ten (10) million dollars, plus all interest and investment income accrued, to the Navajo Scholarship Trust Fund. The interest therefrom shall be utilized to provide educational assistance to tribal members pursuant to the provisions of the "Plan of Operation" approved by Resolution ACAP–36–80 or any subsequent resolution approved by the Secretary.

B. The remainder of these funds shall be utilized by the Navajo Tribal Council for land acquisition."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83–1697 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Reclamation

[INT–DES 83–3]

Tahoe City Land Transfer, 64-Acre Tract, Tahoe City, California; Availability of Draft Environmental Impact Statement and Public Hearing Notice

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 impact statement assessing impacts associated with the proposed transfer of administrative authority for 64 acres of Federal land at Tahoe City, California. The proposed transfer will be from the Bureau of Reclamation to the Forest Service, Department of Agriculture. The draft environmental impact statement

examines the changes in land use and associated impacts which can be anticipated if administration for this land were transferred directly to the Forest Service, if it were reported as excess to the General Service Administration, or if it were to remain under the administration of the Bureau of Reclamation.

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 Environmental Quality Office, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Room W–1102, Sacramento, CA 95825, Telephone: (916) 484–4792

Lahontan Basin Projects Office, Bureau of Reclamation, Federal Building, 705 North Plaza Street, Carson City, NV 89701, Telephone: (702) 882–3436.

Single copies of the statement may be obtained on request to the above-listed offices. Copies will also be sent to libraries in project vicinity.

Written comments on the draft environmental impact statement should be submitted to the Bureau of Reclamation office in Sacramento, California, by March 15, 1983.

A public hearing will be held at the Old Elks Lodge, 300 Fairway Drive, Tahoe City, California, from 1 p.m. to 9 p.m. on February 24, 1983. If, because of inclement weather, the meeting cannot be held on this date, the public hearing will be rescheduled to March 1, 1983, at the same time and location.

Individuals and representatives of interested organizations will have an opportunity to make oral presentations on the draft environmental impact statement at the hearing. Those wishing to testify must notify the Bureau of Reclamation office in Carson City, Nevada, by 4 p.m. on February 18, 1983, of their intention. Each witness will be limited to a 10-minute oral presentation. Statements longer than 10 minutes should be summarized orally and a complete written text filed with the presiding official. A prepared list of witnesses according to the order of their appearance will be available the day before the hearing at the Carson City office. Witnesses not scheduled to appear may be given an opportunity to testify as time permits. A sign-up sheet will be provided at the hearing.

Both oral and written comments on the current draft environmental impact statement will be considered in preparing the final environmental impact statement on the proposed transfer.

Dated: January 17, 1983.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 83-1618 Filed 1-20-83; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

John Day Fossil Beds National Monument; Boundary Change

Pursuant to Title III, Section 302, of the Act of November 10, 1978, Pub. L. 95–625 (92 Stat. 3476) notice is hereby given of the boundary changes for the John Day Fossil Beds National Monument as depicted on the map herein published.

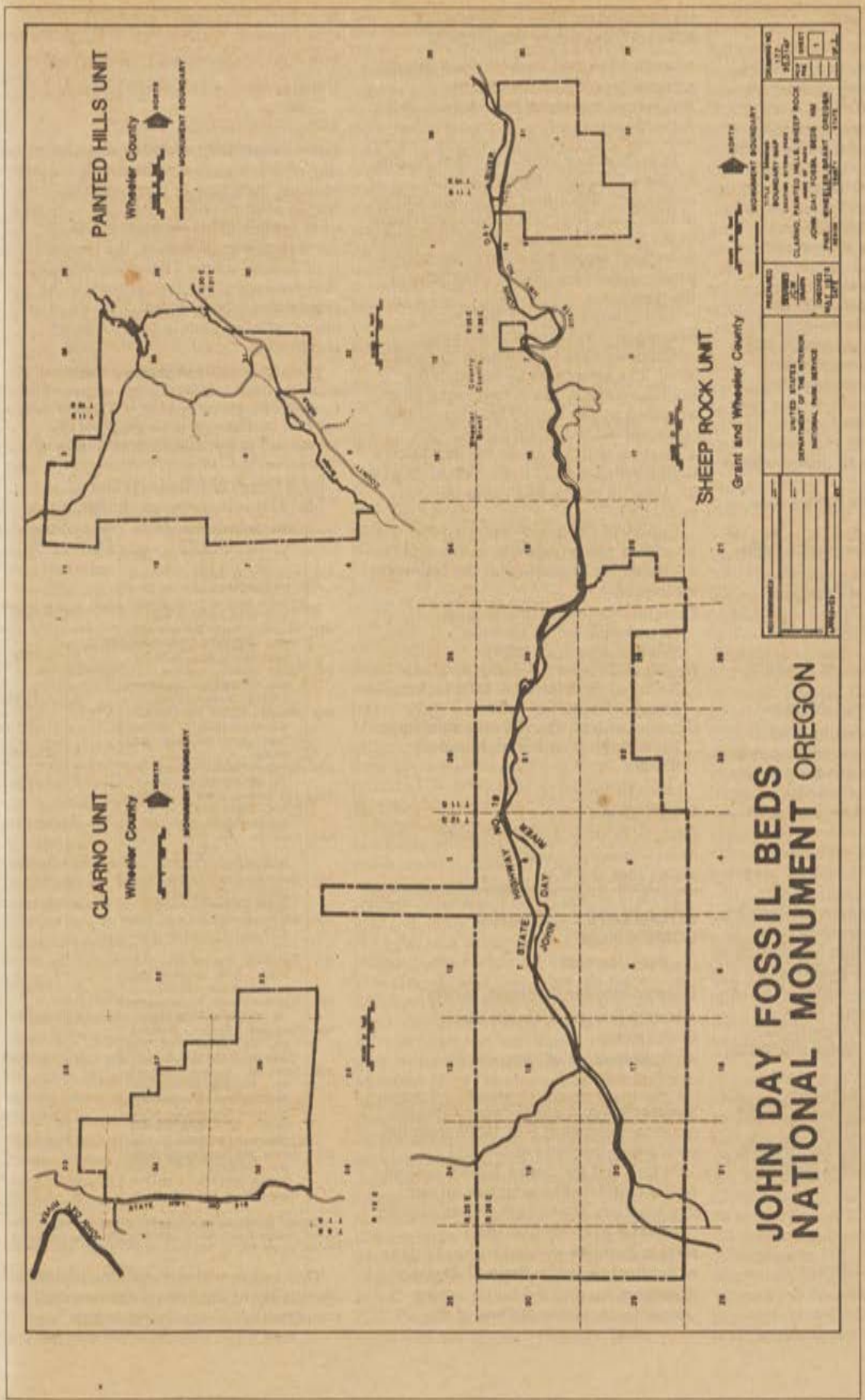
Dated: December 28, 1982.

Daniel J. Tobin, Jr.,

Regional Director, Pacific Northwest Region.

[FR Doc. 83-1691 Filed 1-20-83; 8:45 am]

BILLING CODE 4310-70-M



BILLING CODE 4310-70-C

Midwest Regional Advisory Committee; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Midwest Regional Advisory Committee will be held on February 14–15 beginning on Monday, February 14, at 12 o'clock noon (CST) at the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska.

The Committee was established pursuant to Section 3 of the Act of August 18, 1970, 16 U.S.C. 1a–2, by the Secretary of the Interior to advise the Regional Director, Midwest Region, National Park Service, on programs, policies, and such other matters as may be referred to it by the Regional Director. It also functions to provide closer communication wtih the public on such matters.

The members of the Committee are as follows:

Mr. Norman G. Duke, Northfield, Ohio (Chairman)
Ms. Halina M. Frizzelle, Pinckney, Michigan
Mr. William L. Lieber, Indianapolis, Indiana
Ms. Sally B. Schanbacher, Springfield, Illinois
Mr. Cherry Warren, Exeter, Missouri

The purpose of this meeting is to allow the Committee to organize and to familiarize themselves with the purpose, policies, and programs of the Midwest Regional Office of the National Park Service.

The meeting will be open to the public. Any member of the public may file with the Committee, prior to the meeting, a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact J. L. Dunning, Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221–3431.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: January 5, 1983.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 83–1690 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–70–M

Ozark National Scenic Riverways, Missouri; Boundary Adjustment

AGENCY: National Park Service, Interior.

ACTION: Ozark National Scenic Riverways, Notice of Boundary Adjustment.

In accordance with the Act of August 27, 1964, 16 U.S.C. 460m–3, which authorizes alterations in the boundaries of the Ozark National Scenic Riverways in the State of Missouri, notice is hereby given that boundary alterations have been made in the Devil's Well area of the riverway.

This alteration to the riverways boundary is necessary to assume continued unimpeded access to Devil's Well. The area to be included in the boundary alteration is severance land acquired by the United States and title is vested in the United States. This alteration will not cause the 65,000-acre limitation as set out in the Act of August 27, 1964, 16 U.S.C. 460m–3 to be exceeded.

Copies of the maps depicting the boundary alterations are on file and available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, Washington, D.C. 20240
Regional Director, Midwest Region, National Park Service, 1709 Jackson, Omaha, Nebraska 68102
Superintendent, Ozark National Scenic Riverways, Van Buren, Missouri 63965.

Dated December 17, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 83–1692 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275–7278.
or
Tom Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
636	Kansas City Southern Railway Co., ICC-KCS-C-0042 (soybean cake or meal or soybean meal, flaked, in bulk)	3	1-13-83
642	Southern Pacific Transportation Co., ICC-SP-C-0311 (soybean oil, and flour, soybean)	2	1-13-83
643	Union Pacific Railroad Co., ICC-UP-C-006, Supplement 2 (set-up motor vehicles)	3	1-13-83
644	Missouri Pacific Railroad Co., ICC-MP-C-0224 (wheat, grain sorghums and soybeans)	1	1-13-83
645	Missouri Pacific Railroad Co., ICC-MP-C-0223 (soybeans)	2	1-13-83
646	The Baltimore and Ohio Railroad Co., ICC-BO-C-0114 (industrial sand, aplite rock)	3	1-13-83
647	Baltimore and Ohio Railroad Co., ICC-BO-C-0112 (industrial sand)	1	1-13-83
649	Soo Line Railroad Co., ICC-SOO-C-0152 (chlorine gas, liquefied sodium, caustic)	3	1-13-83
650	Soo Line Railroad Co., ICC-SOO-C-0148 (sodium, caustic)	2	1-13-83
651	Soo Line Railroad Co., ICC-SOO-C-0149 (chlorine gas, liquefied sodium, caustic)	1	1-13-83
653	Southern Pacific Transportation Co., ICC-SP-C-0353 (tires)	3	1-13-83
654	Seaboard System Railroad, Inc., ICC-SBD-C-0006 (iron ore) via Port of Mobile, AL	3	1-13-83
656	Seaboard System Railroad, Inc., ICC-SBD-C-0002 (superphosphate, other than ammoniated diammonium phosphate or monammonium phosphate, fertilizer)	3	1-13-83
657	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C0017-A, 0047-A, and 0059-A, (canned goods)	3	1-13-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, and Ewing. Review Board No. 3, Members Krock, Joyce, and Boswell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1532 Filed 1-22-83; 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 § 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 No. 3, Members Krock, Joyce, and Dowell.

James H. Bayne,

Acting Secretary.

Please direct status inquiries to Team 5, (202) 275-7289.

Volume No. OP5-FC-011

MC-FC-81087. By decision of January 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 appoved the transfer to DONALD E. NILES, d.b.a. NILES TRANSPORTATION, of Wellsboro, PA, of Certificate No. MC 123099 Sub 8 issued October 7, 1981 to H. ANDERSON TRUCKING COMPANY, INC., Wellsboro, PA, authorizing the transportation of *malt beverages*, in containers, (d) from Rochester, NY and Baltimore, MD, to points in Elkland, PA, (b) from Buffalo and Utica, NY, to Sayre and Blossburg, PA, (c) between Rochester, Utica, and Buffalo, NY, on the one hand, and, on the other, points in Potter, Tioga, Lycoming, Northumberland, and Clinton Counties, PA, and (a) from Rochester, NY, to points in Pennsylvania (except points in Potter, Tioga, Lycoming, Northumberland, and Clinton Counties, PA). Transferee is not a carrier. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722.

MC-FC-81095. By decision of January 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to TWIN LAKES TRAILS, INC., Mountain Home, AR, of Certificate No. MC 52479 issued February 19, 1965 to SUNNYLAND STAGES, INC., Springfield, MO, authorizing the transportation of *passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers*, (1) between Springfield, Mo, and Harrison, AR, serving all intermediate points: From Springfield over unnumbered highway (formerly portion U.S. Hwy 65) via Galloway and Ozark, MO to junction U.S. Hwy 65 near Selmore, MO, then over U.S. Hwy 65 to Harrison, and return over the same route, and (2) during the season extending from May 15 to September 30, inclusive, between junction U.S. Hwy 65 and U.S. Hwy 160 (formerly Missouri Hwy 76) and Branson, MO, serving all intermediate points: (a) from junction U.S. Hwy 65 and U.S. Hwy 160 (formerly Missouri Hwy 76) over U.S. Hwy 160 to junction Missouri Hwy 76, then over Missouri Hwy 76 to Forsyth, MO, then over Missouri Hwy 86 (formerly portion Missouri Hwy 78) to junction U.S. Hwy 65 (formerly portion Missouri Hwy 78), then over U.S. Hwy 65 to Branson, and return over the same route, and (b) serving the point of Rockaway Beach, MO, over unnumbered highway, from Missouri Hwy 76, and return. Transferee is not a carrier. Representative: Mavis L. Gibson, 1025 Hwy 62 S.W., P.O. Box 743, Mountain Home, AR 72653. By decision of January 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to BEST WAY TRUCKING, INC., of Liberty, MO, of Permit No. MC-158708 issued July 23, 1982, and Certificate Nos. MC-158708 Subs 1 and 2 issued September 2, and June 23, 1982, respectively, to BEST-WAY TRUCK LINE, INC. of Richmond, MO, authorizing the transportation of (1) *such commodities* as are dealt in or used by manufacturers of electronic equipment, between points in the U.S. under continuing contract(s) with Zenith Radio Corporation, of Glenview, IL, (2) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (3) *plastic products*, between points in Douglas County, KS, and Washoe County, NV, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, IL, IA, IN, KS, KY, MI, MD, MN, MO, NE, NV, NJ, NY, NC, OH, OK, PA, SC, TN, TX, WA, WV, and WI. Representative: Frank W. Taylor, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105-1961.

MC-FC-81129. By decision of January 11, 1983 issued under U.S.C. 10926 and the transfer rules at CFR 1181, Review Board Number 3 approved the transfer to STEVE DRABISH AND NICHOLAS COMANICI, d/b/a/ THE E AND M TRANSIT COMPANY, Walton Hills, OH of Certificate No. MC-117829 issued July 27, 1959 to MERLIN L. VAN VOORHIS d/b/a THE E AND M TRANSIT COMPANY, of East Canton, OH, authorizing the transportation over irregular routes of passengers and their baggage, in charter operations, beginning and ending at points in Stark (except Alliance and Massillon) and Carroll Counties, OH and extending to points in IN, KY, MI, PA and WV.

By decision of January 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to WILLIS F. NIELSON and NENA T. NIELSON of St. George, UT, of Certificate No. MC-129098 Sub-No. 1, issued October 21, 1968, to GOLDEN CIRCLE TOURS, INC., authorizing the transportation of (1) *passengers and their baggage and express*, over regular routes, between Kanab, UT, and St. George, UT: From Kanab over U.S. Hwy 89 to Fredonia, AZ, then over AZ Hwy 389 to the AZ-UT boundary line, near Colorado City, AZ, then over UT Hwy 59 to Hurricane, UT, then over UT Hwy 17 to junction Interstate Hwy 15, near Washington, UT, and then over Interstate Hwy 15 to St. George, and return over the same route, (2) *passengers and their baggage*, in special and charter operations over irrgular

routes, in round trip tours, between Cedar City, UT, Page and Grand Canyon, AZ, and Kane and Garfield Counties, UT, beginning and ending at Cedar City, UT and Grand Canyon, AZ and Kane and Garfield Counties UT, and extending to points in Mohave and Coconino Counties, AZ and points in a specifically defined area of UT, with certain restrictions. Representative: Irene Warr, 311 South State St., Suite 280, Salt Lake City, UT 84111.

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-FC-027

MC-F-81043, By decision of January 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3, approved the transfer to G. E. MIDDLETON, d.b.a. G & M SUPPLY, Scappoose, OR, of Certificate No. MC-156763, issued February 25, 1982, to MIDDLETON LEASING, INC., Scappoose, OR., authorizing the transportation of (1) *building materials,* (2) *lumber and wood products,* and (3) *metal products,* between points in OR, WA, CA, and ID. Representative: Marvin Middleton, P.O. Box 340, Scappose, OR 97056.

MC-FC-81072. By decision of January 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181, Review Board Number 3 approved the transfer to transferee GORDON POCH COMPANY, INC., Horicon, WI, of Permit No. MC-143193 (Sub-No. 1), issued October 14, 1981, to transferor, J & G TRUCKING, INC., Horicon, WI, authorizing the transportation over irregular routes, of (1) ethyl alcohol, in bulk, in tank vehicles, from Juneau, WI, to points in MN, IA, IN, IL, and MI; and (2) brewer's yeast, in bulk, in tank vehicles, from points in MN, IA, IN, IL, and MI, to Juneau, WI. An application for temporary authority has been filed. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI, 53719 for transferee and transferor.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-FC-019

MC-FC-81130, filed December 28, 1982. By decision of January 13, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 40 CFR 1181, Review Board No. 3 approved the transfer to NIP FREIGHTSYSTEMS, INC., of Bellevue, WA, of Certificate No. MC-161057, issued November 2, 1982, to RIGA TRUCK LINES, INC., of Baker, OR, authorizing the transportation of (1) *lumber and wood products,* (2) *building materials,* and (3) *metal and metal products,* between points in AZ, AR, CA, CO, ID, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. An application for temporary authority has been filed. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701 for transferor and transferee.

[FR Doc. 83-1653 Filed 1-20-83; 8:45 am]
BILLING CODE 7035-01-M

[OP2-MCF-022]

Motor Carriers; Decision-Notice; Finance Application

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or inproper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 10, 1983, by the Review Board Number 3, Members Krock, Joyce, and Dowell.

By the Commission.

James H. Bayne,
Acting Secretary.

MC-F-15049, filed December 27, 1982. UNITED CARRIERS CORPORATION (UNITED) (1984 Coffman Rd., Newark, OH 43055)—CONTROL—ABLE TRANSIT, INC. (ABLE) (600 W.Church St., Newark, OH 43055). Representative: A. Charles Tell, Suite 1800, E. Broad St., Columbus, OH 43215. United seeks authority to acquire control of Able through the purchase of all of the issued and outstanding capital stock of Able. H. E. LeFevre, the majority stockholder of United, seeks authority to acquire control of Able's rights through the transaction. The operating rights of Able sought to be controlled by United are contained in contract carrier permits in No. MC-156253 and No. MC-156253 (Sub No. 1), authorizing the transportation of general commodities (with exceptions), between points in the U.S., under continuing contracts with Owen-Corning Fiberglas of Toledo, OH, and Anchor Hocking Corporation of Lancaster, OH. United, a non-carrier, also controls B & L Motor Freight, Inc. (MC-123255), Truck

One, Inc. (MC–156327), and Ellis Express, Inc. (MC–162662), all of which are motor common carriers authorized to serve principal points in the U.S.

[FR Doc. 83–1654 Filed 1–20–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–029

Decided: January 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 10922 (Sub-6), filed January 3, 1983. Applicant: V–K BUS LINES, INC., 149 Laredo, St. Louis, MO 63125. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105 (314) 727–0777. 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 95822 (Sub-5), filed January 5, 1983. Applicant: AVERY TRANSPORTATION, INC., Box 444, Beach Lake, PA 18405. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, 212–532–5100. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 111422 (Sub-13), filed January 6, 1983. Applicant: O. D. ANDERSON, INC., 153 Conneaut Lake Rd., Greenville, PA 16125. Representative: Maxwell A. Howell 2554 Massachusetts Avenue NW., Washington, DC 20008, 202–483–8633. Transporting *passengers and their baggage*, in charter operations, between points in the U.S., under continuing contract(s) with Anderson Tours, Inc., of Greenville, PA.

MC 117173 (Sub-3), filed December 6, 1982. Applicant: McCARTER TRANSIT, INC., 2569 Darlington Rd., Beaver Falls, PA 15010. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave, Pittsburgh, PA 15222, 412–471–3300. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 138942 (Sub-3), filed January 3, 1983. Applicant: MONARCH COACHES, INC., 26 West 548 Geneva Road, Wheaton, IL 60187. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. (1) transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI), (2) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) As a *Broker of general commodities* (execpt household goods), between points in the U.S. (except AK and HI).

Note.—Applicant in (1) above seeks to provide privately-funded charter and special transportation.

MC 157643 (Sub-1), filed December 22, 1982. Applicant: CAPITOL INTERNATIONAL TOURS, INC., 1061 South Cameron St., Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting

passengers, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 160263, filed December 30, 1982. Applicant: APPLE BUS & COACH CO., INC., 1751 Bath Ave., Brooklyn, NY 11214. Representative: Norman Turk, 225 Broadway, New York, NY 10007, 212–619–1540 Transporting *passengers*, in charter and special operations, beginning and ending at New York, NY, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163503 (Sub-2), filed December 28, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same as applicant), (214) 642–6402. 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 165232 (Sub-1), filed January 3, 1983. Applicant: AIRLINE MOVING & STORAGE, INC., 142 Stockton St., Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. (1) Transporting, for on 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), (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 165242, filed December 16, 1982. Applicant: ROY IRWIN, d.b.a. ROY'S BUS LEASING, 419 Milam Dr., Euless, TX 76039. Representative: Roy Irwin (same address as applicant), 817–267–3880. Transporting *passengers*, in charter and special operations, beginning and ending at points in TX, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165313, filed December 21, 1982. Applicant: NICKELS TOURS, INC., 18225 Burnham Avenue, Lansing, IL 60438. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. (1) Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI), (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) As a *broker of general commodities*, (except household goods) between points in the U.S. (except AK and HI).

Note.—In Part (1), applicant seeks to provide privately-funded charter and special transportation.

MC 165512, filed January 4, 1983. Applicant: HARRY'S TRANSPORTATION SERVICE, INC., 623 Linden Blvd., Brooklyn, NY 11203. Representative: Jeremy Kahn, 1511 K St. NW. Suite 733, Investment Bldg., Washington, D.C. 20005, 202–783–3525. Transporting *passengers*, in charter and special operations, beginning and ending at points in NY, NJ, and CT, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165542, filed January 3, 1983. Applicant: KARL B. HERTZ, d.b.a. DESERT PACIFIC CHARTER LINES, 4791 Arrow Hwy., P.O. Box 67, Montclair, CA 91763. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165553, filed January 7, 1983. Applicant: JAMES P. CLEMMER, 517 A N. 27th Ave. Yakima, WA 98902. Representative: James P. Clemmer (same address as applicant), 509–248–8348. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165572, filed January 7, 1983. Applicant: RALPH A. HOLLISTER & JOHN R. HOLLISTER, d.b.a. H & H TRANSPORT, 552 West Cornell Court, Upland, CA 91786. Representative: James Robert Evans, 145 West Wisconsin Ave., Neenah, WI 54956, 414–722–2848. 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 4 (202) 275–7669.

Volume No. OP4–021

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 47786 (Sub-8), filed January 6, 1983. Applicant: ROSSMEYER & WEBER, INC., d.b.a. RARITAN VALLEY BUS SERVICE, Box 312, Metuchen, NJ 08040. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, (212) 532–5181. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 67226 (Sub-11), filed January 10, 1983. Applicant: THE BALTIMORE MOTOR COACH COMPANY, 100 W. West St., Baltimore, MD 21230. Representative: Barbara Gold, 1520 Fidelity Bldg., 210 N. Charles St., Baltimore MD 21201, (301) 837–6066. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 68167 (Sub-38), filed January 6, 1983. Applicant: WASHINGTON, VIRGINIA AND MARYLAND COACH COMPANY, INC., 4115 Dorforth Drive, Fairfax, VA 22030. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004, (202) 737–1030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 111216 (Sub-3), filed January 7, 1983. Applicant: BLACK HILLS & WESTERN TOURS, INC., P.O. Box 1106, Rapid City, SD 57709. Representative: H. Ray Herr (same address as applicant), (605) 342–4461. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's

written request, or Certificate of Registration No. MC-111216 (Sub-No. 2).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 148366 (Sub-1), filed January 7, 1983. Applicant: STRAIN'S BUS CO., INC., 2450 30th Avenue SE., Rochester, MN 55901. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. 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 151206 (Sub-3), filed January 5, 1983. Applicant: NANCY & DWIGHT'S HOLIDAY TOURS, INC., P.O. Box 188, Randleman, NC 27317. Representative: Dwight E. Thompson (same address as applicant), (919) 498-2003. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 157167 (Sub-1), filed January 5, 1983. Applicant: LINCOLN COACH TRAVEL, INC., 12681 Route 30 (P.O. Box 369), Irwin, PA 15642. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108-1166, (717) 232-8000. Transporting *passengers*, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) to team 4, Room 5331

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165246 (Sub-1), filed January 5, 1983. Applicant: EMERALD EMPIRE TRANSPORTATION SYSTEM, INC., 9000 W. Washington Blvd., Culver City, CA 90230. Representative: Warren N. Grossman, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213) 627-8471. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 165487, filed December 29, 1982. Applicant: GEORGE A. THOMAS, R.R. #5, Box 102, Muncie, IN 47302. Representative: George A. Thomas (same address as applicant), (317) 284-6294. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165546, filed January 6, 1983. Applicant: LeROY E. GUY, Rt. 3, 410 Celtic Court, Colorado Springs, CO 80908. Representative: LeRoy E. Guy (same address as applicant), (303) 488-3519. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165547, filed January 6, 1983. Applicant: DAN GRADY, d.b.a. TRAILER TRANSPORT SERVICE, P.O. Box 6631, Oakland, CA 94603. Representative: Dan Grady, 382 Holly Dr., San Rafael, CA 94903, (415) 792-5091. As a *broker of general commodities* (except household goods), between points in U.S.

MC 165556, filed January 5, 1983. Applicant: RELIABLE FREIGHT BROKERAGE, INC., 3224 Toone St., Baltimore, MD 21224. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797-6060. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165586, filed January 10, 1983. Applicant: AMERICAN INDEPENDENT CARRIERS, INC., 207 Manatee Rd., Winter Haven, FL 33880. Representative: Donald E. Potrafka, P.O. Box 6429, Augusta, GA 30906, (404) 793-6955. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, 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 165587, filed January 10, 1983. Applicant: McKENZIE COACH, 4655 Brown St., Philadelphia, PA 19131. Representative: Larry McKenzie (Same address as applicant), (215) 222-0160. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA, NJ, DE, MD, and DC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165617, filed January 11, 1983. Applicant: BILLY W. AND LINDA L. MONTGOMERY d.b.a. B. MONTGOMERY AND SONS, P.O. Box 238, Keno, OR 97627. Representative: Billy W. Montgomery (same address as applicant, (503) 884-8695. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4-023

Decided: January 17, 1983.

By the Commission, Review Board No. 2, members Carletion, Williams, and Ewing.

MC 159197 (Sub-2), filed December 20, 1983. Applicant: BURLINGTON STAGE LINES, LTD., d.b.a. BURLINGTON TRAILWAYS, P.O. Box 491, West Burlington, TA 52655. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441.Transporting *passengers*, (A) in charter and special operations, between points in the U.S. (except HI), (B) over regular routes, in intrastate, interstate, and foreign commerce, (1) between Davenport, IA, and the junction of Interstate Hwy 80 and IA Hwy 38, from Davenport over U.S. Hwy 6 to junction IA Hwy 38, then over IA Hwy 38 to junction Interstate Hwy 80, (2) between Cedar Rapids and Iowa City, IA, from Cedar Rapids over Interstate Hwy 380 to Iowa City, and (3) between St. Louis, and Wentzville, MO, over Interstate Hwy 70, (C) over regular routes, in intrastate commerce, on routes in No. MC-159197 (Sub-No. 1) and in MC-2890 (Sub-No. 18), acquired in MC-F-14737, as follows: (1) MC-159197 (Sub-No. 1), in its entirety over routes which extend between Iowa City and Muscatine, IA, and (2) MC-2890 (Sub-No. 18), in part, between Muscatine and Cedar Rapids, IA, in intrastate commerce between West Liberta and Cedar Rapids, IA.

Note.—Applicant seeks in (A) to provide privately-funded charter and special transportation, in (B) to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route, and in (C) to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue.

Part A will be published in vol # OP4-023.
Part B will be published in vol # OP4-024.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1656 Filed 1-20-83; 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 carriage 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** 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 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. OP2-028

Decided: January 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 43283 (Sub-10), filed January 4, 1983. Applicant: WASHBURN STORAGE COMPANY, 83 5th St., Macon, GA 31202. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, 202-785-0024. Transporting *household goods*, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC.

MC 104832 (Sub-16), filed December 23, 1982. Applicant: HOLMAN TRANSFER COMPANY, 49 S.E. Clay, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503-226-3755. Transporting *food and related products*, between points in OR and WA, under continuing contract(s) with Keebler Co., of Elmhurst, IL.

MC 108313 (Sub-18), filed January 3, 1983. Applicant: CALEDONIA LINES, INC., 100 Sunny Sol Blvd., P.O. Box 8, Caledonia, NY 14423. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472-8845. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with DAL Specialties, Inc., of Ransomville, NY.

MC 110683 (Sub-204), filed January 5, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant), 202-783-8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and Company, of Chicago, IL.

MC 117503 (Sub-20), filed November 29, 1982. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C St., Sacramento, CA 95814. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415-986-8696. Transporting *general commodities* (except classes A and B explosives, household goods, and

commodities in bulk), between points in CA, ID, NV, OR, and WA.

MC 124472 (Sub-8), filed January 7, 1983. Applicant: HARDING TRANSPORTATION, INC., 6875 East Evans Ave., Denver, CO 80222. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203, 303–839–5856. Transporting *glass, glass products, and related materials, equipment, and supplies*, between points in the U.S. (except AK and HI).

MC 129453 (Sub-4), filed December 3, 1982. Applicant: STARCK VAN LINES OF COLUMBUS, INC., 3901 Grove Port Road, Columbus, OH 43207. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington DC 20036 (202) 785–0024. Transporting *household goods*, between points in AL, AZ, AR, CA, CO, CT, DE, 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, WA, WV, WI, WY, and DC.

MC 145992 (Sub-6), filed December 6, 1982. Applicant: FUNBUS SYSTEMS, INC., 304 Katella Way, Anaheim, CA 92802. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609 (213) 945–2745. Transporting *passengers*, (1) between San Diego and San Francisco, CA: from San Diego over Interstate Hwy 5 to junction U.S. Hwy 101, at Los Angeles, CA, then over U.S. Hwy 101 to San Francisco; (2) between Los Angeles, CA, and junction U.S. Hwy 101 and CA Hwy 152, near Gilroy, CA: from Los Angeles over Interstate Hwy 5 to junction CA Hwy 152, near Los Banos, CA, then over CA Hwy 152 to junction U.S. Hwy 101; (3) between junction Interstate Hwy 5 and CA Hwy 152, near Los Banos, CA, and San Francisco, CA: from junction Interstate Hwy 5 and CA Hwy 152, over Interstate Hwy 5 to junction Interstate Hwy 580, then over Interstate Hwy 580 to junction Interstate Hwy 80, then over Interstate Hwy 80 to San Francisco; (4) between San Jose and San Francisco, CA, over Interstate Hwy 280; (5) between junction Interstate Hwy 280 and CA Hwy 92, and junction U.S. Hwy 101 and CA Hwy 92, over CA Hwy 92; (6) between junction Interstate Hwys 280 and 380 and junction Interstate Hwy 380 and U.S Hwy 101, over Interstate Hwy 380; (7) between San Diego, CA, and the port of entry on the international boundary line between the U.S. and the Republic of Mexico, at San Ysidro, CA, (a) over Interstate Hwy 5, and (b) over Interstate Hwy 805; (8) between San Diego, CA, and junction Interstate Hwy 15 and CA Hwy 60, near Ontario, CA, over Interstate Hwy 15; (9) between Buena Park, CA, and junction Interstate Hwy 15 and CA Hwy 60, near Ontario, CA: from Buena Park over CA Hwy 91 to junction CA Hwy 57, then over CA Hwy 57 to junction CA Hwy 60, then over CA Hwy 60 to junction Interstate Hwy 15; (10) between junction CA Hwy 91 and Interstate Hwy 5 and Los Angeles, CA: from junction CA Hwy 91 and Interstate Hwy 5 over Hwy 91 to junction Interstate Hwy 405, then over Interstate Hwy 405 to Los Angeles; (11) between Los Angeles, CA, and junction CA Hwy 60 and CA Hwy 57, over CA Hwy 60; (12) between junction CA Hwy 60 and Interstate Hwy 15, near Ontario, CA, and, Las Vegas, NV, over Interstate Hwy 15; (13) return over the same routes in routes (1), (2), (3), (9), and (10) above and (14) serving all intermediate points on routes (1) through (13) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(B) over the same route.

MC 147612 (Sub-6), filed January 4, 1983. Applicant: WILLARD D. VAN ZUIDEN TRUCKING, INC., Box 333, Albany, IL 61230. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603 (312) 263–2306. Transporting *metal products, lumber and wood products, building materials, Mercer commodities, and chemicals and related products*, between points in the U.S. (except AK and HI).

MC 148632 (Sub-11), filed January 10, 1983. Applicant: DIXON MOTOR FREIGHT, INC., 2620 Old Egg Harbor Rd., Lindenwold, NJ 08021. Representative: Gary V. Dixon (same address as applicant) 609–767–5885. Transporting *such commodities* as are sold in department stores, between those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 150093 (Sub-6), filed January 10, 1983. Applicant: THE TOM DAVIS CORP., d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *metal products*, between points in Story County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161462 (Sub-5), filed January 4, 1983. Applicant: ILLINI 48 INC., 5501 West 109th St., Oak Lawn, IL 60453. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *such commodities* as are dealt in or used by wholesale, retail, and chain grocery and food business houses, between points in NJ, NY, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162372, filed December 23, 1982. Applicant: LUSK TRANSPORTATION SERVICE, P.O. Box 3567, 306 Bell Crest Dr., Cleveland, TN 37311. Representative: Charles R. Lusk, Jr. (same address as applicant) 615–476–3075. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, between points in TN, MN, WI, IL, KY, PA, MO, IA, TX, NE, OH, and VA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 163762, filed December 20, 1982. Applicant: COLT CARTAGE CO., INC., 1535 Round Table Dr., Dallas, TX 75247. Representative: Larry J. Mack, 3115 Oradell, Apt #207, Dallas, TX 75220, 214–630–9687. Transporting *air conditioning and heating units*, between points in OK and TX, under continuing contract(s) with Borg-Warner Central Environmental Systems, Incorporated, of Philadelphia, PA.

MC 165282, filed December 20, 1982. Applicant: M & M TRANSPORTATION, 8140 Enterprise Dr., Newark, CA 94560. Representative: Michael Prefling (same address as applicant) 415–794–2908. 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 Personal Products Company, of Menlo Park, CA.

MC 165342, filed December 22, 1982. Applicant: DONALD R. BURNFIELD, d.b.a. BURNFIELD TRUCKING, Box 65, Belpre, OH 45714. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *lumber and wood products*, between points in WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165523, filed January 3, 1983. Applicant: WESTON W. JOHNSON, 7645 S.W. Whitford Drive, Portland, OR 97223. Representative: Weston W. Johnson (same address as applicant) 503–246–6422. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors Acceptance Corporation, of Portland, OR.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–020

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 101177 (Sub-2), filed January 5, 1983. Applicant: W. JEFF HAMMOND MOVING & STORAGE, INC., 4001 Fort Campbell Blvd., Hopkinsville, KY 42240. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902 (301) 649–5074. Transporting (a) *household goods, furniture and fixtures, office electrical and electronic equipment, and communications instruments and equipment,* (1) between points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC, and (2) between those points named in (1) above, on the one hand, and, on the other, points in AZ, CA, CO, CT, DE, IA, KS, MA, MI, MN, NE, NJ, NM, NV, NY, UT, and WI, and (b) *textile mill products,* between points in Christian County, KY, on the one hand, and, on the other, Philadelphia, PA, New York, NY, Miami, FL, Los Angeles, CA, Dallas, TX, Minneapolis, MN, Chicago, IL, Kansas City, MO, and points in Middlesex County, MA.

MC 112627 (Sub-38), filed January 6, 1983. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580 (716) 671–1021. Transporting (1) *canned foodstuffs,* between points in Oswego County, NY, on the one hand, and, on the other, points in PA, NJ and OH, and (2) *edible liquid commoodities,* (a) between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundaries of Itasca and Koochiching Counties, MN, to the International boundary line between the U.S. and Canada, and (b) between those points in (a) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121037 (Sub-3), filed January 3, 1983. Applicant: CONTINENTAL FREIGHTWAYS, INC., P.O. Box 9423, Houston, TX 77011. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459 (713) 437–1768. 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 138237 (Sub-20), filed January 5, 1983. Applicant: METRO HAULING, INC., 20848 77th Ave., South, Kent, WA 98031. Representative: Jack R. Davis, 1200 IBM Bldg., Seattle, WA 98101 (206) 624–7373. Transporting *chemicals and related products,* between points in WA, OR, CA, MT, ID, WY, AZ, CO, NV, UT, and NM.

MC 143956 (Sub-36), filed January 6, 1983. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, P.O. Box 393 Berne, IN 46711 (219) 589–8883. 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 147007 (Sub-10), filed January 7, 1983. Applicant: EVERFRESH TRANSPORTATION COMPANY, 6600 East Nine Mile Rd., Warren, MI 48091. Representative: John S. Barbour, 2711 East Jefferson, Suite 202, Detroit, MI 48207 (313) 259–6555. 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 Foremost-McKesson, Inc., of San Francisco, CA 94104.

MC 148556 (Sub-3), filed January 5, 1983. Applicant: KEEBLER COMPANY, One Hollow Tree Lane, Elmhurst, IL 60126. Representative: John M. Sanderson, Jr. (Same address as applicant), (312) 833–2900. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with the Quaker Oats Company of Chicago, IL.

MC 156957, filed January 7, 1983. Applicant: CANACO TRANSPORT LTD., 5755 Desjardins St., St. Hyacinthe, Quebec, CN J2S 1A6. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting *pulp, paper and related products,* between points of entry on the International Boundary line between the U.S. and Canada, at points in ME, MI, NH, NY, and VT, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, KS, LA, MA, MD, ME, MI, MN, MO, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC.

MC 158306 (Sub-1), filed January 5, 1983. Applicant: RICHARD J. WARREN, d.b.a. WARREN TRANSPORT, 10031 McGee Rd., Box 57 McBain, MI 49657. Representative: Richard J. Warren (same address applicant), (616) 825–2192. Transporting *bus seats and seat parts,* between points in Kent County, MI, on the one hand, and, on the other, points in Alameda County, CA.

MC 163527, filed January 7, 1983. Applicant: R & J ASSOCIATES, INC., 131 Maplewood Ave., Thomasville, NC 27360. Representative: Richard A. Hicks (Same address as applicant), (919) 475–2867. Transporting *particleboard and fiberboard,* between points in the U.S. (except AK and HI), under continuing contract(s) with Canterboard, Inc., of Thomasville, NC.

MC 164086 (Sub-1), filed January 5, 1983. Applicant: VERN'S TRUCKING, INC., 6721 S. 85th St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting (1) *chemicals and related products,* between Minneapolis, MN, and points in Lucas County, OH and Brown County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *food and related products,* between points in the U.S. (except AK and HI).

MC 164726 (Sub-1), filed December 30, 1982. Applicant: C & D VAN HORN, INC., Box 93 Valley St., Delaware, NJ 07833. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting (1) *citrus juice concentrate,* between points in Orange, Polk, Manatee, Pasco, Indian River, St. Lucie, Lake, De Soto, Hendry and Highlands Counties, FL, on the one hand, and, on the other, New York, NY; and (2) *food and related products,* between points in Union County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165346, filed January 5, 1983. Applicant: INLAND TRANSPORTATION SYSTEMS, INC., 2905 Haddock, Muskogee, OK 74401. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262–1322. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Muskogee County, OK, on the one hand, and, on the other, points in OK.

MC 165466, filed January 3, 1983. Applicant: RICHARD AND ANN GILBERT d.b.a. GILBERT AND SONS, Route 4, Box 528, Tecumseh, OK 74873. Representative: James P. Whitten, 820 NW 38th St., Oklahoma City, OK 73118, (405) 947–7660. 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 165477, filed December 30, 1982. Applicant: ATLANTA NEWS AGENCY, INC., 4070 Shirley Dr., SW, Atlanta, GA 30336. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, DC 20036 (202) 785–3420. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing

contract(s) with Atlanta News Agency, Inc., and its subsidiaries of Atlanta, GA.

MC 165497, filed January 3, 1983. Applicant: ROBERT W. BARTON d.b.a. RWB TRUCKING, 10904 Woodland, Albuquerque, NM 87112. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM 87110 (505) 298–7511. Transporting *beer, wine, liquor and non-alcoholic mixes*, between points in the U.S. (except AK and HI), under continuing contract(s) with United Wholesale Liquors, Inc. and Bacchus Distributing Company of Albuquerque, NM.

MC 165507, filed January 4, 1983. Applicant: BUSCH INDUSTRIAL PRODUCTS CORPORATION, 10877 Watson Rd., St. Louis, MO 63127. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036 (202) 457–1124. Transporting food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Metz Baking Company of Sioux City, IA, Sunrise Bakery, Inc., d.b.a. Reising's Sunrise Bakery, Inc. of New Orleans, LA, Holsum Bakery, Inc. of Phoenix, AZ, Dakota Bake-N-Serv, Inc. of Jamestown, ND, Golden Pantry Foods, Inc. of Madelia, MN, Best Buy Foods, Inc. of Phoenix, AZ, Tombstone Pizza Corp. of Medford, WI, and Lowenberg Bakery, Inc.of Ottumwa, IA.

MC 165517, filed January 4, 1983. Applicant: J.P. STEVENS & COMPANY, INC., P.O. Box 20087, Greensboro, NC 27420. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036 (202) 457–1122. 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 165526, filed January 4, 1983. Applicant: BAMBRICK ENTERPRISES, INC., P.O. Box 216, Douglasville, PA 19518. Representative: Joseph T. Bambrick, Jr. (same address as applicant) (215) 385–6086. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Aladdin Industries and its subsidiaries of Nashville, TN, Assembly and Distribution Terminals of Massachusetts, Inc., of Allston, MA, Assembly and Distribution Terminals of California, Inc., of Los Angeles, CA, Assembly and Distribution Terminals of Washington, Inc., of Seattle, WA, Assembly and Distribution Terminals of Oregon, Inc., of Portland, OR, General Nutrition Corporation, of Pittsburgh, PA and Sherwood Medical, of St. Louis, MO.

MC 165536, filed January 3, 1983. Applicant: HOLLAND TRANSPORT CO., Box 137, Dawson, WV 24932. Representative: Robert W. Holland (same address as applicant) (304) 392–5584. Transporting *lumber and wood products*, between points in the U.S., (except AK and HI), under continuing contract(s) with Olen W. Blankenship Lumber Co., of Smoot, WV.

MC 165566, filed January 7, 1983. Applicant: B.G.S. TRANSPORTING AND TOWING CORP., 158 Medford Ave., Patchogue, NY 11772. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 2005 (202) 783–3525. Transporting *used automobiles, auto parts* and *auto accessories*, between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC.

MC 165607, filed January 10, 1983. Applicant: CHALLENGER MOTOR FREIGHT, INC., P.O. Box 86, Savage, MN 55378. Representative: V. S. Harris (same address as applicant) (612) 929–2818. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MN, ND, SD, IA, WI, and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume NO. OP4–024

Decided: January 17, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 159197 (Sub-2), filed December 20, 1982. Applicant: BURLINGTON STAGE LINES, LTD., d.b.a. BURLINGTON TRAILWAYS, P.O. Box 491, West Burlington, IA 52655. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751–2441. Transporting *passengers*, (A) in charter and special operations, between points in the U.S. (except HI), (B) over regular routes, in intrastate, interstate, and foreign commerce, (1) between Davenport, IA, and the junction of Interstate Hwy 80 and IA Hwy 38, from Davenport over U.S. Hwy 6 to junction IA Hwy 38, then over IA Hwy 38 to junction Interstate Hwy 80, (2) between Cedar Rpids and Iowa City, IA, from Cedar Rapids over Interstate Hwy 380 to Iowa City, and (3) between St. Louis, and Wentzville, MO, over Interstate Hwy 70, (C) over regular routes, in intrastate commerce, on routes in No. MC 159197 (Sub-No. 1) and in MC–2890 (Sub-No. 18), acquired in MC–F–14737, as follows: (1) MC–159197 (Sub-No. 1), in its entirety over routes which extend between Iowa City and Muscatine, IA, and (2) MC–2890 (Sub-No. 18), in part, between Muscatine and Cedar Rapids, IA, in intrastate commerce between West Liberta and Cedar Rapids, IA.

Note.—Applicant seeks in (A) to provide privately-funded charter and special transportation, in (B) to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route, and in (C) to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A will be published in Vol. #OP4–023. Part B will be published in VOL. # OP4–024.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1658 Filed 1–20–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-151)]

Chicago and North Western Transportation Company—Abandonment—in Carroll County, IA; Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 16.8 mile rail line between Carroll (milepost 421.7) and Manning (milepost 438.5) in Carroll County, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1659 Filed 1–20–83; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Dana Corporation, 4500 Dorr St., Toledo, Ohio 43615.

2. Wholly-owned subsidiaries which will participate in the operations and state(s) of incorporation are as follows:

i. Wix Corporation, a Delaware corporation;

ii. Boston Industrial Products, Inc., a Delaware corporation;

iii. Dana Distribution, Inc., a Delaware corporation;

iv. DTF Trucking, Inc., a Delaware corporation.

(1) Parent corporation and address of principal office: General Foods Corporation (a Delaware corporation), 250 North Street, White Plains, New York 10625.

(2) Wholly owned subsidiaries which will participate in the operations, and states of incorporation:

(a) Birds Eye, Inc. (Delaware)
(b) Brisk Transportation Inc. (Delaware)
(c) Don's Prize, Inc. (Ohio)
(d) General Foods Caribbean Manufacturing Corporation (Delaware)
(e) General Foods Domestic International Sales Company, Inc. (Delaware)
(f) General Foods Inc. (Puerto Rico)
(g) General Foods Manufacturing Corporation (Delaware)
(h) General Pectin Manufacturing Corporation (Delaware)
(i) General Foods Overseas Development Corporation (Delaware)
(j) Vict. Th. Engwall & Co., Inc. (Delaware)
(k) General Foods Trading Company (Delaware)
(l) Hudson Commercial Corporation (Delaware)
(m) Italsalumi, Inc. (Illinois)
(n) Kohrs Packing Company (Illinois)
(o) Oscar Mayer & Co. Inc. (Delaware)
(p) Oscar Mayer Export, Ltd. (Wisconsin)
(q) Oscar Mayer Foods Corporation (Delaware)
(r) Maxwell House, Inc. (Delaware)
(s) Meriwether's Restaurants, Inc. (Delaware)
(t) Quality Industrial Plastics, Co., Inc. (Delaware)
(u) Scientific Protein Laboratories, Inc. (Illinois)
(v) Birds Eye de Mexico, S.A. de C.V. (Mexico)
(w) Canterbury Foods (Alberta) Ltd. (Alberta, Canada)
(x) Franklin Baker Company of the Philippines (Philippines)
(y) General Foods, Inc. (Canada)
(z) Hostess Food Products Limited (Ontario, Canada)
(aa) Entenmann's, Inc. (Delaware)
(bb) Entenmann's Bakery of Florida, Inc. (Florida)
(cc) Entenmann's Frozen Foods, Inc. (Florida)

1. Parent corporation and address of principal office: Henredon Furniture Industries, Inc., Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

2. Wholly-owned subsidiaries which will participate in the operations and addresses of their principal offices:

(a) Henredon Transportation Company, Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

(b) Marimont Furniture, Inc., Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

(c) The North Carolina Schoonbeck Company, 641 Ward Street, High Point, North Carolina 27261.

(d) Connoisseurs Gallery, Inc., Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

(e) Henredon Export Company, Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1657 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15045]

Lloyd W. Sharp—Control Exemption—Carson Truck Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), Llyod W. Sharp, who controls B & G Trucking, Inc. (MC-146820), through the ownership of 50 percent of its outstanding capital stock, seeks an exemption from the requirement under section 11343 of prior regulatory approval for his acquisition of control of Carson Truck Lines, Inc., (MC-142835).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215.

Comments should refer to No. MC-F-15045.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 17, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1612 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15061]

McCoy Group, Inc.—Control Exemption—McMorHan Trucking Company, Inc. and GMC Motor Truck Sales, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), the McCoy Group, Inc. (McCoy) and, in turn, Robert L. McCoy and Mary J. McCoy, who jointly control McCoy, seek an exemption from the requirement under section 11343 of prior regulatory approval for their acquisition of an increased level of control of McMorHan Trucking Co., Inc. (Nos. MC-136774 and MC-143029 and GMC Motor Truck Sales, Inc., (No. MC-155774), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES:

(1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423
and

(2) Petitioner's representative: Donald B. Levine, 180 North LaSalle Street, Suite 2210, Chicago, IL 60601.

Comments should refer to No. MC-F-15061.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: Janaury 17, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1660 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30089]

Springfield Terminal Railway Company—Acquisition and Operation—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10901 the acquisition and operation by Springfield Terminal Railway Company of 4.8 miles of track in Hampden County, MA.

DATES: This exemption will be effective on February 22, 1982. Petitions to stay the effectiveness of this decision must be filed by January 31, 1983, and petitions for reconsideration must be filed by February 10, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Sidney Weinberg, 150 Causeway Street, Boston, MA 02114

Pleadings should refer to Finance Docket No. 30089.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423 (202) 289-4357—DC metropolitan area (800) 424-5403—Toll free for outside the DC area.

Decided: January 14, 1983.

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

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1655 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 9, 1983, in Room N-5437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Warren H. Bacon

2. Commissioner's Remarks—Janet L. Norwood

3. Committee Reports:

(a) Employment and Unemployment (Employment estimates in defense industries, analysis of unemployment insurance data.)

(b) Wages and Industrial Relations (Industrial relations impact of two CPI's.)

(c) Price Indexes (CPI progress report, International Price Indexes.)

4. Other Business

5. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272-5241.

Signed at Washington, D.C., this 17th day of January 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83-1723 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council Committees; Meetings and Agenda

The regular winter meetings of committees of the Business Research Advisory Council will be held on February 7 and 8, 1983.

The Committees on Employment and Unemployment and Wages and Industrial Relations will hold its meetings in Room 2740 of the General Accounting Office Building, 441 G Street, NW., Washington D.C.

The meeting of the Committee on Price Indexes will be held in Room 7216 of the Bicentennial Building, 600 E Street, NW., Washinton, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, February 7

1:30 p.m.—Committee on Employment and Unemployment.

1. Revisions in national labor force series.

2. The outlook for labor market information (FY 1984 budget impact).

3. Use of unemployment insurance (202) data for labor market analysis.

4. Estimating employment in defense industries.

5. Sources of differences between UI claims and unemployment count.

6. Report on agenda for OMB SIC Revision task force.

7. Other Business.

Tuesday, February 8

9:30 a.m.—Committee on Wages and Industrial Relations.

1. Review of WIR Work in Progress.

2. Fiscal Year 1984 Budget.

3. 1982 Patterns in Collective Bargaining.

4. Impact of Two CPI's on Labor Relations.

5. Other Business.

Tuesday, February 8

1:30 p.m.—Committee on Price Indexes.

1. International Price Program status report.

2. Producer Prices and Price Indexes status report.

3. Consumer Prices and Price Indexes status report.

4. Other Business.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth C. Van Auken, Executive Secretay, Business Research Advisory Council on Area Code (202) 272-5241.

Signed at Washington, D.C. this 17th day of January 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83-1724 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-13,988]

Amstar Corporation, American Sugar Division, Philadelphia, Pennsylvania; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-13,988) was initiated on November 30, 1982 in response to a petition received on November 22, 1982 which was filed on behalf of workers at Amstar Corporation, American Sugar Division, Philadelphia, Pennsylvania. The workers produce refined sugar.

On August 16, 1982 an investigation (TA-W-988) was initiated in response to a petition received on August 6, 1982, which was filed on behalf of the same group of workers.

Since the identical group of workers is the subject of the ongoing investigation (TA-W-13,706), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1473 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 10, 1983–January 14, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,533; Hanna Novelty Co., Inc., Monticello, IN

TA-W-13,598; Airco Carbon, St. Mary's, PA

TA-W-13,139; Armco, Inc., Kansas City Works, Union Wire Rope Plant, Kansas City, MO

TA-W-13,404; Hellertown Manufacturing Co., Toledo, OH

TA-W-13,500; Hellertown Manufacturing Co., Burlington, IA

TA-W-13,501; Hellertown Manufacturing Co., Cambridge, OH

TA-W-13,502; Hellertown Manufacturing Co., Hellertown, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,376; F. Joseph Lamb Co., Warren, MI

Aggregate U.S. imports of transfer machines are negligible.

TA-W-13,448; Hadron, Inc., Lake Orion, MI

Aggregate U.S. imports of transfer machines are negligible.

Affirmative Determinations

TA-W-13,329; Bendix Corp., Heavy Vehicle Systems Group, Elyria, OH

A certification was issued covering all workers of the firm separated on or after November 1, 1981.

TA-W-13,459; Fashion Hall, Inc., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after April 23, 1981 and before June 30, 1981.

TA-W-13,469; Easy Made Manufacturing Co., Inc., Bronx, NY

A certification was issued in response to a petition received on April 20, 1982 covering all workers separated on or after August 28, 1981.

TA-W-13,581; Hoh River Cedar Products, Inc., (Sol Due Shake Co.), Beaver, WA

A certification was issued in response to a petition received on June 14, 1982 covering all workers separated on or after October 1, 1981.

TA-W-13,599; Airway Industries, Inc., Airway Park, Ellwood City, PA

A certification was issued in response to a petition received on June 22, 1982 covering all workers separated on or after October 1, 1981.

TA-W-13,509; Kennecott Minerals Co., Utah Copper Div., Magna, UT

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,628; Chino Mines Co. (A Kennecott-Mitsubishi Partnership), Hurley, NM

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,648; Kennecott Minerals Co., Ray Mines Div., Ray, AZ

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,649; Kennecott Minerals Co., Ray Mines Div., Hayden, AZ

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,257; Al Tech Specialty Steel Corp., Dunkirk, NY

A certification was issued covering all workers engaged in employment related to the production of stainless steel bars and stainless steel rods separated on or after September 1, 1981.

TA-W-13,614; Al Tech Specialty Steel Corp., Watervliet, NY

A certification was issued covering all workers engaged in employment related to the production of stainless steel bars and stainless steel rods separated on or after September 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period January 10, 1983–January 14, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213, during normal business hours or will be mailed to persons who write to the above address.

Dated: January 18, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1727 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 31, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 31, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 17th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Agers Brothers, Inc. (workers)	DeSoto, MO	1/11/83	1/7/83	TA-W-14,221	Barite mining.
Artco Woven Label, Inc. (workers)	Marlboro, NH	1/10/83	1/6/83	TA-W-14,222	Labels—woven, small.
Dresser Industries, Inc., Magcobar Minerals Div. (Teamsters).	Potosi, MO	1/10/83	1/4/83	TA-W-14,223	Barite, mining, crushing, packaging, and shipping.
Interlake, Inc., Globe Metallurgal Div. (USWA)	Beverly, OH	1/13/83	1/10/83	TA-W-14,224	Ferrosilicon, low and high carbon chrom, silicide chrom and silicon metals.
I.T.T. Grinnell (USWA)	Princeton, KY	1/13/83	1/10/83	TA-W-14,225	Fittings—welded.
Kentland Elkhorn Coal Corp. (UMWA)	Pike Co., KY	1/11/82	1/3/82	TA-W-14,226	Coal mining.
Plymouth Tube Co. (USWA)	Dunkirk, NY	1/7/83	1/6/83	TA-W-14,227	Tubing—steel, stainless; tubing—welded, heat, exhange.
RCA Corp., Consumer Electronics (IBEW)	Indianapolis, IN	1/11/83	1/7/83	TA-W-14,228	Yokes.
Milchem, Inc. (workers)	Mineral Point, MO	1/7/83	12/31/82	TA-W-14,229	Barite—griding.
Tuscaloosa Energy Corp. (UMWA)	Elkhorn City, KY	1/11/83	1/3/83	TA-W-14,230	Coal—mining.

[FR Doc. 83-1726 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,800]

Pacific States Cast Iron Pipe Company Provo, Utah; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-13,800) was initiated on September 27, 1982 in response to a petition received on September 23, 1982 which was filed on behalf of workers at Pacific States Cast Iron Pipe Company, Provo, Utah.

The workers produce cast iron pressure pipe, fittings, gate valves and fire hydrants.

The petitioning workers requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1474 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Asp Realty Co., Inc.; Profit Sharing Plan; Proposed Exemptions

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Asp Realty Company, Inc., Profit Sharing Plan (the Plan), Located in Fargo, North Dakota

[Application No. D–3435]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The contribution to the Plan by Asp Realty Company, Inc. (the Employer), the Plan sponsor, of certain contracts for deed (Contracts), provided that the Internal Revenue Service (IRS) does not determine that the Employer's Federal tax deduction with respect to such contributions exceeded the fair market value of the Contracts on the date of their contribution to the Plan; and (2) the guarantee by the Employer to replace such Contracts if defaulted upon and indemnify the Plan against any loss suffered due to such default.

Effective Date: The effective date of the proposed exemption, if granted, will be January 1, 1975.

1. The Plan is a defined contribution plan with ten participants as of May 3, 1982 and Plan assets of $345,764.58 as of May 28, 1982.[1] The Plan trustees (the Trustees) are John Thompson and Charles Asp, who are each principal shareholders of the Employer and of Edgewood Rentals, Inc. (Edgewood), whose stock ownership and management is substantially similar to the Employer. The Employer and Edgewood are in the realty business.

2. Edgewood sold properties to unrelated third party buyers under the Contracts, which were wrap-around mortgages subject to existing mortgages with third party banks. Edgewood had in some cases assumed these existing mortgages and in some cases had placed them on the property either to pay construction costs or to pay off prior mortgages on the property in existence at the time it was acquired by Edgewood. Contract payments were amortized on a schedule of 25 to 30 years with a balloon payment due within a substantially shorter period of time. The Employer purchased Contracts from Edgewood for their face value which was the difference between the amount of the outstanding mortgage and the balance due under the Contract.

3. Beginning prior to the passage of the Act, the Employer, due to chronic cash flow problems, funded the Plan principally by contributing the Contracts to the Plan. The Employer continued to contribute Contracts in lieu of cash contributions after the fiduciary responsibility provisions became effective on January 1, 1975 in precisely the same manner as prior to January 1, 1975, based on the advice of the Employer's attorney that such transactions did not constitute prohibited transactions under section 406 of the Act.

4. The Plan assumed no liability for the mortgage payments due under the Contract to the third party bank and, in effect, acquired a second mortgage on the underlying property. Additionally, the Plan paid no commissions with regard to the contributions. The Employer agreed to replace any Contract on which payments were in default and also to make up any losses suffered by the Plan as a result of such default. This agreement was reduced to writing on June 6, 1977. The Plan experienced no loss with respect to the Contracts.

5. The applicant emphasizes that throughout the sequence of transactions described herein, the face value of the Contracts was utilized consistently by the Employer for all Contract valuations. First, the Employer purchased the Contracts at face value from Edgewood. Second, the Employer contributed the Contracts to the Plan and took a Federal tax deduction based upon the face value of the Contract. In addition, allocations to participant's accounts were based upon the same face value. Finally, upon termination of the Plan, the Employer purchased all remaining Contracts held by the Plan for an amount which represented the face value of each Contract.

6. While the applicant acknowledges the Contracts were not appraised by independent appraisers prior to their contribution, and that there were no comparable transactions between unrelated parties in the Plan's immediate geographic area, the applicant maintains that the value utilized for the contribution of the Contracts, that is, the face value, represented the fair market value of each of the Contracts, because the contributions were made within a relatively short period of time after the execution of the Contracts (usually within six months) so as to ensure that their value had not fluctuated.

7. The Department believes that as a general matter, applicants for exemptions of this type must, among other things, present independent corroborative evidence to support an assertion that the claimed value of an asset constitutes its fair market value. Often this is accomplished by the submission of one or more appraisals performed by independent qualified appraisers or by a showing of contemporaneous transactions with non-parties in interest under terms identical to those accepted by the subject plan. The applicant asserts that it acted in good faith with respect to these transactions and cites in support the fact that a consistent manner was utilized (face value) in valuing the Contracts, for all purposes. The transactions were entered into only after obtaining the advice of counsel, and, therefore, it had no reason to believe that the contributions constituted prohibited transactions. No evidence was presented, however, to indicate that the fair market value of the Contracts was independently established.

8. The Department understands from the applicant that the IRS has undertaken an investigation of the Plan regarding the contributions discussed herein. Accordingly, the Department believes it is appropriate to propose an exemption for the contribution of Contracts by the Employer to the Plan, provided that the IRS does not determine that the Contracts were valued at more than fair market value.

For Further Information Contact: Robert Sandler of the Department,

[1] The Plan was terminated in June 1982.

telephone (202) 523–8195. (This is not a toll-free number.)

Operating Engineers Journeymen and Apprentice Training Trust (the Plan), Located in the City of Industry, California

[Application No. L–3588]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, (1) the restrictions of section 406(a) of the Act shall not apply to the proposed use by the Plan of certain real property owned by Mr. William Schmidt (Schmidt), a party in interest with respect to the Plan, for storage and training purposes, provided that the terms and conditions of such use are at least as favorable to the Plan as those obtainable by the Plan in an arm's length transaction with an unrelated party; and (2) the restrictions of section 406(a), 406(b)(1) and 406(b)(2) shall not apply to the execution of an indemnification agreement between the Plan and Schmidt relating to the use of such property, provided that the terms and conditions of such agreement are at least as favorable to the Plan as those obtainable by the Plan in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a collectively bargained multiemployer plan established in accordance with section 302(c)(5) of the Labor-Management Relations Act of 1947, as amended. On June 30, 1981, the Plan had approximately 13,381 participants and net assets of approximately $4,257,211.

2. In 1982 the Plan purchased a piece of equipment known as a rock plant (the Rock Plant) for the training of journeymen and apprentices in the use of such equipment. Prior to such purchase, several sites for the Rock Plant had been offered for use by the Plan. However, all of those sites were subsequently found to be either unsuitable or unavailable for various reasons. The trustees of the Plan (the Trustees) were faced with the problem of where to store and use the Rock Plant without incurring substantial storage fees. One of the Trustees, Schmidt, has offered to permit the Plan to use a portion of his property in Soledad, California (the Site) for the storage and use of the Rock Plant. Schmidt is a contributing employer to the Plan as well as a Trustee. The application states that Schmidt has excluded himslf from participating in the decision-making process of the Trustees as they decide whether or not to use the offered Site. The Site, which is located within a quarry, is about 300 feet by 300 feet, and is completely fenced with a six foot chain link fence which is secured by locking at night.

3. Schmidt will charge no rental to the Plan for the use of the Site, nor will he benefit in any other way except for the general availability of better trained workmen in the industry. No tax deductions will be taken by Schmidt with respect to the Plan's use of the property. The Plan will have the right to sell or otherwise dispose of any materials produced by the Rock Plant, however, if any material is left at the Site, the Trustees will determine whether Schmidt should be permitted to dispose of it. Schmidt will exclude himself from participation in any decisions by the Trustees concerning the disposition of material produced by the Rock Plant. An agreement to be executed between Schmidt and the Trustees (the Agreement) provides for use of the Site by the Plan for an indefinite time, but gives Schmidt the right to terminate the Agreement at will upon reasonable notice to the Trustees.

4. In return for use of the Site, the Trustees will agree to indemnify, defend and hold harmless Schmidt against any and all claims, actions and causes of action which may arise from the Plan's use of the site, except for any claims, actions or causes of action which may arise from the gross negligence or intentional misconduct of Schmidt, his agents, representatives or employees.

5. The Trustees represent that the use of the site by the Plan is in the best interests of the Plan's participants and that it will prevent the Plan from incurring a loss, both beneficially and financially, which would occur if the Rock Plant could not be utilized. Additionally, the Plan will have a suitable site to use at no cost.

6. In summary, the applicants represent that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(a) The Plan will benefit by the use of the Site for training and storage purposes at no cost to the Plan;

(b) The Trustees have been unable to find any other suitable locations for such purposes; and

(c) The Trustees state that use of the Site by the Plan is in the best interests of the Plan's participants.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Thermo Electric Co., Inc., Employees' Profit Sharing and Retirement Plan and Trust (the Plan), Located in Saddle Brook, New Jersey

[Application No. D–3658]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of real property (the Property) by the Plan to Thermo Electric Co., Inc. (the Employer) in exchange for the Employer's promissory note (the Note), provided that the terms of the transaction are no less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

Summary of Facts and Representations

1. As of June 30, 1981, the Plan had 265 participants and total assets of $2,718,477. The trustee of the Plan is Mr. Robert J. MacDonald, an employee of the Employer. The Plan is administered by a Profit Sharing Commitee consisting of three persons appointed by the board of directors of the Employer. Any investment of Plan assets must be approved by the Profit Sharing Committee. As of January 14, 1982, the members of this Committee were Mr. David Schneider, Mr. Martin Meerholz, and Ms. Darlene Kammerer, each of whom is an employee (but not a stockholder, officer, or director) of the Employer.

2. The Property is situated in Shenandoah Valley, Jefferson County, West Virginia and is the location of Harpers Ferry Caverns and Yogi Bear's Jellystone Park Campgrounds. The campgrounds, comprising approximately 35 acres, were established to compliment the cavern attraction, comprising approximately 31.7 acres, for area visitors and tourists. The site is located off of Route 340 in Harpers Ferry, West Virginia, 2½ miles northwest of Harpers Ferry National Historical Park. The campground contains 181 campsites, many with water, sewerage and electrical service, as well as various support facilities, including a ranger station building, comfort stations, a teen hut, swimming pool complex, 18-hole mini-golf course, tennis courts, and

various other structures. A private paved roadway connects with Bakerton Road to provide access to the Property from Route 340. The Property is not presently in use and has been closed to the public since sometime during the summer of 1978.

3. In early 1969, Harpers Ferry Cavern, Inc. (the Developer) acquired the Harpers Ferry Cavern site from Mr. H. B. Long. At that time, the site was subject to a first mortgage held by Eastern Liberty Federal Savings and Loan Association of Washington, D.C. (Lender 1). The Developer proceeded to develop and install the campground facility described above. Financing for many of the campground improvements described above was obtained by the Developer in September 1974, through a loan of $350,000 by the Plan.[1] The applicants represent that both the Developer and Lender 1 are and were unrelated to the Employer. In April 1978, the Developer defaulted in its payments to both Lender 1 and the Plan, and the Plan was advised that Lender 1 had instituted proceedings to foreclose on its mortgage on the Property. A foreclosure sale was held on June 2, 1978. An outstanding principal balance of $230,000 was owed to the Plan by the Developer at the time of the foreclosure sale. After careful deliberation, the Plan's advisory committee decided, consistent with the recommendation of the Plan trustee and in an effort to protect the Plan's interest and to minimize its losses, to bid on the Property at the foreclosure sale. This decision was predicated, in part, upon information available to the committee that the independently appraised value of the Property was $1,568,000. At the foreclosure sale, the Plan was the successful bidder.

4. The Plan invested a total of $821,294 to acquire the Property as a result of the foreclosure, including the balance then owed to the Plan by the Developer and payment by the Plan of the balance due on the first mortgage held by Lender 1, legal fees, property taxes past due, and other closing costs. The Plan expects to recover approximately $19,000 through an involuntary bankruptcy proceeding the Plan instituted against the Developer, reducing the Plan's initial investment in the Property to approximately $802,000.[2] The Plan has made numerous efforts since 1978 to sell the Property to an unrelated third party. On at least two occasions the Property was listed for sale with a real estate broker. Offers were also made to the National Park Service and the Pick Hotel Corporation and several private parties. Despite these efforts, the Plan has been unable to sell the Property. At present there is no current prospect for the sale of the Property.

5. The parties propose that the Employer purchase the Property from the Plan for $802,000, the net amount of the Plan's initial investment in the Property. The purchase price would be paid out over a period of 10 years with interest at the rate of 10 percent per annum. The purchase price would be evidenced by the Note, which is payable in monthly installments of interest and annual installments of principal in the amount of $80,200, with the first payment of principal due one year from the date of sale. The Plan would not pay a sales commission in connection with the sale, and all costs of the proposed sale would be paid by the Employer. In addition, the Employer will assume full responsibility from the date of sale for the various holding costs to which the Property is subject, including but not limited to property taxes, assessments, insurance, security, maintenance, and upkeep. These holding costs amounted to over $14,000 for the six months ended December 31, 1981. Since 1978, when the Plan acquired the Property, the Plan has incurred more than $164,000 in such expenses.

A letter of credit in the amount of $815,000 will be issued by Irving Trust Company, of New York City, in favor of the independent fiduciary who will administer the proposed transaction on behalf of the Plan (see 8, below) for purposes of providing full collateral for the maximum amount of principal and interest that would be due under the Note in the event of default. Such letter of credit will be automatically extended for periods of one year unless Irving Trust Company elects not to extend it and provides prior written notice of such election. In the event that Irving Trust Company does not renew the letter of credit and the Employer does not acquire an equally suitable letter of credit within ten days of being notified of such non-renewal, or if the Employer does not make full payment of principal and interest within such ten day period, the independent fiduciary will draw upon the letter of credit while it is still in effect to pay off the principal and interest owed by the Employer to the Plan in connection with this transaction.

The entire balance due under the Note (both principal and accrued but unpaid interest) shall become due and payable upon any merger or consolidation of the Employer with another entity or upon the sale of substantially all of the Employer's assets to another entity, unless the independent fiduciary mentioned below waives this requirement. Should any interest in the Employer be sold during the term of the Note, the obligation for payment thereunder may not be assigned or transferred but will remain the full liability of the Employer. Should the Employer sell the Property before payment in full of the principal and interest due to the Plan, the Employer will pay the Plan 50% of the net profit, if any, realized from such sale. For this purpose, "net profit" means the difference between the sale price to a third party and the principal obligation of $802,000 plus any interest paid thereon by the Employer to the Plan plus any expenses paid by the Employer which are directly attributable to the Property, such as taxes, insurance, security and maintenance costs, if any, as agreed upon by the Employer and the independent fiduciary. Any such sharing of profit would not adversely affect the payments due to the Plan under the Note; the Employer would remain obligated to make all payments of principal and interest due under the Note.

6. Mr. Richard L. Bowers, SRPA, S.R/W.A., CRA, has appraised the Property and estimates that its fair market value as of June 14, 1982, ranged between $480,000 to $510,000. The appraisal shows that the highest and best use for the approximately 35 acres with the campground improvements is either its former use as a campground facility if improvements are made to make it into a functional property and there is adequate advertising, or its use as a summer camp type resort for a church group, Boy Scouts, Girl Scouts, etc., because of the facilities already in place on the Property. Mr. Bowers explains that the Property has declined in value since 1978 for several reasons. The improvements and caverns portion of the Property are in a dilapidated condition and contribute no value to the Property as of June 1982. Based on his physical inspection of the Property, current financing and interest rates, he considers it highly unlikely to see an investor put in additional capital to recover the caverns as a tourist attraction under current economic conditions. He also states that the buildings, roads, swimming pool, and parking pads show much physical deterioration in the campground area, and that a buyer or investor in the Property would have to spend additional

[1] The Department expresses no opinion as to whether the loan or any other action with respect to the Property violated any provision of Part 4 of Title I of the Act.

[2] See Footnote 1, above.

capital to put the Property in condition to produce income.

Mr. Bowers has been an appraiser and counselor since 1957 for all types of real estate (residential, commercial, industrial, farms, and special use), with 3½ years of staff and reviewing appraisal experience for the U.S. Army Corps of Engineers. He has certified that he has no interest—past, present, or prospective—in the Property which would tend to influence his opinion of its value. The applicants represent that there is no relationship between Mr. Bowers and the Employer, its officers and directors.

7. The applicants state that if the proposed transaction is consummated in the current Plan year ending June 30, 1983, and any portion of the principal payments to be made by the Employer in excess of the fair market value ascribed to the Property by Mr. Bowers' appraisal is treated by the Internal Revenue Service as an Employer contribution to the Plan, such treatment will not disqualify the Plan under section 415 of the Code.

8. Mr. Daniel McColley has agreed to serve as independent fiduciary to the Plan with respect to the proposed transaction and to administer the terms and conditions of the proposed transaction on behalf of the Plan. He states that he is familiar with, understands, and agrees to assume the duties and responsibilities imposed upon fiduciaries by the Act. Mr. McColley is a retired business executive presently engaged in a fiduciary capacity as a trustee for a number of companies in bankruptcy proceedings before the United States Bankruptcy Courts in both the Eastern and Southern Districts of New York. He is familiar with real estate, having performed numerous appraisals for the Courts and for others of both real and personal property, as well as having served as tax assessor for the Borough of Watchung, New Jersey. Mr. McColley has also served as a trustee of various pension plans and has spent many years as a member of the board of directors of several companies. As a director for these companies, Mr. McColley served as a member of various committees with duties in the areas of audit and investment. His experience includes review and evaluation of promissory notes and their present fair market value. It is represented that Mr. McColley has had no prior relationship with the Plan, the Employer, or the officers, directors, or trustees of either entity.

9. Mr. McColley has examined the application for exemption, the documents and records maintained by the Plan pertaining to the Property and the Plan's efforts to sell the Property to an unrelated third party, the Note, Mr. Bower's appraisal of the Property, and the Employer's financial records. He has also met with the representatives of several local realtors, the local Chamber of Commerce, as well as a local campground operator, regarding the Property, local economic and market conditions, and tourism in the area in general. At Mr. McColley's requst, the Employer has agreed to furnish him the following information in connection with his serving as a fiduciary to the Plan with respect to the proposed transaction:

(a) Within 90 days after the close of each fiscal year of the Employer, an audited balance sheet and audited income, profit and loss statement, each certified by an independent public accountant selected by the Employer, presenting the Employer's assets and liabilities as of the close of its fiscal year and the results of its operations during said fiscal year.

(b) Within 45 days after the close of each quarter of the Employer's fiscal year, a balance sheet and income, profit and loss statement similar to that required by subparagraph (a), unaudited, but certified to by the Employer's president or chief financial officer, setting forth the Employer's assets and liabilities as of the close of the quarter and the results of its operations during that quarter and for its current fiscal year to end of that quarter. Said balance sheet and income, profit and loss statement may be subject to audit and year-end adjustment.

(c) At three-month intervals, a report itemizing all expenses and costs incurred by the Employer which are attributable or chargeable to the Property during the preceding three-month period.

(d) Copies of each check and deposit ticket or other evidence satisfactory to the independent fiduciary of the payment of all principal and interest required to be paid by the Employer under the Note within 20 days after each such payment is due.

(e) As soon as possible, but in any event within 10 days of the occurrence, full information as to any possible sale of the Property by the Employer to any third party.

It was also at Mr. McColley's request that the Employer agreed to the conditions described in the last paragraph of 5, above.

10. As a result of his examinations and based upon his personal knowledge of real estate transactions and the real estate market, Mr. McColley has made the following determinations:

(a) With due regard for issuance of a letter of credit, the present fair market value of the Note is at least equal to the fair market value of the Property.

(b) The proposed sales price is fair and equitable and not less than the fair market value of the Property as appraised by Mr. Bowers.

(c) The terms of the proposed transactions are fair and reasonable in light of current economic conditions.

(d) The proposed transaction is not only protective of the rights of the participants and beneficiaries of the Plan but is clearly in their best interests.

(e) The lack of downpayment by the Employer under the proposed sale does not vitiate the benefits of the proposed transaction, nor does it adversely impact upon the interests of the Plan and its participation and beneficiaries. The lack of downpayment must be viewed in the context of the total proposed transaction, which includes immediate conversion of this non-income producing asset of the Plan into an interest earning asset and relieves the Plan of the expenses currently attendant to maintaining the Property. For example, the net gain to the Plan during the first year of the proposed transaction will approximate over $100,000, which may be invested for the benefit of the Plan and its participants. This gain will be realized by a combination of interest on the Note and absorption of expenses such as real estate tax, security service, and insurance by the Employer.

(f) The 10% interest rate to be paid by the Employer to the Plan does not adversely affect the interest of the Plan and its participants and beneficiaries for the same reasons stated in (e), above. The current downward trend in interest rates substantially narrows the gap between the 10% rate proposed for the Note and the market interest rate for comparable loans. Any spread between the 10% rate proposed for the Note and the prevailing market rate of interest for comparable loans at the time of closing of the proposed transaction would be more than offset by the benefits flowing to the Plan from the proposed transaction.

11. In summary, the applicants represent that the proposed transaction meets the exemptive criteria provided by section 408(a) of the Act because: (a) The proposed sales price is not less than the fair market value of the Property as estimated by an independent appraiser; (b) an independent fiduciary believes that the fair market value of the Note is at least equal to the fair market value of the Property, that the terms of the proposed transaction are fair and

reasonable in light of current economic conditions, and that the proposed transaction protects the rights of Plan participants and beneficiaries and is clearly in their best interests; (c) such independent fiduciary will administer the proposed transaction on behalf of the Plan and will receive frequent periodic reports from the Employer to assist the independent fiduciary in so doing; (d) a letter of credit in the amount of $815,000 will be issued by Irving Trust Company in favor of such independent fiduciary to provide full collateral for the maximum amount of principal and interest that would be due under the Note in the event of default; (e) the proposed transaction will enable the Plan to dispose of a non-income producing asset and will relieve the Plan of the high holding costs relating to such asset; (f) the Employer will pay all costs of the proposed sale; and (g) if the Employer subsequently sells the Property at a profit, the Plan will receive half of such profit and the independent fiduciary mentioned above must agree to the determination of the amount of such profit.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under the applicable provisions of the Code, including sections 401(a)(4), 404, 415.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Sackman-Gilliland Corporation Money Purchase Pension Plan (the Plan), Located in Garden City, New York

[Application No. D-3514]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(2) of the Act and section 4975(c)(a) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale by the Plan to Bankers Trust Company (the Trustee) of eight mortgage notes (the Mortgages) for their unpaid principal balance plus accrued interest, provided the amount paid for each Mortgage is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Trustee is a New York banking corporation. Through its parent, Bankers Trust New York Corporation, the Trustee owns indirectly all of the outstanding shares of the Sackman-Gilliland Corporation (S-G), the sponsor of the Plan. S-G, which ceased doing business in early 1982, was an entity engaged in the mortgage brokerage business.

2. The Plan, which is in the process of being liquidated, is a defined contribution plan with 39 participants and assets having a fair market value of approximately $3,250,000 as of December 31, 1981. The Trustee is responsible for making investment decisions concerning the Plan.

3. Since S-G is no longer conducting business, the Trustee intends to liquidate the Plan's assets and distribute benefits to the participants and beneficiaries. Included among the Plan's assets are the eight Mortgages, five of which are secured by commercial real property and three by residential real property. The Mortgages are predominantly first mortgages made during the mid-1960's through the late 1070's either to the Plan directly or indirectly through S-G which would subsequently assign the Mortgage to the Plan.[1] With the exception of one Mortgage, none of the makers of the Mortgages were parties in interest with respect to the Plan.[2] the Mortgages carry fixed rates of interest ranging between 6½ percent to 10 percent and were originally made in amounts varying between $19,000 to $200,000. The Mortgages mature in the mid-1980's through the late 1990's. As of December 31, 1981, the total unpaid principal balance of the Mortgages was $338,507.

4. The Trustee proposes to purchase the Mortgages for cash in the amount of the aggregate unpaid principal balance plus accrued interest rather than at their current total fair market value of approximately $245,000. If the Mortgages were sold on the open market, the Trustee believes the Plan would suffer an estimated loss of $93,000. The Trustee states that the loss could be avoided if it were allowed to purchase the Mortgages for its own portfolio. The proposed sale will not involve the payment of any fees or commissions by the Plan.

5. The Trustee believes that based upon its knowledge as a commercial lender and its knowledge of the secondary mortgage market, that $245,000 is the approximate total fair market value for the Mortgages. The Trustee notes that the total fair market value figure is significantly less than the Mortgages' aggregate face amount, (the proposed purchase price) since the interest rates are substantially below prevailing market rates for comparable mortgages.

6. In summary, the application states that the proposed transaction will satisfy the criteria set forth in section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sale will enable the Plan to liquidate its assets for eventual distribution to the Plan participants and beneficiaries; and (c) the sales price to be paid by the Trustee for the Mortgages will be greater than their current aggregate fair market value.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

F.E.S. Drilling Consultants, Inc., Money Purchase and Defined Benefit Pension Plans (the Plans), Located in Elk City, Oklahoma

[Application No. D-3611]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code,

[1] The Department is not proposing an exemption for the transfer of any Mortgages to the Plan by S-G to the extent such transactions constituted prohibited transactions.

[2] In the Mortgage involving a party in interest, it is represented that the transaction predates July 1, 1974 and is therefore subject to the transitional relief afforded under section 414(c)(1) of the Act. The Mortgage in question was acquired by the Plan in 1969. The trustees at that time were part owners of S-G, the maker of the Mortgage. The present mortgagor, to the best of the Trustee's knowledge, is not a party in interest with respect to the Plan.

by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of certain registered securities by F.E.S. Drilling Consultants, Inc. (the Employer) to the Plans, provided that the terms of the sale are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party on the date of sale.

Summary of Facts and Representations

1. The Plans are a money purchase and a defined benefit plan with two participants. Forest and Marsha Shreves (the Shreves) [1] are the only participants in the Plans. The Shreves also serve as trustees of the Plans. The Plans are funded by one trust.

2. The Plans wish to purchase certain registered securities (the Securities) from the Employer. The Securities include: 300 shares of the common stock of AMAREX, Inc. (the AMAREX Stock) and 200 shares of the common stock of Phillips Petroleum (the Phillips Stock). This proposed transaction will involve 20 percent of the total assets of the Plans.

3. The Plans will pay fair market value for the Securities. The applicant represents that the fair market value of the Securities will be calculated as the average between the high and low price for the day on the date of the sale. The fair market value of the AMAREX Stock was $5.625 per share as of September 14, 1982. The fair market value of the Phillips stock was $28.937 per share as of September 14, 1982. These valuations are based upon *The Wall Street Journal.*

4. In summary, the applicant represents that the proposed transaction meets the criteria for an exemption under section 4975(c)(2) of the Code because:

(a) It will be a one-time cash transaction;

(b) The Securities are marketable with trading occurring daily on the open market;

(c) The Plans will save brokerage costs of about 3 percent of the value of the Securities by purchasing them from the Employer;

(d) The trustees of the Plans represent that the proposed transaction is in the interests of and protective of the Plans; and

(e) The applicant represents that in the event new participants enter the Plans, a new trust will be established to fund the benefits of the new participants. This action will be taken in order to assure that any new participants would not be prejudiced by the investment in the Securities. Thus, the only persons affected by the transactions are the Shreves and they desire and will cause the transactions to be consummated.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Sun Valley Mobile Homes, Inc., Target Pension Plan (the Pension Plan) and Sun Valley Mobile Homes, Inc., Profit Sharing Plan (the Profit Sharing Plan; Collectively, the Plans), Located in Mesa, Arizona

[Application Nos. D-3620 and D-3621]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) Loans (the Loans) by the Plans of 35 percent of their aggregate assets to Sun Valley Mobile Homes, Inc. (the Employer), provided the terms and conditions of the Loans are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party; and (2) the guarantee of repayment of the Loans by the principal shareholders of the Employer.

Temporary Nature of Exemption: The exemption, if granted, will be temporary in nature and will expire five years from the date of the grant with respect to the making of the Loans by the Plans to the Employer. Subsequent to the expiration of this exemption, the Plans may hold the Loans provided they originate during the five year period.

Summary of Facts and Representations

1. The Pension Plan and the Profit Sharing Plan each provided benefits to thirteen participants on September 9, 1982. As of October 31, 1981, the Pension Plan had total assets of $170,140 and the Profit Sharing Plan had total assets of $145,228. The trustees of the Plans (the Trustees) who are members of the Employer's Board of Directors are Messrs. Ray B. Elson, Edwin W. Graber and James R. Elson. The Trustees are responsible for making investment decisions for the Plans.

2. The Employer is an Arizona corporation which has been engaged in the business of selling mobile homes (the Mobile Homes) at the retail level since September 1, 1972. The Employer maintains its principal place of business (the Real Property) at 1830 East Main Street, Mesa, Arizona. The same individuals who serve as the Trustees for the Plans own all of the stock of the Employer corporation. As of October 31, 1981, the Employer had total assets of $1,233,437.

3. Since its inception, the Employer has engaged in a practice known as "flooring". This has entailed obtaining third party financing from banks for the purchase of the Mobile Homes which are subsequently sold to the Employer's customers. The purchase prices of the Mobile Homes range from $35,000 to $75,000.

4. An exemption is requested to allow the Plans, for a period of five years, to make Loans to the Employer on a recurring basis. The proceeds of the Loans will be used by the Employer in the acquisition of new Mobile Homes utilizing an arrangement presently undertaken with the Employer's bank, First Interstate Bank of Arizona (First Interstate), located in Mesa, Arizona. According to this arrangement, First Interstate will finance the entire cost of a Mobile Home if the cost is $35,000 or less. If the cost is greater than $35,000, then the maximum amount the Employer can borrow from First Interstate is 10 percent less than the invoice cost of the Mobile Home. The Plans will make the Loans on the same basis as First Interstate. In addition, no Loan individually or collectively with the other Loans, will exceed 35 percent of the fair market value of the assets of each Plan.

5. The Loans will be further subject to the following conditions:

(a) Each Loan will be evidenced by a promissory note providing for the repayment of principal and interest over a two year period at an interest rate established at 1¾ percent above the prime rate of First Interstate. (This is the same interest rate the Employer presently pays to First Interstate to finance Mobile Home acquisitions.)

(b) Interest accruing on each Loan will be repaid monthly and adjusted by an independent fiduciary on the day First Interstate announces a change in the prime rate. As far as principal is concerned, there will be a principal payment of 20 percent of the amount financed on a Mobile Home at the end of six months from the date of the Loan; an additional 20 percent at the end of one year; an additional 20 percent

[1] Since the Shreves are the sole shareholders of the Employer and the only participants in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

eighteen months from the date of the Loan; and the balance of 40 percent payable at the end of two years. In the event of a sale of a Mobile Home prior to the expiration of the two year period, the remaining principal balance will be paid at the time of the sale.

(c) Each Loan will be secured by a first lien on a Mobile Home and a perfected security interest filed under the Uniform Commercial Code. As additional security, the Employer will offer a recorded second deed of trust on the Real Property. The balance due on the first deed of trust was $59,000 as of October 22, 1982. According to an appraisal report prepared by Mr. R. Veldon Naylor (Mr. Naylor), MAI, ASA, SRWA, CRA of Mesa, Arizona on February 10, 1980, the Real Property had a fair market value of $525,000. In an updated appraisal dated November 29, 1982, Mr. Naylor has certified that the current value of the Real Property is not less than the value found in the 1980 appraisal.

(d) As further security, repayment of the Loans will be guaranteed by the Trustees who had a combined net worth in excess of $3 million as of September 1982.

(e) At all times, the fair market values of the Mobile Homes securing the Loans and the Employer's equity in the Real Property will represent at least 150 percent of the outstanding balances of the Loans.

(f) The Employer will maintain insurance on the Mobile Homes and Real Property and designate the Plans as the beneficiaries of the insurance policies.

6. Mr. Gene A. Schwarzkopf (Mr. Schwarzkopf), a certified public accountant and a former tax manager and financial analyst for several corporations, has agreed to serve as the independent fiduciary for the Loans. Mr. Schwarzkopf is totally independent of the Employer and its principal shareholders. He currently does not provide any services to the Employer or its shareholders, nor has he provided such services in the past. Mr. Schwarzkopf represents he has consulted with ERISA counsel regarding his duties, responsibilities and liabilities under the Act as an independent fiduciary.

Mr. Schwarzkopf believes the proposed transactions are appropriate for the Plans and in the best interests of their participants and beneficiaries. He indicates he has reviewed the portfolio of the Plans and concludes that the Plans do not have specific current cash flow requirements to meet any obligations. He states that limiting the Loans to 35 percent of the Plans' total assets will provide sufficient liquid assets to meet the needs resulting from terminations. He also states that substantially all the assets of the Plans are liquid and the portion needed to make the Loans can be obtained from a money market fund. He further represents that diversifying investments in the Plans under the proposed transactions will enhance the rate of return to the Plans and at the same time there will be collateral in amounts that make the transactions a prudent investment.

Mr. Schwarzkopf represents that the Loans are an appropriate investment for the Plans because of the repayment terms which are basically identical to the loans the Employer has made with First Interstate, the collateral offered and the personal guarantees given by the Trustees. He says he realizes the Loans will be between 90 percent to 100 percent of the cost of a Mobile Home. This method, he notes, is the one followed since September 1, 1972 in the Employer's financing arrangements with First Interstate. He states that this experience over time indicates the repayment terms are prudent.

As the independent fiduciary, Mr. Schwarzkopf will approve each Loan and monitor the repayment terms. In addition, Mr. Schwarzkopf will be responsible for monitoring the fair market value of the collateral used to secure the Loans and demanding additional collateral from the Employer should the combined value fall below 150 percent of the outstanding balance of the Loans. Mr. Schwarzkopf will also be responsible for taking actions deemed necessary to enforce and protect the interests of the Plans.

7. In summary, it is represented that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Loans will be approved and monitored by Mr. Schwarzkopf, an independent fiduciary; (b) the Loans will be secured at all times by first security interests in the Mobile Homes and by a second deed of trust in the Real Property; (c) the collateral will have a value of at least 150 percent of the outstanding balance of the Loans and if the value of the collateral falls below this level Mr. Schwarzkopf will demand that the Employer pledge additional collateral; and (d) the Trustees will personally guarantee the Loans.

For Further Information Contact: Ms: Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Reliable Stores Corporation Pension Plan and Trust (the Plan), Located in Baltimore, Maryland

[Application No. D-3650]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The proposed cash purchase by the Plan of a deed of trust note (the Note) from Reliable Stores Corporation (the Employer), the sponsor of the Plan; and (2) the resulting extension of credit by the Plan to REKA Properties Limited Partnership (REKA), a party in interest with respect to the Plan, provided that the terms and conditions of such transaction are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan which as of December 31, 1981 had assets of $10,216,653 and 1,139 participants. The Employer is engaged in the retail sale of furniture, home furnishings and jewelry. As of January 31, 1982, the Employer's net worth was in excess of $18,000,000.

2. During 1979 and 1980, the Employer purchased approximately 127,000 square feet of real estate in Fairfax County, Virginia and thereon constructed a retail furniture store (the Property). REKA is a partnership that was formed for the purposes of purchasing the Property from the Employer and leasing it back to the Employer. Certain of REKA's general partners are officers and/or directors of the Employer. REKA purchased the Property from the Employer on April 1, 1982 for $2,100,000 and leased the Property back to the Employer under a 25 year lease (the Lease) with five optional renewal periods of five years each. To finance in part the purchase price of $2,100,000, on April 1, 1982 REKA borrowed $750,000 from the Employer. This debt is evidenced by the Note, which is secured by a first deed of trust (Deed of Trust) on the Property. The terms of the Note require equal monthly payments of $9,375 for 25 years and interest on the unpaid principal at the rate of 14.8%. Any remedy under the

Note in the event of default is enforceable by the trustee under the Deed of Trust, Alexander Title Services, Inc. (Alexander), which is independent of all parties to the proposed transaction. The Note provides that in any action to collect any amounts due by REKA, the holder of the Note must look solely to the Property for satisfaction of the debt without the right to seek a money judgment against REKA. The Deed of Trust securing the Note also secures indebtedness of REKA to an unrelated third party, the Katz Trust, in the amount of $750,000. An intercreditors' agreement (the Intercreditors' Agreement) between the Employer and the Katz Trust provides that upon a foreclosure, sale or other disposition of the Property, the Katz Trust and the Employer will share equally in the proceeds. An independent appraiser, John B. Piper, M.A.I., of Vienna, Virginia, appraised the Property as having a fair market value of $2,450,000 as of October 11, 1982. As further security for the Note, REKA assigned to the Employer one half of its interest in the Lease. The remaining one half interest in the Lease was assigned to the Katz Trust.

3. The Employer is requesting an exemption which will permit the Plan to purchase the Note from the Employer and for the resulting extension of credit by the Plan to REKA. The Plan will pay the Employer cash for the Note in the amount of the total outstanding principal balance of the Note as of the date of purchase. The total outstanding principal balance of the Note as of December 15, 1982 was $748,040. As additional security for the Note beyond its interest in the Deed of Trust, the Employer will assign to the Plan its one half interest in the Lease which REKA had assigned to the Employer and will assign to the Plan its rights under the Intercreditors' Agreement. Maryland National Bank, an independent trustee of the Plan, will monitor the receipt of payments under the Note and will instruct Alexander to pursue any available remedy on behalf of the Plan in the event of default. At all times while the Note remains outstanding, REKA will insure the Property against loss by hazard or damage, with the Plan as the named insured to the extent of the Plan's interest in the Property.

4. The applicant represents that the proposed transaction will allow the plan to earn a high rate of return on its investment. In addition, Stanford G. Rothschild, Jr. (Rothschild), an independent fiduciary of the Plan, who is a registered investment adviser whose office is located in Baltimore, Maryland, has reviewed the proposed purchase of the Note by the Plan and represents that the terms will be in line with the market for comparable fixed debt marketable investments and that the price the Plan is paying for the Note is not more than the fair market value of the Note. Rothschild also represents that the proposed transaction will be a prudent and appropriate investment for the Plan.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because: (1) An independent investment adviser has reviewed the proposed transaction and has determined it to be a prudent and appropriate investment for the Plan; (2) an independent trustee of the Plan will monitor the receipt of payments due under the Note: (3) the rights of the Plan under the Deed of Trust will be enforced by an independent trustee; (4) the interest rate of the Note provides the Plan with a high return on its investment; (5) the Note is secured by a first mortgage on the Property with a value substantially in excess of the amount of the Note and also by an assignment of rent under the Lease; and (6) the proposed transaction will involve only about 7.3% of Plan assets.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

Haserjian Bros., Inc., Profit Sharing Plan (the Plan), Located in Hollywood, California

[Application No. D-3663]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of a note by the Plan for $936,282.57 to Haserjian Bros. Realty Co. (Realty), a party in interest with respect to the Plan, provided that the terms of the transaction were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party on the date of consummation of the transaction.

Effective Date: The effective date of the proposed exemption, if granted, would be August 10, 1982.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan with 192 participants as of June 30, 1982. The Plan's trustee is the Central Bank located in Oakland, California. The Plan's Advisory Committee consists of Ted and Harold Haserjian (the Haserjians), Bryan Haserjian and Andrew Reid (the Committee). Haserjian Bros., Inc. (the Employer) is a California corporation engaged in the sale of carpeting. The Employer is wholly owned by the Haserjians.

2. On March 16, 1981, through Professional Lease Funding Inc., an unrelated mortgage broker, the Plan loaned $680,000.00 to Brentwood Townhomes Associates, a limited partnership (Brentwood, Ltd.). The loan was to be used to complete a development of townhome condominiums located at 820-832 Gretna Green Way in Brentwood, California (the Property).

3. The loan, as evidenced by a promissory note (the Note), was payable with interest at a rate of 24% per annum and the borrower, Brentwood, Ltd., paid the Plan three points ($20,400) in advance as additional consideration for its receipt of the loan. The Note provided for monthly-interest-only payments of $13,600, commencing on April 20, 1981. The Note was secured by the lien of a second deed of trust in favor of the Plan on the Property. The first lien on the Property in the amount of $2,150,000 was held by the Imperial Bank (the Bank).

4. Brentwood, Ltd. defaulted on the Note after tendering the first monthly interest payment.[1] On June 11, 1981, because of the default on the Note, the Plan recorded on the local land records a Notice of Default and Election to Sell. On or about July 23, 1981, Brentwood, Ltd. became a limited partner of B.T.A., Ltd., and transferred title to the Property to B.T.A., Ltd., by virtue of a grant deed recorded on August 10, 1981. The Plan waited the required statutory period allowed to bring the Note current and when it wasn't, a Notice of Trustee's Sale was recorded by the Plan on September 21, 1981. This Notice provided that Pacific Sentinel Corporation, the trustee under the trust deed securing the Note, would sell the Property on October 21, 1981 by way of foreclosure. On October 21, 1981, B.T.A., Ltd. commenced a Chapter 11 bankruptcy proceeding by filing a

[1] In this proposed exemption, the Department expresses no opinion as to whether the Plan's acquisition or holding of the Note violated any provision of Part 4 of Title I of the Act.

voluntary petition in the United States Bankruptcy Court, Central District of California. This action enjoined the Plan from proceeding with its scheduled Trustee's Sale. In November 1981, the Bank filed a complaint for relief from a stay of its own parallel effort to foreclose. The trial upon the Bank's complaint commenced on May 21, 1982. On June 25, 1982, a continuation of the trial failed to take place because B.T.A., Ltd. unilaterally defaulted to the Bank.

5. Finding itself inadequately protected by B.T.A., Ltd.'s decision, the Plan filed a complaint for relief in the Bankruptcy Court on June 25, 1982. On that date, the Plan was granted an order from the Bankruptcy Court enabling it to reschedule its trustee's foreclosure sale for August 4, 1982. On July 8, 1982, the Plan was granted an order from the Bankruptcy Court relieving the Plan from the automatic stay of its foreclosure imposed by B.T.A., Ltd.'s Chapter 11 bankruptcy filing. The applicant represents that this decree was issued by the Bankruptcy Court because there was insufficient collateral available to protect the Plan's interest.

6. Pursuant to permission of the Bankruptcy Court, both the Bank and the Plan were permitted to schedule foreclosure sales on July 26, 1982 and August 4, 1982, respectively. In light of the Plan's exposure to loss upon foreclosure by the Bank as holder of the first trust deed, Realty (a partnership wholly owned by the Haserjians) offered to purchase the Bank's interest. On July 26, 1982, Realty purchased the Bank's note for $2,868,206.33 (the total principal and accrued interest outstanding under the Bank's note). Realty then offered to purchase the Plan's Note. The Committee after considering the fact that foreclosure had been delayed for over a year felt that it should proceed immediately to protect the Plan by transferring the Note to Realty prior to the foreclosure sale, which had been rescheduled for August 11, 1982. On August 10, 1982, the Committee agreed to sell the Note and transfer its second deed of trust to Realty for $936,282.57 (the total principal and accrued interest outstanding and due under the Note as of August 10, 1982). The applicant represents that the Plan did not pay any brokerage fees or similar sales charges with respect to the sale. Realty intends to foreclose upon the Property, complete its development, and dispose of it at the highest possible price, which may result in a loss.

7. The applicant represents that the Plan for over a year had not received any income on the Note. Also, the Property securing the Note had deteriorated in value since the improvements on the Property were not completed and due to adverse market conditions.

8. In summary, the applicant represents that the transaction met the statutory criteria for an exemption under section 408(a) of the Act because

(a) It was a one time transaction for cash;

(b) The Plan did not incur any costs in connection with the sale; and

(c) The Plan was able to sell the Note, which was in default, for its unpaid principal balance plus accrued interest.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (this is not a toll-free number.)

Walter M. Roberts Enterprises, Inc., Employees' Profit Sharing Plan (the Plan), Located in Nelson, New York

[Application No. D-3691]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale for $33,500 in cash of certain unimproved real property (the Real Property) by the Plan to Three J Company (the Partnership), provided this amount is not less than the fair market value of the Real Property at the time the sale is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with twenty participants and total assets of $150,906 as of December 31, 1981. The trustees of the Plan (the Trustees) are Messrs. Walter M. and Jan M. Roberts. The Trustees make investment decisions for the Plan. The Plan is maintained by Walter M. Roberts, Inc. (the Employer) which is engaged in the machinery and equipment sale and leasing business.

2. On November 16, 1977, the Trustees purchased the Real Property for the Plan with the possible intention of some day selling it to the Employer. The Real Property was purchased by general warranty deed for the cash amount of $30,000 from Messrs. Emil, Thomas and William Muller who are unrelated parties. The Real Property consists of a two acre vacant parcel of commercially-zoned land situated between Route 96 and Rowley Road in Victor, New York. Since its acquisition, the Real Property has not produced any income nor has it been used or leased. The Real Property is not adjacent to any property owned by the Plan, the Employer or the Partnership. The total real estate taxes paid on the Real Property since its purchase by the Plan have been less $2,500. In addition, the Plan has never paid any insurance premiums on the Real Property.[1]

3. The Trustees propose to sell the Real Property to the Partnership (consisting of the Trustees and Mr. Jerry Roberts) for $33,500 in cash. The purchasers are shareholders of the Employer as well as its officers, directors and employees. The Plan will not incur any real estate fees or commissions in connection with the sale.

4. On August 3, 1982, Mrs. Helen P. Connelly (Ms. Connelly), an independent licensed real estate broker affiliated with Home Realtors of Victor, New York, placed the fair market value of the Real Property at $33,500. Ms. Connelly based her opinion of the value of the Real Property on such factors as her personal familiarity with the Real Property, the date of its valuation, its character, use and location, and the trends and market conditions as they affect current property values. Ms. Connelly also stated that since none of the parcels in the vicinity of the Real Property had been developed or sold to others, there was little appreciation in their respective values. Consequently, she attributed only a 10 percent increase in value to the Real Property since its acquisition by the Plan.

5. In summary, it is represented that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sales price for the Real Property has been determined by an independent appraiser; (c) the Plan will not incur any real estate commissions or fees in connection with the sale; and (d) the sale will allow the Plan to divest itself of an asset producing no income.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[1] The Department expresses no opinion on whether or not the acquisition and holding by the Plan of the Real Property violates any provision of Part 4 of Title I of the Act.

Corning Glass Works Pension Plan (the Plan), Located in Corning, New York

[Application No. D-3721]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed contribution (the Contribution) of a certain limited partnership interest (the Partnership Interest) to the Plan by Corning Glass Works (the Employer), the sponsor of the Plan, provided that the value of the Partnership Interest used for the Contribution is not greater than the fair market value of the Partnership Interest at the time of the Contribution.

Summary of Facts and Representations

1. The Plan is a defined benefit plan which as of August 27, 1982 and 20,000 participants and assets of approximately $320,000,00. The Citibank N.A. (the Bank) located in New York City, New York is the trustee of the assets of the Plan which are the subject of this exemption request.

2. During 1979 and 1980, the Employer committed, as a limited partner, to an undivided $1,500,000 Partnership Interest in Mayfield III, a $30,000,000 venture capital limited partnership consisting of 5 general partners and 60 limited partners. One of such 60 limited partners is a director of the Employer (who is not an officer of the Employer) who with his family holds an undivided $2,280,000 interest in Mayfield III. The applicant represents that all other general and limited partners in Mayfield III are unrelated to the Employer. Mayfield III provides capital to young companies that the general partners of Mayfield III believe will have exceptional growth in sales and profits. The Employer represents that it would be desirable and prudent for a portion of the assets of the Plan to be invested in the venture capital area. The Employer represents that an investment in the venture capital area would provide the Plan with additional asset diversification and an opportunity for aggressive growth in asset value.

3. The Employer is requesting an exemption which will permit the Contribution. The fair market value of the Partnership Interest will be determined by the general partners of Mayfield III based upon the value of the securities which are owned by Mayfield III. In addition, the applicant represents that the Federal tax deduction which the Employer will take for the Contribution will not exceed the fair market value of the Partnership Interest. The Employer represents that the fair market value of the Partnership Interest as of September 30, 1982 was $1,722,800.

4. The Bank has examined the Contribution and represents that the proposed Contribution will be in the best interests of the participants and beneficiaries of the Plan. The Bank also represents that the method that will be used in valuing the Partnership Interest for the Contribution is in conformity with generally accepted accounting principles and appears to be a fully acceptable method of valuation. In addition, the Contribution has been examined by T. Rowe Price Associates, Inc. (Price), an independent investment advisor located in Baltimore, Maryland. Price represents that the Contribution will be in the best interests of the participants and beneficiaries of the Plan. Price also represents that the valuation method used in determining the value of the Partnership Interest for the Contribution is reasonable and is the standard method used in the venture capital business.

4. In summary, the applicant represents that the Contribution meets the statutory criteria of section 408(a) of the Act as follows: (1) The Bank represents that it will be in the best interests of the participants and beneficiaries of the Plan; (2) Price, an independent investment advisory firm, represents that it will be in the best interests of the participants and beneficiaries of the Plan; (3) the value used for the Contribution will be determined by the general partners of Mayfield III using a method which has been approved by the Bank and Price; and (4) the Plan will obtain an investment which will allow it to diversify its assets and which will provide for potential capital appreciation.

Notice to interested persons

The comment and hearing period will be open for a period of 60 days from the date of publication of this notice of pendency in the **Federal Register.**

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

Restated Pension Plan and Trust Agreement of Winchester Orthopaedic Associates, Ltd. (the Plan), Located in Winchester, Virginia

[Application No. D-3777]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan (the Loan) of $189,000 by the Plan to Medical Associates Special Holdings (the Borrower), a party in interest with respect to the plan, to finance construction of an addition to a building leased to Winchester Orthopaedic Associates, Ltd. (the Employer) and Medical Circle Physical Therapy (the Co-Tenant), both parties in interest with respect to the Plan, provided the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 17 participants and total assets as of September 30, 1981, of $615,380.44, including $454,087.63 deposited in checking, savings, and certificate-of-deposit accounts at the Commercial and Savings Bank, Winchester, Virginia (the Bank), which has agreed to serve as a fiduciary to the Plan with respect to the Loan. It is represented that $134,165.12 has or will be contributed to the Plan for the Plan year ending September 30, 1982. The applicants represent that the Plan has sufficient liquid assets, other than those proposed to be invested in the Loan, to pay all anticipated benefits on a timely basis. The trustees of the Plan are Drs. H. George White, Jr., Thomas J. Schulz, and Dennis W. Wise.

2. All three trustees of the Plan and Dr. Benjamin V. Rezba (collectively, the Owners) own the Employer, the Borrower, and the Co-Tenant. The Owners are also employees of the Employer. The Borrower owns the building mentioned above, a five-year old medical building containing about 12 examination rooms and located at 128 Medical Circle, Winchester, Virginia, which is leased to the Employer and the

Co-Tenant. As a result of increased practice, the Employer and the Co-Tenant require additional office facilities, and the Borrower intends to construct a significant addition to the existing building for this purpose.

3. To finance such construction, the Borrower wishes to borrow $189,000 from the Plan and to repay such amount plus interest in uniform amortized payments of $2,775.87 per month over a 15-year period. The Loan will bear interest at the rate of 16% per year on the unpaid balance for the first five years. The yearly interest rate will be redetermined at the end of each five years to such amount as is equal to the greater of 16% or 1% over the prime rate at the Bank, and the amortized monthly payment shall be redetermined in accordance with any such change to the interest rate. A late charge will be assessed equal to 4% of the amount of every installment paid more than 14 days after such installment was due. The Loan will be guaranteed by the Owners, whose aggregate net worth is more than 12 times the amount of the Loan. Their guarantees will be in the same form as that usually utilized by the Bank.

4. The Loan will be partially secured by a deed of trust on the subject building, the proposed addition, and the land on which they are situated (aggregately, the Property). The Property will be insured against fire and other calamity, with the Plan designated as loss payee. The deed of trust which will serve as partial security for the Loan will be subordinate to an existing lien on the Property in the form of 6.75%, 20-year industrial development bonds (the Bonds) approved by the Winchester Industrial Development Authority in the amount of $450,000.00. If the Property is sold, the Bonds will become the obligation of the new owners of the Property. However, the deed of trust which will secure the Loan will not be transferable and must be paid off if the Property is sold.

5. The Loan will also be secured by a pledge of all the outstanding shares of stock of the Employer to the extent that the sum of the fair market values of such shares and the Property equal 150% of the sum of the amounts of the Loan ($189,000) and the Bonds ($450,000). The Bank has reviewed financial information relating to the Employer and has determined that all of the outstanding shares of stock of the Employer are worth more than $393,000. The applicants represent that the Loan is based on customary business practices in the Winchester, Virginia area and is in accordance with commercially reasonable terms offered at local banks, which terms are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party in the Winchester area.

6. Mr. Emil W. Miller, an independent real estate appraiser and conultant, has estimated that the fair market value of the Property on November 1, 1982, was $810,000.00, based upon its highest and best use as medical offices. Mr. Miller's appraisal report shows that the assumable financing available at a very favorable rate, in the form of the Bonds, increases the value of the Property. Mr. Miller is an Associate Senior Real Estate Appraiser with the Society of Real Estate Appraisers and has been designated as a Level 2 Appraiser by the Federal National Mortgage Association. The appraisal report states that he has now, and anticipates in the future, no interest or relationship in any way with the Property or owners or any employees of the project appraised.

7. The Bank will serve as trustee for Plan assets invested in the Loan and will have the final authority to determine whether the Plan will make the Loan and to monitor the Loan throughout its existence. All payments due under the Loan will be payable to the Bank as a Plan trustee. Throughout the duration of the Loan, the Bank will also determine whether additional security is needed to ensure that the ratio of the fair market value of the security for the Loan to the outstanding balances due under both the Loan and the Bonds is at least 150%. In the event that additional collateral is necessary to maintain such 150% ratio, (a) Each of the Owners will agree to pledge personal assets for this purpose, and/or (b) the Bank may cause the Loan payments to be accelerated in order to maintain the 150% ratio. The Bank has determined that the Loan is in the best interests of the Plan and its participants and beneficiaries principally as a result of the excellent security for the investment and the high rate of return as compared to other available investment alternatives. In addition to reviewing the specific terms and conditions of the Loan, the Bank has examined the overall Plan investment portfolio, considered the cash flow needs of the Plan, given consideration to the necessity of a sale of any Plan assets, examined the diversification of Plan assets in light of the Loan, and reviewed the terms of the Loan as such terms comport with the Plan's investment scheme.

8. It is represented that the Owners, the Borrower, the Employer, and the Co-Tenant are not officers, directors, or shareholders of the Bank and have not borrowed or received credit from the Bank or had any other business dealings with the Bank except as set forth below. A number of these parties do have checking accounts, savings accounts, and certificates of deposit at the Bank; however, the ratio of the amount of these deposits to the total amount of such deposits held by the Bank for all of its customers is less than 1%. Dr. White owes a balance of $23,550.02 to the Bank on his residence deed of trust. Dr. Schulz owes the Bank a balance of $17,549.58. Both these loans are significantly less than 1% of the total loans to all Bank customers.

9. In summary, the applicants represent that the proposed transaction meets the exemptive criteria provided by section 408(a) of the Act because (a) The Bank, an independent fiduciary, will have final authority to determine whether or not the Plan will make the Loan; (b) the Bank will monitor the Loan until it is fully repaid and will ensure that the fair market value of the security for the Loan equals or exceeds 150% of the outstanding balance due under both the Loan and the Bonds at all times; (c) an independent appraiser and the Bank have respectively estimated the fair market values of the Property and the shares of stock of the Employer securing the Loan, and the sum of such values equals 150% of the sum of the amounts of the Loan and the Bonds; (d) less than 31% of the Plan's assets will be invested in the Loan, and the Plan will have sufficient remaining liquid assets to pay timely all anticipated benefits; (e) the Loan is guaranteed by the Owners, whose aggregate net worth exceeds 12 times the amount of the Loan; (f) the Loan is based on customary business practices in the Winchester, Virginia area and is in accordance with commercially reasonable terms offered at local banks; and (g) the Bank believes the Loan will be in the best interests of the Plan and its participants and beneficiaries.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does

not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc 83-1732 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-29-M

Bradford Clinic, P.A. Profit Sharing Plan & Trust; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition, the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Profit Sharing Plan & Trust of Bradford Clinic, P.A. (the Plan), Located in Charlotte, North Carolina

[Prohibited Transaction Exemption 83-10; Exemption Application No. D-2386]

Exemption

The restrictions of sections 406 (a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) The purchase by the Plan from Pyramid Partners (the Partnership) of a medical clinic building known as the Bradford Clinic, provided that the purchase price does not exceed its fair market value as of the date of purchase; (2) the assumption by the Plan of the Partnership's role in the lease to Bradford Clinic, P.A. (the Employer) of the Bradford Clinic and the land on which it is situated, provided that the proposed rent-guarantee and the proposed amendments to the lease described in the notice of proposed exemption are adopted before the Plan becomes a party to the lease, and provided further that the terms of the lease are no less favorable to the Plan than those obtainable in a similar lease with an unrelated third party; and (3) the guarantee by the owners of the Employer of the Employer's obligation to make all rental payments required under the lease.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 9, 1982, at 47 FR 15449.

Written Comments and Hearing Requests

The Department received one comment on the proposed exemption. This comment suggests alternative transactions, in lieu of exempting the proposed transactions, to correct the prior prohibited transactions mentioned in the notice of proposed exemption. As stated in such notice, an independent fiduciary has determined that the proposed transactions are in the interest of the Plan and protect the rights of the participants and beneficiaries of the Plan. Further, the applicants have already represented that within 60 days of the date the grant notice is published in the **Federal Register** the Employer will file Form 5330, Return of Initial Excise Taxes Related to Pension and Profit Sharing Plans, with the Internal Revenue Service reporting all prior prohibited transactions and paying the excise taxes due thereon. After considering the entire record, including the comment received, the Department has determined that the exemption should be granted as proposed.

For Further Information Contact: Mrs.

Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–11; Exemption Application No. D–3273]

Westview Clinic, P.A. Profit Sharing Plan and Trust (the Plan), Located in West St. Paul, Minnesota

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) A loan (the Loan) by the Plan of $80,000 to Emerson Building and Leasing Company (Emerson), provided the terms and conditions of such Loan remain at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; and (2) the guaranty of repayment of the Loan by the general partners of Emerson.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982 at 47 FR 53967.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–12; Exemption Application No. D–3448]

Michael L. Perich, D.D.S. Inc., Profit Sharing Plan (the Plan), Located in Sacramento, California

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of a limited partnership interest in Trust Investors Limited to Dr. Michael L. Perich for $75,000, provided that this amount is not less than the fair market value at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982 at 47 FR 53961.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Radiology Associates P.A. Profit Sharing Plan (the Plan), Located in Little Rock, Arkansas

[Prohibited Transaction Exemption 83–13; Exemption Application No. D–3488]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan of funds by the Plan to Medical Equipment Leasing Company, a party in interest with respect to the Plan, provided that the terms and conditions of the loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 21, 1982 at 47 FR 41657.

Written Comments and Hearing Requests: The applicant informed the Department that it was unable to comply timely with the notice to interested persons requirement as set forth in the notice of pendency. Notice, however, was provided to interested persons on October 22, 1982. Pursuant to discussion with the Department, such notice informed interested persons that the comment period with respect to the proposed exemption was extended to November 26, 1982. The Department notes this change and has determined that adequate notice has been provided.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting to plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–1734 Filed 1–20–83; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3730]

Proposed Exemption for Certain Transactions Involving the Norman E. Storm Professional Corporation Employees' Pension Plan, Located in Southfield, Michigan

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed formation and operation of a limited partnership (the Partnership) entered into between the Norman E. Storm Professional Corporation Employees' Pension Plan (the Plan) and Norman E. Storm, a disqualified person with respect to the Plan. The proposed exemption, if granted, would affect the Plan, Norman E. Storm and the beneficiaries of the Plan. Because Mr. Storm is the sole shareholder of Norman E. Storm Professional Corporation (the Employer), the sponsor of the Plan and is the sole Plan participant, there is no jurisdiction under Title I of the

Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 22, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-3730. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Storm, the trustee of the Plan, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan which provides for individual accounts and permits a participant to exercise control over the assets in his account. Mr. Storm is the only participant in the Plan. Mr. Storm is also the trustee of the Plan and the sole shareholder of the Employer. As of April 17, 1981, the Plan had total assets of $300,000.

2. The applicant proposes that Mr. Storm and the Plan enter into a limited partnership agreement for the purchase, sale and rental of condominium apartments located mainly in Florida and Michigan. The applicant represents that all transactions will occur only between the Partnership and parties unrelated to the Plan, the Partnership or Mr. Storm. Mr. Storm will be the general partner and the Plan would be the limited partner in the Partnership. The initial investment in the Partnership will require $5,000 from Mr. Storm as general partner and $70,000 from the Plan as limited partner. The Plan will not be liable for any obligations of the Partnership above its initial capital contribution, nor will Mr. Storm as general partner be authorized under the limited partnership agreement to seek additional capital from the Plan. The determination of each partner's distributive share of the Partnership income, gain, loss deduction, credit or allowance for any Partnership accounting period shall be in accordance with each partner's percentage interest in the Partnership except that Mr. Storm will receive as compensation for services rendered the Partnership as general partner income equal to eight percent (8%) of the annual gross receipts of the Partnership. The Partnership property will be valued on an annual basis and cash distributions will be made on an annual basis. Upon liquidation of the Partnership, proceeds of the liquidation will be allocated in accordance with the partners capital accounts. The investments of the Partnership will be directed by Mr. Storm. Mr. Storm represents that investing in real estate should provide the Plan with a better rate of return than other investment alternatives.

3. In summary, the applicant represents that the proposed transaction meets the criteria for an exemption under section 4975(c)(2) of the Code because: (1) Beyond its initial capital investment in the Partnership, the Plan will not be liable for the obligations of the Partnership; (2) Mr. Storm, as general partner, will not be authorized to seek additional capital contributions to the Partnership by the Plan; (3) the investments of the Partnership will be controlled by the sole participant of the Plan; and (4) Mr. Storm, the Plan trustee, represents the transaction is in the best interests of the Plan and its participant and beneficiary.

Notice to Interested Persons

Because Mr. Storm is the only participant in the Plan and sole stockholder of the Employer, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transactin is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under section 4975(c)(2) of the Code and in accordance with the

procedures set forth in Rev. Proc. 75–28. If the exemption is granted, the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the formation and operation of the Partnership between the Plan and Norman E. Storm, a disqualified person with respect to the Plan, provided the terms and conditions of the partnership agreement are at least as favorable to the Plan as the Plan could obtain in a transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of January, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-1733 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Mine Safety and Health Administration
Daily Inspection of Hoist Records
MSHA–242R
Daily
Businesses or other institutions; small business or organization
SIC: Major groups 11 and 12
59,250 responses; 2,963 hours

The record of hoist equipment examinations assures that coal mine operators are inspecting their equipment, in particular the wire rope, for and development of unsafe conditions.

Reinstatement

Employment and Training Administration
WIN Employability Plan and Certification Record
ETA 596
On occasion
State or local government
SIC: 944
430,950 responses; 35,898 hours; 1 form

This form summarizes appraisal and employability plan information, and provides for registrants' signatures, indicating their agreement with the employability plan, and for assurance by the SAU that registrants are certified for social services.

WIN Status Change Notice
ETA 597
On occasion
State or local government
SIC: 944
969,000 responses; 48,450 hours; 1 form

This form provides a record of WIN registrant status and activity in the WIN program from entry into employment to deregistration and follow-through.

Signed at Washington, D.C. this 18th day of January, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-1725 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30; 4510-43-M

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to the requirements of Pub. L. 95–602, I hereby certify that the Consumer Price Index for All Urban Consumers rose by 5.1 percent between October 1981 and October 1982 from a level of 279.9 (1967=100) in October 1981 to a level of 294.1 (1967=100) in October 1982.

Signed at Washington, D.C., on the 14th day of January 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-1472 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-24-M

MERIT SYSTEMS PROTECTION BOARD

Air Traffic Controller Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Merit Systems Protection Board intends to complete action on all appeals from air traffic controllers on February 1, 1983.

This notice revokes a prior notice in 47 FR 22623 (1982) which set December 31, 1982, as the anticipated completion date of air traffic controller appeals. The date set in the prior notice was established in the expectation that the appropriation of supplemental funds would be imminent. However, the additional funds were not appropriated until July 18, 1982. Thus, until that date the Board was without the resources

needed to adjudicate the appeals as expeditiously as it had anticipated.

At this time the Board has completed hearings on all of the appeals and has issued decisions on more than 6,400 of those appeals. The Board is therefore, confident that decisions will be rendered on all of the remaining appeals by February 1, 1983.

This notice constitutes the public announcement of a new completion date required by 5 U.S.C. 7701(i)(1).

DATES: New Completion Date: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Michael W. Doheny, (202) 653-7980.

Dated: January 18, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83-1803 Filed 1-20-83; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel (Film/Video Production); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production) to the National Council on the Arts will be held on February 7-9, 1983, from 9:00 a.m.-5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of infomation given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 522b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-1705 Filed 1-20-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on the Safety Research Program will hold a meeting on February 9, 1983, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee wil discuss a draft of the ACRS Report to the Congress on the NRC Safety Research Program for Fiscal Years 1984 and 1985.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 9, 1983-8:30 a.m. until 2:00 p.m.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then discuss a draft of the ACRS Report to the Congress on the NRC Safety Research Program for Fiscal Years 1984 and 1985.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 18, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-1716 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-74, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of the Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Michigan. The amendment is effective as of its date of issuance.

This amendment approves the Cycle 4 reload, the increase in power level from 3391 to 3411 megawatts thermal, and changes the related Technical Specifications. A License Condition for Cycle 4 is imposed as is a general condition prohibiting Cycle 5 operation until further approval is obtained from the NRC.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on August 27, 1982 (47 FR 37983). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated April 7, 1982, as supplemented by letters dated June 11 and June 30, 1982, July 8, 1982, September 30, 1982, December 9 and December 22, 1982 and January 12, 1983, (2) Amendment No. 48 to License No. DPR-74, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public

Document Room, 1717 H Street NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-1717 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-362]

Southern California Edison Co., et al.; Issuance of Amendment Facility Operating License No. NPF-15

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licenses) for the San Onofre Nuclear Generating Station, Unit 3 (the facility) located in San Diego County, California.

Amendment No. 1 contains three changes. The first change is to the Technical Specifications to allow the shutdown cooling trains to be removed from operation for up to one hour per eight-hour period during performance of core alterations in the vicinity of the reactor pressure vessel hot legs. This part of the amendment was authorized by telephone on November 19, 1982 and became effective November 19, 1982. Moreover, a confirmatory letter to the licensees was issued on November 30, 1982.

The second change is to the Technical Specifications to allow the non-critical component cooling water (CCW) loop to circulate water to the reactor coolant pumps after safety injection initiation. The non-critical CCW loop will still be required to isolate on high containment pressure. This part of the amendment is effective January 14, 1983.

The third item grants an exemption to 10 CFR Part 50, General Design Criteria 56 until March 22, 1983.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated November 19, December 20 and 21, 1982, and January 7, 1983, (2) the Commission's letter to the licensees dated November 30, 1982, (3) Amendment No. 1 to Facility Operating License No. NPF-15, and (4) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of January, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-1718 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

Amendment to NRC Requirements Regarding Mandatory Review for Declassification

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice Amending NRC's Mandatory Review for Declassification Requirements.

SUMMARY: The Nuclear Regulatory Commission is amending its requirements regarding Mandatory Review for Declassification. This action is necessary pursuant to Section 3.4 of Executive Order (E.O.) 12356, relating to national security information. This notice also contains instructions for submitting suggestions or complaints regarding NRC's information security program.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Whipp, Chief, Information Security Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 427-4476.

SUPPLEMENTARY INFORMATION: Pursuant to E.O. 12356, "National Security Information," and its Implementing Directive, the Nuclear Regulatory Commission is amending in its entirety:

1. Section D.10 of its Manual Chapter Appendix 2101, Part XIV,[1] Mandatory Review for Declassification to read as follows:

a. NRC information classified under E.O. 12356 or predecessor orders shall be subject to a *mandatory* review for declassification by NRC, whenever:

(1) The request is made by a United States citizen, permanent resident alien, Federal agency, or State or local government; and

(2) The request describes the document or material containing the information with sufficient specificity to enable NRC to locate it with a reasonable amount of effort.

b. Any person desiring a mandatory review for declassification of NRC documents containing classified information should address such requests to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Requests need not be made on any special form, nor does the requested information have to be identified by date or title, but shall, as specified in the E.O., describe the information with sufficient specificity to enable NRC to locate the records containing the requested information with a reasonable amount of effort.

c. The Director, Division of Security, will acknowledge receipt of the request and initiate action to obtain the requested information.

d. Responses to mandatory declassification review requests shall be governed by the amount of search and review time required to process the request.

(1) Every effort will be made to make a prompt declassification determination and notify the requester accordingly. If a prompt declassification determination cannot be made, the Director, Division of Security, will advise the requester of the additional time needed to process the request.

(2) A final determination shall be made on each request within one year from the date of receipt, except in

[1] Published in the **Federal Register** on September 11, 1979 (44 FR 52899).

unusual circumstances, in which case the Director, Division of Security, will advise the requester of the additional time required.

e. When information cannot be declassified in its entirety, effort will be made to release, consistent with other applicable law, those declassified portions of the requested information that constitute a coherent segment. Upon the denial of an initial request, the Director, Division of Security, will notify the requester of his/her rights to appeal such denial to the Executive Director for Operations. The appeal shall be in writing, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and shall specify why the requester believes the information or material does not warrant classification. This appeal must be filed within 60 days of receipt of the denial.

f. The Executive Director for Operations will normally render a decision on the matter within 30 working days following receipt of the appeal. The Executive Director for Operations will notify the requester in writing of the final decision and of the reasons for any denial. If additional time is required in rendering a decision, the Executive Director for Operations will notify the requester of the additional time needed and the reason for the extension.

g. If the NRC receives a mandatory review for declassification request for records in its possession that were originated by another agency, the NRC shall forward the request, a copy of the records requested and its recommendation for action to that agency for processing in accordance with that agency's mandatory review procedures. In those instances where the originating agency does not want their identity disclosed or the existence or nonexistence of the requested information is itself classifiable under the provisions of the E.O., NRC will advise the requester accordingly.

h. Except as provided in (1), (2), and (3) below, a mandatory review for declassification request for classified records in NRC's possession which contain foreign government information shall be processed in accordance with the provisions of this section.

(1) If the NRC initially received or classified the foreign government information, the NRC shall be responsible for making a declassification determination after consultation with concerned agencies.

(2) If the NRC did not initially receive or classify the foreign government information, the NRC shall refer the request to the agency that received or classified the foreign government information for appropriate action.

(3) Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

i. If the NRC receives a mandatory review for declassification request for records in its possession that pertain to cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods, it shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

j. Charges for services (e.g. locating and reproducing copies of records) will be made, when deemed applicable, in accordance with NRC regulations and will be consistent with charges for information requested under the Freedom of Information Act, 10 CFR 9.14 (44 FR 16002 March 16, 1979, as amended at 45 FR 70225, October 23, 1980) or the Privacy ACT, 10 CFR 9.85.

2. Instructions for Submitting Suggestions or Complaints Regarding NRC's Information Security Program.

NRC requirements regarding its Information Security Program are contained in NRC Manual Chapter Appendix 2101 Part XIV, "Classification, Downgrading and Declassification." Copies of Part XIV, as well as other parts to NRC's Manual Chapter and Appendix 2101, "NRC Security Program," in accordance with 10 CFR Part 9, "Public Records," are available for review at NRC's Public Document Room, 1717 H Street NW., Washington, DC 20555. Suggestions or complaints regarding NRC's Information Security Program should be submitted in writing to the U.S. Nuclear Regulatory Commission, Director, Division of Security, Washington, DC 20555.

Dated at Bethesda, Maryland, this 10th day of January, 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-1721 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

Availability of FY 1983 funds for Financial Assistance To Enhance Technology Transfer and Dissemination of Nuclear Energy Process and Safety Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC), Office of Nuclear Regulatory Research announces proposed availability of FY 1983 funds to support professional meetings, symposia, conferences, national and international commissions and publications for the expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research necessary to provide a technology base to assess the safety of nuclear power.

Projects will be funded through grants.

DATE: Proposals will be accepted for the period 1/1/83 through 7/31/83

ADDRESS: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: The cognizant NRC grant official is Mr. Kellogg Morton, telephone (301) 492-4294.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Pursuant to Section 31.a. and 141.b. of the Atomic Energy Act of 1954, as amended, the NRC, office of Nuclear Regulatory Research proposes to support educational institutions, nonprofit institutions, state and local Governments, and professional societies through providing funds for expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research program. The program includes, but is not limited to, support of professional meetings, symposia, conferences, national and international commissions, and publications (hereinafter called project). The primary purpose of this will be to stimulate research to provide a technological base for the safety assessment of systems and subsystems technologies used in nuclear power applications. The results of this program will be to increase public understanding relating to nuclear safety, to enlarge the fund of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety.

Eligible Applicants

Educational institutions, nonprofit entities, state and local Governments and professional societies are eligible to apply for a grant under this announcement.

C. Research Proposals

A research proposal should describe (i) the objectives and scientific significance of the proposed meeting, symposium, conference, or commission,

(ii) the methodology to be proposed or discussed, and its suitability, (iii) the qualifications of the participants and the proposing organization, and (iv) the level of financial support required to perform the proposed effort.

Proposals should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

State and local Governments shall submit proposals utilizing the standard forms specified in Office of Management and Budget (OMB) Circular A-102, Attachment M. Nonprofit organizations, universities and professional societies shall submit proposals utilizing the standard forms stipulated in OMB Circular A-110, Attachment M.

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exceptions.

1. Cover Page. The Cover Page should be typed according to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of Proposal—To include the term "conference," "symposium," "workshop," or other similar designation to assist in the identification of the project;
Location and Dates of Conference, Symposium, Workshop, etc.;
Name of Principal Participants;
Total Cost of Proposal;
Period of Proposal;
Organization or Institution and Department;
Required Signatures;
Principal Participants:

Name _____
Date _____
Address _____
Telephone No. _____

Required Organization Approval:

Name _____
Date _____
Address _____
Telephone No. _____

Organization Financial Officer:

Name _____
Date _____
Address _____
Telephone No. _____

2. Project Description. Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section shall provide the basic information to be used in evaluating the proposal to determine its priority for funding.

Applicants must identify other proposed sources of financial support for a particular project.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(a) Project Goals and Objectives—

The project's objectives must be clearly and unambiguously stated.

The proposal should justify the project including the problems it intends to clarify and the development it may stimulate.

(b) Project Outline—

The proposal should show the project format and agenda, including a list of principal areas or topics to be addressed.

(c) Project Benefits—

The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Management—

The proposal should describe the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) Project Costs—

Nonprofit organizations shall adhere to the cost principals set forth in OMB Circular A-122; Educational Institutions shall adhere to the cost principals set forth in OMB Circular A-21; and state and local Governments shall adhere to the cost principals set forth in OMB Circular A-87.

The proposal must provide a detailed schedule of project costs, identifying in particular:

(1) Salaries—in proportion to the time or effort directly related to the project;

(2) Equipment (rental only);

(3) Travel and Per Diem/subsistance in relation to the project;

(4) Publication Costs;

(5) Other Direct Costs (specify)—e.g., supplies or registration fees;

Note—Dues to organizations, federations or societies, exclusive of registration fees are not allowed as a charge.

(6) Indirect Costs (attach negotiated agreement/cost allocation plan); and

(7) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

D. Proposal Submission and Deadline

This program announcement is valid for the period of 1/1/83 to 7/31/83. Proposal submissions shall be in 1 signed original and 6 copies.

E. Funds

For Fiscal Year 1983, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research anticipates making $75,000 to $100,000 available for funding the project(s) mentioned herein.

The NRC anticipates that approximately 5 to 10 projects will be funded. Further, the NRC anticipates that its average support will be $5,000–$15,000 per project.

F. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

G. Evaluation Criteria

The award of NRD grants is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

Evaluation of proposals will employ the following criteria:

1. Potential usefulness of the proposed project for the advancement of scientific knowledge;

2. Clarity of statement of objectives, methods, and anticipated results;

3. Range of issues covered by the meeting agenda;

4. Qualifications and experience of project speakers; and

5. Reasonableness of estimated cost in relation to anticipated results.

H. Disposition of Proposals

Notification of award will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be so advised by the Grants Officer.

I. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to: U.S. Nuclear Regulatory Commission, Attn: Grants Officer, Division of Contracts, Office of Administration, Washington, DC 20555.

The address for hand-carried applications is: U.S. Nuclear Regulatory Commission, Attn: Grants Officer, Division of Contracts, Office of Administration, Room 2223, 4550 Montgomery Avenue, Bethesda, MD 20814.

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Washington, D.C. this 9th day of January 1983.

Kellogg V. Morton,

Chief, Technical Contracts Branch, Division of Contracts, Office of Administration.

[FR Doc. 83-1720 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Re-establishment of National Eligibility Committee for the Combined Federal Campaign (Formerly the Committee on Private Agency Eligibility)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Executive Order 12353, Charitable Fund Raising, signed March 23, 1982, requires the Director, Office of Personnel Management, to establish procedures to conduct the annual Combined Federal Campaign. To carry out this responsibility and insure that the views of all interested parties are considered, this Committee is being re-established. This Committee continues the work of the Committee on Private Voluntary Agency Eligibility under a new name which more clearly defines its function. The Director has determined that the function of this Committee is in the public interest.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Samuel E. Zattiero (202) 632-4533.

SUPPLEMENTARY INFORMATION: The committee's charter is set out below.

Office of Personnel Management.

Donald J. Devine,

Director.

National Eligibility Committee for the Combined Federal Campaign

Charter

A. *Official Designation.* The National Eligibility Committee for the Combined Federal Campaign (the "Committee") was convened by the Director of the Office of Personnel Management (the "Director") under authority of Executive Order 12353 (March 23, 1982). It continues, under a new name, the work and functions previously performed by the Committee on Private Voluntary Agency Eligibility.

B. *Objectives and Scope of Activity.* The purpose of the Committee is to insure through prior review of applications and supplementary financial and accounting data that only responsible and worthy national voluntary agencies are authorized to solicit on the job in Federal installations, and to make recommendations, when requested, regarding other matters relating to charitable fund-raising in the Federal service. The Committee is composed of Federal officials, representatives of recognized Federal employee organizations, and representations of the public, all appointed by, and serving at the pleasure of, the Director.

C. *Duration.* The duration of the Committee is indefinite.

D. *Agency and Offical To Whom the Committee Reports.* The Committee advises the Director of the Office of Personnel Management.

E. *Agency Providing Support.* The Office of Personnel Management provides the necessary support for the Committee.

F. *Committee Responsibilities.* The responsibilities of the Committee are solely advisory and are to consider applications of organizations seeking to participate in the Combined Federal Campaign as national voluntary agencies with fund-raising privileges within the Federal service in accordance with Executive Order 12353 (March 23, 1982) and regulations promulgated thereunder; to make recommentations thereon to the Director; and, upon the Director's request, to advise the Director on other matters regarding charitable fund-raising in the Federal service.

G. *Estimated Annual Operating Costs.* Approximately $1,500 and 1/20th staff year.

H. *Meetings.* The Committee meets approximately once a year.

I. *Date Filed.*

[FR Doc. 83-1679 Filed 1-20-83; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19426; File No. SR-NSCC-82-30]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

January 13, 1983.

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 December 23, 1982, the National Securities Clearing Corporation ("NSCC") 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 permanently adopts certain temporary amendments to NSCC's formula for calculating participants' contributions to the clearing fund. During 1982, NSCC reviewed its safeguards and determined, among other things, that users of NSCC's Envelope Settlement System ("ESS") were not required to make clearing fund deposits that, in NSCC's view, were commensurate with the risks associated with this service. Accordingly, NSCC filed a temporary proposed rule change to expire on December 31, 1982 (File No. SR-NSCC-82-10) that modified NSCC's clearing fund formula to increase the size of the clearing fund contributions from certain ESS users. On June 28, 1982, the Commission approved that temporary proposed rule change.[1]

Based on its experience with the modified ESS clearing fund contribution formula, NSCC has determined that the temporary rule changes should be incorporated permanently into NSCC's rules. Accordingly, NSCC has filed File No. SR-NSCC-82-30 for that purpose. NSCC believes that the proposal is in furtherance of Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e)(4) of Securities Exchange Act Rule 19b-4, which provides that a proposal may take effect on filing when it effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-30.

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

[1] Securities Exchange Act Release No. 18852 (June 28, 1982), 47 FR 29426 (July 6, 1982). The formula was subsequently modified slightly by File No. SR-NSCC-82-24. *See* Securities Exchange Act Release No. 19147 (October 18, 1982), 47 FR 47351 (October 25, 1982).

communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1640 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12968; (812-5269)]

Bankers Life Co., Bankers Life Separate Account B and BLC Equity Services Corp.; Application for an Order

January 13, 1983.

Notice is hereby given that Bankers Life Company ("Bankers Life"), a mutual life insurance company organized under the laws of the State of Iowa, Bankers Life Separate Account B ("Account B"), a separate account of Bankers Life registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and BLC Equity Services Corporation, 711 High Street, Des Moines, IA 50307 (collectively, "Applicants") filed, with respect to a new series of variable annuity contracts to be issued by Account B ("New Contracts"), an application on August 9, 1982 and an amendment thereto on January 3, 1983 for an order of the Commission pursuant to Section 6(c) of the Act granting exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 12(d)(1), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the transactions described in the application and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

Bankers Life established Account B on January 12, 1970 for the purpose of funding certain variable annuity contracts issued by Bankers Life. In connection with the commencement of operations of Account B and the issuance of certain group variable annuity contracts, Applicants obtained exemptive relief from the provisions of Sections 22(d), 22(e), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act. Applicants now seek additional exemptive relief necessitated by the proposed issuance of the New Contracts. Under the New Contracts, assets attributable thereto will be invested in shares of BLC Fund, Inc., or BLC Money Market Fund, Inc., each a diversified open-end management company registered under the Act.

All or a portion of each contribution made on behalf of a participant under a New Contract will be allocated among one or more divisions of Account B for investment in shares of one or more of the funds. Prior to the annuity commencement date, and investment account will be maintained for each participant with respect to each division of Account B. Upon notice to Bankers Life, all or part of the value of a participant's investment account maintained with respect to one division maybe transferred to an account maintained with respect to another division for the same type of contribution. Such transfers may be made at any time at least one month before the participant's annuity commencement date, but only two transfers from any one investment account may be made in a twelve-month period without the consent of Bankers Life.

Applicants state that under the New Contracts a contingent deferred sales charge will be assessed in some circumstances in the event of cash withdrawal except in the case of a participant's death or permanent disability. The contingent deferred sales charge will also be imposed where, pursuant to the provisions of New Contracts issued in connection with tax-sheltered annuity plans and deferred compensation plans, investment account values of all participants are withdrawn for the purpose of transferring such values to another funding agent. The contingent deferred sales charge will be 7% of the amount being paid (*i.e.*, the net payment), less 0.7% for each completed contribution year during which a participant was covered under a New Contract. Applicants represent that the amount of any contingent deferred sales charge will never exceed 9% of the purchase payments to which the charge relates. For this purpose, withdrawals will be related to purchase payments on a first-in, first-out basis and "purchase payments" will include purchase payments made under any associated fixed-dollar annuity contract from which transfers have been made.

Other charges under the New Contracts include a charge for administrative expenses relating to the New Contracts of $25 plus 0.5% of up to $50,000 of each participant's total investment account values. Bankers Life will deduct this charge proportionately from the value of each participant's investment accounts on the earlier of the last day of each contribution year or the date a participant's investment accounts are applied or paid in full. A pro rata charge will be made for any fractional part of a contribution year. If investment accounts are established for a participant under both a New Contract and an associated fixed-dollar annuity contract, the administration charge will be deducted pro rata from all such investment accounts based on the proportionate value of each account to the total value of such acounts. Moreover, if contributions for a participant are made under a New Contract as part of a retirement plan sponsored by, or a program of, his employer, and if Bankers Lif receives all of the annuity contributions for all participating employees, then the value of all of the investment accounts of all such employee participants will be aggregated when the 0.5% portion of the administration charge is determined. Such portion of the charge will be deducted pro rata from the investment accounts of all such employee-participants based on the proportionate value of each account to the total value of such accounts. The employer of a participant may agree to make a separate payment of all or a portion of the administration charge for all participants who are employees of such employer. Bankers Life states that it does not expect to recover from the charge any amount above its accumulated expenses associated with the New Contracts.

Bankers Life will assess a mortality and expense risks charge based on an annual rate of 1.4965% for all New Contracts except those issued in connection with individual retirement annuities designed for a single "rollover" contribution pursuant to provisions of the Code ("Rollover Contracts"). For Rollover Contracts the charge is 1.0001%. The mortality and expense risks charge will be deducted as of the end of each valuation period from the assets of Account B. Bankers Life estimates that a reasonable allocation of the total charge would be 0.2490% for the mortality risk and 1.2475% for the expense risk (0.2490% and 0.7511%, respectively, for Rollover

Contracts). Bankers Life may change this charge once each year on 60 days' written notice to the contractholder and each employer and participant affected by the change, except that the charge may not exceed 2.0% on an annual basis and no increase in the charge in excess of 1.75% on an annual basis may be made without the prior approval of the Commission. Any change in the charge will not apply to annuities which are in the course of payment prior to the effective date of the change.

Applicants submit that Bankers Life is entitled to reasonable compensation for is assumption of mortality and expense risks, that the mortality and expense risks charge provided for under the New Contracts is reasonable, and that a mortality and expense risks charge of 1.75% is within the range of charges provided for by other insurance companies for comparable products. In this connection, Applicants state that Bankers Life has reviewed other contracts with risk charges equal to 1.75% on an annual basis and in its opinion the mortality and expense guarantees contained in the New Contracts are on balance comparable to the guarantees contained in such other contracts. Applicants represent that a memorandum setting forth the conclusions of Bankers Life in this regard will be maintained and preserved by it and may be subject to such reasonable periodic, special and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe.

Applicants state that Bankers Life will deduct from the value of a participant's investment accounts the amount of any premium taxes levied by a state or any other government entity. Unless otherwise required by law, the deduction will be made at the time such value is applied to provide annuity payments.

Relief Requested

Applicants request an exemption from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit Applicants to offer the New Contracts with the proposed contingent deferred sales charge.

Applicants request an exemption from Sections 26(a) and 27(c)(2) to the extent necessary to permit them to sell the New Contracts with the proposed administrative and mortality and expense risks charges.

Applicants request an exemption from Sections 26(a) and 27(c)(2) to permit shares of BLC Money Market Fund, Inc., in addition to shares of BLC Fund, Inc., to be held pursuant to an open account system without the use of stock certificates.

Applicants request an exemption from Section 12(d)(1) to the extent necessary to permit Account B to invest in shares of BLC Fund, Inc., and BLC Money Market Fund, Inc., without regard to the limitations of Sections 12(d)(1) (A) and (B).

Applicants request approval pursuant to Section 11 of the transfer provisions described in the application, provided that such approval shall not apply to an investment account maintained with respect to a division of Account B invested in shares other than shares of BLC Fund, Inc., or BLC Money Market Fund, Inc.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction from the provisions of the Act and rules promulgated 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.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1644 Filed 1–20–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12966; (812–5316)]

First Georgia Bancshares, Inc.; Filing of Application

January 13, 1983.

Notice is hereby given that First Georgia Bancshares, Inc. ("Applicant"), 127 Peachtree Street, N.E., Atlanta, Georgia 30301, a Georgia business corporation, filed an application on September 16, 1982, requesting an order of the Commission, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 (the "Act"), declaring that Applicant is not an investment company under the Act or, alternatively, for an order, pursuant to Section 6(c) of the 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 states that it was incorporated on January 14, 1972, to serve as a one-bank holding company and that on August 1, 1973, Applicant acquired all of the outstanding common stock of the Bank of Fulton County ("BFC"). Applicant states further that immediately upon completion of the purchase, Applicant issued 250,000 shares of its $2.50 par value common stock to BFC, which in turn exchanged this stock for all of the assets and liabilities of First Georgia Bank ("FGB"). Applicant states that this transaction was accounted for as a pooling of interests. Applicant states that FGB then liquidated, exchanging one share of Applicant's common stock for each share of the then outstanding FGB common stock. Applicant states that BFC then changed its name to First Georgia Bank (the "Bank").

Applicant states that, in summary, the former shareholders of FGB, upon liquidation thereof, became the sole shareholders of Applicant, holding the same number of shares of Applicant and in the same proportion as they did of FGB. Applicant represents that there has not been a significant turn-over in the ownership of Applicant's common stock, and many of the former holders of the Bank's shares continue to hold Applicant's shares.

Applicant states that, in 1975, as a result of losses at the Bank, additional equity was needed by the Bank to comply with applicable banking regulations. Applicant states that, as a result of certain transactions, First Railroad & Banking Company of Georgia, a bank holding company based in Augusta, Georgia ("First Railroad"), purchased 3,000,000 shares of nonvoting convertible preferred shares of the Bank. Applicant states that, in December 1978, First Railroad converted its entire holding of preferred shares into common stock of the Bank with the result that Applicant's ownership interest in the voting stock of the Bank was diluted

from 100% to 20%. Applicant states that its only material asset at present is its 20% ownership of the voting stock of the Bank, and its sole source of operating earnings is from dividends and management fees paid by the Bank.

Applicant states that the Bank is a banking corporation chartered under the laws of Georgia and that it is a member of the Federal Reserve System. Applicant states further that the Bank provides a full range of commercial banking services to its customers, with special emphasis on the retail and small commercial banking market.

Applicant states that its common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 (the "1934 Act"). Applicant states further that, as a 1934 Act reporting company, it provides its shareholders with proxy materials, annual reports and other information required by and in conformity with the provisions of the 1934 Act. Applicant represents that it is also subject to the Bank Holding Company Act of 1956 (the "1956 Act"), which applies to any company which has control over any bank or over any company that is or becomes a bank holding company under the 1956 Act. Applicant states that, despite the dilution of its ownership interest in the Bank in 1978, it is deemed by the Federal Reserve Board to control the Bank within the meaning of the 1956 Act.

Section 3(b)(2) of the Act excepts from the definition of "investment company" a company that is primarily engaged through a controlled company in a business other than that of investing, reinvesting, owning, holding, or trading in securities. Section 6(c) of the Act authorizes the Commission to grant an exemption from all provisions 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.

Applicant asserts that its primary business is operating and managing the Bank. Applicant further asserts that, among other things, it currently is guaranteed a twenty percent representation on the Board of Directors of the Bank as a result of one of the conditions imposed by the Georgia Commissioner of Banking and Finance in approving the application of First Railroad to convert its preferred stock of the Bank. Applicant states that all but one of its officers and directors hold positions with the Bank, with the Chairman of the Board and President of Applicant serving as the Chairman of the Board and as a director of the Bank. Applicant states further that these officers and directors actively participate in the management and policies of the Bank, and Applicant receives a monthly management fee from the Bank for the performance of such services. Applicant contends that it exercises control over the Bank through its ownership interest in the Bank and through such management interlocks and that the presumption of non-control under Section 2(a)(9) of the Act has been rebutted.

Applicant asserts that it was not organized as and has not held itself out to be an investment company, nor has it acquired a diversified portfolio or had a policy of shifting its investments. Applicant maintains that, rather, as a holding company, it has been primarily engaged in the business of banking through its interest in the Bank. Applicant asserts that it is prohibited by the 1956 Act from engaging through investment or otherwise in any business not closely tied to banking. Applicant further asserts that its investors do not at this time need whatever additional protection might be afforded by registration under the Act.

Notice is further given that any interested person may, not later than February 7, 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 shoud be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally 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 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. 83-1642 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12967; (812-5253)]

Premier Money Market Fund, Inc.; Filing of Application for Order

January 13, 1983.

Notice is hereby given that Premier Money Market Fund, Inc. ("Applicant"), 4333 Edgewood Road, N.E., Cedar Rapids, Iowa 52499, a no-load, open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 27, 1982, and an amendment thereto on November 8, 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 for a complete statement of the provisions from which an exemption is being sought.

Applicant states that it is a "money market fund" which seeks to obtain as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant represents that its only shareholder will be Premier Variable Annuity Account, a separate account of Pacific Fidelity Life Insurance Company, a California corporation engaged in the insurance and annuity business. Applicant represents further that Pacific Fidelity Life Insurance Company is a subsidiary of Life Investors Inc., an Iowa corporation.

Applicant states that it will invest exclusively in the following high-grade domestic and international money market instruments: (1) Obligations issued or guaranteed as to interest and principal by the government of the United States or any agency or instrumentality thereof; (2) U.S. dollar-denominated time deposits, certificates of deposit and bankers' acceptances of U.S. banks and their branches located outside of the U.S. and of foreign banks

and their branches and agencies located worldwide, provided that the bank has capital, surplus and undivided profits (as of the date of its most recently published annual financial statements) with a value in excess of $100,000,000 at the date of investment; (3) commercial paper which at the date of investment is rated A–1 by Standard & Poor's Corporation ("Standard & Poor's") or Prime–1 by Moody's Investors Service, Inc. ("Moody's"), or F–1 by Fitch Investors Services, Inc., or, if not rated, is issued by companies which at the date of investment have an outstanding debt issue rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's; (4) Short-term (one year or less) corporate obligations which at the date of investment are rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's.

Applicant states further that it may enter into repurchase agreements with respect to obligations in which it is authorized to invest. Applicant asserts that it will comply with the requirements set forth in Investment Company Act Release No. 10666 (April 18, 1979), relating to repurchase agreements, in all repurchase agreements entered into by Applicant with broker-dealers and banks.

Applicant states that its net asset value per share for purposes of both purchases and redemptions of shares will be determined as of the close of trading on each day the New York Stock Exchange is open for trading (currently 4:00 p.m., New York City time) and at such other times and/or on such other days as there is sufficient trading in the portfolio securities of Applicant to materially affect its net asset value per share. Applicant states that it proposes to utilize the amortize cost valuation method for valuing its portfolio instruments and that it will value an instrument at its cost and thereafter assume a constant amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on market value of the instrument.

Applicant represents that investments will be made only in instruments having a maturity of one year or less, although obligations underlying repurchase agreements may have a maturity in excess of one year. Applicant represents further that the average maturity of all instruments in the portfolio (computed on a dollar-weighted basis) will be maintained at 120 days or less.

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 thereof, from any provision of the Act or its rules and regulations, 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 believes that it will hold a high percentage of the instruments it purchases to maturity. Applicant states that, as a result, short term variations in the "market price" of such instruments will have little practical relevance to the value of Applicant's investments. Applicant represents that investors in money market funds are generally not concerned with the theoretical differences which might occur between yield achieved through "market" pricing and the yield computed by using the valuation method decribed in the application. Applicant expresses its view that such investors are, however, concerned that the daily net income declared by such a fund not exhibit the volatility that can occur when changes in "market" prices causes changes in yield on a daily or weekly basis. Applicant represents further that the proposed method of valuation will benefit shareholders by enabling Applicant to maintain a constant net asset value of $1.00 per share while providing shareholders with the opportunity to receive a relatively stable flow of investment income.

Applicant believes that, because it invests only in high quality securities with a remaining maturity of one year or less and maintains a dollar weighted average portfolio maturity of 120 days or less, there will normally be a negligible discrepancy between market value and the amortized cost of its portfolio securities. Accordingly, Applicant's Board of Directors has determined that the amortized cost method of valuing its portfolio securities will reflect the fair value of such securities, absent unusual or extraordinary circumstances, and is appropriate and in the best interests of its shareholders.

Applicant agrees that the following conditions may be imposed in any order granting the requested exemption:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to assure to the extent reasonably practicable 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 Directors shall be the following:

(a) Review by the Board of Directors 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 maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions, chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates or market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes that 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 reduce to the extent reasonably practicable such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; 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, and Applicant will not (1) purchase any instrument with a remaining maturity of greater than one year, or (2) maintain a dollar-weighted average portfolio maturity in excess of 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, 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 condition (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 Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' 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, to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar denominated instruments which the Board of Directors 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 Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 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 February 7, 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 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. 83-1643 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19434; File No. SR-CBOE-82-17]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 11, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Additions are italicized; deletions are bracketed.

Position Limits

Rule 4.11. Except with the prior written permission of the President or his designee, no member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange in any option contract dealt in on the Exchange if the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, [hold or] control [or be obligated in respect of] an aggregate position in excess of 2,000 option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given to each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange.

* * * Interpretations and Policies:

.01 No change.

.02 In connection with Rules 4.11 and 4.12, absent control, option positions in an account in which a member or customer has an interest will not be aggregated with option positions in other accounts involving the same member or customer. For purposes of these rules "control" means the ability to make, or significantly to influence, investment decisions respecting an account; and the definition of "control" contained in Rule 1.1(k) does not apply. The Business Conduct Committee (BCC) shall decide, based on a report of investigation prepared by the staff, whether control is present. A member or customer directly affected by such a determination may ask the BCC to reconsider but may not request any other review except in the context of a disciplinary proceeding.

Exercise Limits

Rule 4.12. Except with the prior written permission of the President or his designee, no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange where such member or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five consecutive business days aggregate long positions in excess of 2,000 option contracts of that class of options or such other number of option contracts as may be fixed from time to time by the Board as the exercise limit for that class of options. Reasonable notice shall be given of each new exercise limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange. *Whether option positions should be aggregated under this rule shall be determined by the process described in Interpretation .02 to Exchange Rule 4.11.*

Securities Accounts and Orders of Market-Makers

Rule 8.9. No change.

* * * Interpretations and Policies:

.01 through .04 and .06 and .07 No change.

.05 To compute the positions or exercises attributable to each participant in a joint account for purposes of determining compliance with Rules 4.11 and 4.12, positions or exercises in the joint account shall be aggregated with all positions or exercises in options covering the same underlying security which any participant or any member organization

associated with a participant (holds or) controls [or is obligated in respect of].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to make clear that the Exchange's position and exercise limit rules require aggregation only of option positions controlled, directly or indirectly, by the same individual or entity. The general purpose of the position-limit rule was described as follows in the Securities and Exchange Commission's (SEC) "Special Study of the Options Market."

> * * * These rules were adopted by the options exchanges primarily to minimize manipulative potential and to prevent the accumulation of large options positions that, if exercised against uncovered writers, would cause them to buy the underlying stock which would likely affect the price of the underlying stock. The position limit rules have the additional effect of limiting the financial exposure of market participants.

The present rule is overbroad. It requires aggregation when aggregation is not necessary "to minimize manipulative potential." An example of this is the aggregation of a securities firm's proprietary account with a related company's institutional account, when the investment decisions involved are not controlled by the same individual(s). Control should be the focus. Such a focus does not change the general purpose of the position-limit rule. However, it should be noted that the use of options to manipulate the price of an underlying security can be detected by means of the exchanges' intermarket surveillance project. Furthermore, there are other effective protections respecting "limiting the financial exposure of market participants," namely, the SEC's Net Capital Rule, Regulation T of the Federal Reserve Board and the maintenance margin requirements of the exchanges.

While detailed guidelines concerning enforcement only can be developed on a case-by-case basis, the following are examples of conditions that create a rebuttable presumption of control over an account: (1) owning an account (either directly, or indirectly by means of owning 25 or more percent of a corporation that owns the account) or (2) participating in a joint account.

In order to rebut the presumption described above, a person must demonstrate that he possesses the power to do none of the following: (1) Make investment decisions; (2) supervise, in a material way, any person who makes investment decisions; or (3) establish investment policies for any person who makes investment decisions. Possession of the power to do one of more of the above in connection with accounts means that aggregation should occur.

Determinations respecting aggregation will be made by the Exchange's Business Conduct Committee (BCC) based on a staff investigation. A person affected by such a determination may petition in writing for reconsideration by the BCC. Additional review of BCC determinations respecting aggregation only can be obtained by means of a disciplinary action, that is, after a violation of the position or exercise limit has been alleged to have taken place. Affording full-scale review of aggregation determinations would be duplicative and would create a potential for undue delay that would harm enforcement efforts.

The basis for this rule-change filing is section 6 (b) (5) of the Securities Exchange Act of 1934, in that the change is in the public interest because it will lessen an unrealistic regulatory burden without diminishing investor protection.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 14, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1645 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19428; File No. SR-NYSE-83-2]

Self-Regulatory Organizations; Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on January 7, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal consists of revisions to the Exchange's Guidelines for Floor Conduct and Safety to increase the penalties that may be imposed for "Floor decorum" violations on the trading Floor.

II. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Exchange's Guidelines for Floor Conduct and Safety which were adopted in 1977, is to ensure that the behavior of individuals on the Floor of the Exchange contributes to the efficient and undisrupted conduct of business, and does not jeopardize the safety or welfare of others. To enforce the regulation pertaining to Floor employees, the Exchange determined to add two new provisions to the present Floor Conduct and Safety Guidelines. The first one pertains to the prohibition on floor clerical employees entering or crossing the trading Floor between the hours of 9:50 a.m. to 4:05 p.m. The penalties for the first and second violation of this provision is a 3-day and 5-day ticket suspension respectively.

The second new provision of the Floor Conduct and Safety Guidelines pertains to the obligation of members and member organizations to have a representative on the Floor between the hours prescribed by the Exchange to insure that all reports due to members and member organizations have been received and that open items are resolved promptly. The penalties for the first the second violation of this provision is a $250 fine and a $500 fine respectively.

The Exchange also proposes to make certain "housekeeing" changes to language of the provision in the Guidelines pertaining to damage or abuse of trading Floor facilities or equipment to more accurately reflect the systems currently in use on the trading Floor.

The revisions to the Guidelines for Floor Conduct and Safety do not affect the rights of members and Floor clerical employees of members and member organizations to appeal, pursuant to existing Exchange rules and procedures, any penalties that are imposed.

The revisions to the Guidelines for Floor Conduct and Safety are intended to promote the efficient, undisrupted conduct of business on the trading Floor. This, in turn, will facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest, as called for by Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Since the revisions to the Guidelines for Floor Conduct and Safety are concerned solely with regulating behavior on the trading Floor, they will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited not received written comments on its revisions to the Guidelines for Floor Conduct and Safety.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1641 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5309]

Allied Business Investors, Inc.; Issuance of License To Operate as a Small Business Investment Company

On June 30, 1982, a notice was published in the **Federal Register** (47 FR 28519), stating that Allied Business Investors, Inc., 626 West 15th Street, Los Angeles, California 90015 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.

The period for comment expired on July 15, 1982, and no significant comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09–5309 to Allied Business Investors, Inc.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1740 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0443]

American Commercial Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On April 6, 1982, a notice was published in the **Federal Register** (47 FR 14821) stating that American Commercial Capital Corporation, 310 Madison Avenue, New York, New York 13402 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on April 21, 1982, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the application and all other pertinent information, the SBA approved the issuance of License No. 02/02-0443 on December 30, 1982, to American Commercial Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1739 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5456]

Avdon Capital Corp.; Application for License To Operate As a Small Business Investment Company (SBIC)

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Avdon Capital Corporation, 805 Avenue L, Brooklyn, New York 11230 with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, and directors of the Applicant are as follows:

Avruhum M. Donner, 1282 E. 10th Street, Brooklyn, New York 11223, President, Director, 50%

David Newberg, 7 Manor Lane, Lawrence, New York 11559, Secretary, Treasurer, Director, 50%

Chaim Gensberg, 1615 E. 9th Street, Brooklyn, New York 11223

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and long-term loans for qualified small business concerns.

The Applicant will conduct the operations principally in the State of New York.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Brooklyn, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

January 14, 1983.

[FR Doc. 83-1738 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1983)) for approval of a conflict of interest transaction.

Grocers proposes to loan $42,500 to Publix Market, Inc., 1300 N. Chester Avenue, Oildale, California. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Publix Market, Inc., falls within the purview of § 107.3 and 107.1004 (b)(5) of the Regulations. Grocers' loan to Publix Market, Inc. requires prior written approval of SBA.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Oildale, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1737 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0314]

Ivanhoe Venture Capital, Ltd.; Issuance of License To Operate as a Small Business Investment Company

On December 9, 1982, a notice was published in the **Federal Register** (47 FR 55445), stating that Ivanhoe Venture Capital, Ltd., 737 Pearl Street, Suite 202, La Jolla, California 92037, 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.

The period for comment expired on December 24, 1982, and no significant comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09-0314 to Ivanhoe Venture Capital, Ltd.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1738 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2074]

Louisiana; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Ouachita, Rapides and Winn in the State of Louisiana constitute a disaster area because of damage resulting from severe storms and flooding beginning on December 19, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 14, 1983, and for economic injury until the close of business on October 11, 1983, at: U.S. Small Business Administration, Ford-Fisk Building, 1661 Canal Street, 2nd Floor, New Orleans, Louisiana 70112, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 13¾ percent.
Homeowners without credit available elsewhere, 6¾ percent.
Businesses with credit available elsewhere, 11½ percent.
Businesses without credit available elsewhere, 8 percent.
Businesses (EIDL) without credit available elsewhere, 8 percent.
Other (non-profit organizations including charitable and religious organizations), 11¾ percent.

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 13, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-1735 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB, for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice contains an extension and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: January 17, 1983.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

(1) Office of Budget and Finance.
(2) Monthly Summary of Payroll Deductions for Government Life Insurance.
(3) VA Form 4-800a.
(4) Monthly.
(5) Employers of Insured Veterans.
(6) 936 responses.
(7) 234 hours.
(8) Not applicable under 3504(H).

[FR Doc. 83-1674 Filed 1-20-83; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 17, 1983, at 10:00 a.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 602A, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Lineman Apprenticeship Training Program at City of Homestead, 790 North Homestead Blvd., Homestead, FL, 33030, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 13, 1983.

Carlos L. Rainwater,

Director.

[FR Doc. 83-1693 Filed 1-20-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., January 26, 1983.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Identification of Controlled Carriers.

Portion closed to the public:

1. Docket No. 82–47: Agreement No. 10266—Agreement Between Intercontinental Transport, B.V. and Compagnie Generale Maritime—consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523–5725.

[S-87-83 Filed 1-19-83; 11:08 am]

BILLING CODE 6730-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 18, 1983.

TIME AND DATE: 10 a.m., Friday, January 21, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Florence Mining Company, Docket No. PITT 77–15, etc., IBMA 77–32. (The Commissioners granted the operators' petition for reconsideration of the Commission's August 31, 1982 decision and the issues include whether 30 CFR 75.1405 applies to certain mine haulage equipment.)

2. Southwestern Illinois Coal Corporation, Docket No. LAKE 80–216. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 77.1710, dealing with the wearing of safety equipment.)

3. Jones & Laughlin Steel Corporation, Docket No. PENN 81–96–R. (Issues include whether the judge properly determined that 30 CFR 75.303 does not require preshift examination of coal carrying conveyer belts.)

4. A. H. Smith Stone Company, Docket No. VA 81–51–M. (Issues include whether the judge erred in finding a violation of 30 CFR 56.4–35.)

5. U.S. Steel Corporation, Docket No. KENT 81–136. (Issues include interpretation and application of 30 CFR 77.1605(k).)

It was determined by a unanimous vote of Commissioners that the above meeting be closed and that no earlier announcement of the meeting was possible. Items 1 through 3 are items continued from the previously announced meeting held on January 18, 1983. Items 4 and 5 have been added for discussion and action.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-88-83 Filed 1-19-83; 12:47 pm]

BILLING CODE 6735-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 1857, Friday, January 14, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 19, 1983.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

1. Proposed staffing within the Board.
2. Federal Reserve Board officer salary administration.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S-84-83 Filed 1-19-83; 11:02 am]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11 a.m., Wednesday, January 26, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 19, 1983.

James McAfee,

Associate Secretary of the Board.

[S-85-83 Filed 1-19-83; 11:03 am]

BILLING CODE 6210-01-M

5

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 10 a.m., Wednesday, January 26, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20561.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda:

1. (1) Proposed preemption determinations under Regulation Z (Truth in Lending) concerning truth in lending laws of Arizona, Florida, and Missouri (Proposed earlier for public comment; Docket No. R–0395); and (2) proposed revision of the Board's Rules Regarding Delegation of Authority concerning future determinations.
2. Publication for comment of proposed amendments to Regulation Z (Truth in Lending) that would: (1) Delete "arrangers of credit" from the definition of creditors, (2) exempt certain student loans, and (3) reinstate provisions regarding liability for use of faulty calculation tools.
3. Technical changes to Regulation 3 (Electronic Fund Transfers) to conform with proposed amendments to Regulation Z (Truth in Lending).

Regular Agenda:

4. Proposed adoption of depreciation allowance in the Board's budget.

5. Proposed Federal Reserve Bank budgets for 1983.

6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 19, 1983.

James McAfee,

Associate Secretary of the Board.

[S-66-83 Filed 1-19-83; 11:03 am]

BILLING CODE 6210-01-M

6

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Hearing

DATE: January 14, 1983.

PLACE: Alumni House, University of Utah, Salt Lake City, UT.

TIME: 9 a.m. until 5 p.m.

PURPOSE: To receive testimony in the area of Credit Policies for the Guaranteed Student Loan Program. Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator, (202) 472–9023.

Submitted the 3rd day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S-93-83 Filed 1-19-83; 12:46 am]

BILLING CODE 6820-BC-M

7

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Hearing

DATE: January 25, 1983.

PLACE: Hoover Memorial Building, Stanford University, Palo Alto, CA.

TIME: 9 a.m. until 5 p.m.

PURPOSE: To receive testimony, in the area of Graduate Education, from University Presidents, Deans Faculty and students. Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator (202) 472–9023.

Submitted the 3rd day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S-92-83 Filed 1-19-83; 12:46 pm]

BILLING CODE 6820-BC-M

8

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Hearing

DATE: January 26, 1983.

PLACE: University of Southern California, Los Angeles, CA.

TIME: 9 a.m. until 3 p.m.

PURPOSE: To receive testimony, in the case of Graduate Education, from University Presidents, Deans, Faculty and students. Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator (202) 472–9023.

Submitted the 3rd day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S-91-83 Filed 1-19-83; 12:46 pm]

BILLING CODE 6820-BC-M

9

NATIONAL MEDIATION BOARD

TIME AND PLACE: 2 p.m., Wednesday, February 9, 1983.

PLACE: Board Hearing Room, eighth floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of January, 1983.

2. Other priority matters which may come before the Board for which notice will be given at the earliest praticable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Dated: January 17, 1983.

[S-89-83 Filed 1-19-83; 12:47 pm]

BILLING CODE 7550-01-M

10

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 24, 1983, at 450 5th Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, January 25, 1983, at 10:00 a.m. Open meetings will be held on Tuesday, January 25, 1983, at 3:00 p.m. and on Thursday, January 27, 1983, at 10:30 a.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas and Longstreth, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 25, 1983, at 10:00 a.m., will be:

Litigation matters.
Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Tuesday, January 25, 1983, at 3:00 p.m., will be:

The Commission will meet with members of the Municipal Securities Rulemaking Board ("MSRB") to discuss bond registration, clearing, transfer, NYSE Rule 387, and investor representation on the MSRB. For further information, please contact Dean V. Shahinian at (202) 272–2388.

The subject matter of the open meeting scheduled for Thursday, January 27, 1983, at 10:00 a.m., will be:

1. Consideration of whether to grant the application John F. Kauffman to become associated with a broker-dealer, as a registered representative in a non-supervisory capacity. For further information, please contact Philip L. Sbarbaro at (202) 272–2240.

2. Consideration of whether to issue an order, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act and Rule 11Aa3–2 thereunder, authorizing the Intermarket Trading System ("ITS") participants to act jointly in operating the ITS on an indefinite

basis. For further information, please contact William W. Uchimoto at (202) 272–2409.

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: Bob Zutz at (202) 272–2091.

January 18, 1983.

[S-83-83 Filed 1-18-83; 4:46 am]

BILLING CODE 8010-01-M

11

U.S. RAILWAY ASSOCIATION

DATE AND TIME: 10 a.m., January 27, 1983.

PLACE: Board Room, Room 2–500, fifth floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED BY THE USRA BOARD OF DIRECTORS: Portion Closed to the Public (10:00 a.m.):

1. Internal Personnel Matters.
2. Litigation Report.
3. Review of Conrail Confidential and Proprietary Financial Information.

Portion Open to the Public (10:30 a.m.):

4. Approval of Minutes of December 15, 1982 Meeting.
5. Conrail Request for Waiver of Financing Agreement.
6. Conrail Request for Waiver of Financing Agreement.
7. Conrail Request for Association to Purchase Accounts Receivable.
8. Conrail Request for Waiver of Financing Agreement.
9. Conrail Request for Section 211(h) loan.
10. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488–8777, ext. 503.

[S-90-83 Filed 1-19-83; 12:47 p.m.]

BILLING CODE 8240-01-M

federal register

Friday
January 21, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Georgia:	
GA82-1058	Oct. 8, 1982.
GA82-1059	Oct. 8, 1982.
GA81-1233	May 22, 1981.
District of Columbia: DC82-3031	Nov. 12, 1982.
Minnesota:	
MN82-2084	Nov. 26, 1982.
MN82-2069	Dec. 27, 1982.
Tennessee: TN82-2071	Jan. 5, 1983.
New Jersey:	
NJ82-3006	Feb. 26, 1982.
NJ81-3053	Oct. 9, 1981.
NJ81-3063	Dec. 28, 1981.
Maryland: DC82-3031	Nov. 12, 1982.
Virginia: DC82-3031	Nov. 12, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedes decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL82-1042 (AL83-1001)	Sept. 10, 1982.
Florida: FL80-1050 (FL83-1004)	Feb. 8, 1980.
Georgia:	
GA82-1033 (GA83-1002)	July 2, 1982.
GA82-1051 (GA-1003)	Sept. 24, 1982.
Minnesota: MN8-2022 (MN83-2003)	May 22, 1981.
Missouri: MO82-4007 (MO83-4010)	Feb. 19, 1982.
Ohio:	
OH80-2020 (OH83-2002)	Mar. 28, 1980.
OH81-2008 (OH83-2004)	Apr. 3, 1981.
OH81-2024 (OH83-2005)	May 15, 1981.

Cancellation of General Wage Determination Decision

This is to advise all interested parties that the Department of Labor intends to withdraw 10 days from the date of this notice the following general wage determination.

NJ79-3045—Camden County, New Jersey dated November 9, 1979 in 44 FR 65291—Residential Construction.

Signed at Washington, D.C., this 14th day of January 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION #GA82-1058 - Mod. #1 (47 FR 44665 - October 8, 1982) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.20	$ 3.015
Elevator Constructors:		
Mechanics	12.65	a + 2.69
Helpers	8.855	a + 2.69
Probationary helpers	6.325	
Millwrights:		
Contracts $4.5 Million or less	12.85	.85
Contracts over $4.5 Million	13.60	.85
Power Equipment Operators:		
GROUP I	13.63	1.87
GROUP II	12.20	1.87
GROUP III	9.86	1.87
GROUP IV	7.69	1.87

DECISION #GA82-1059 - Mod. #2 (47 FR 44664 - October 8, 1982) Richmond County, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.20	$ 3.015
Elevator Constructors:		
Mechanics	12.65	a + 2.69
Helpers	8.855	a + 2.69
Probationary helpers	6.325	
Painters:		
Brush & 9" roller	9.85	1.30
Power tools, sign painting, glazing, structural steel (painting & cleaning excluding metal doors & frames)	10.35	1.30
Paperhanging	10.60	1.30
Drywall finishers	11.10	1.30
All types of epoxy & chemical materials, such as bitumastic, conaps, & clocrete, all stage work, window jacks, boatsun chair, ladder jacks & built-up scaffold, extension ladder over 36'	11.50	1.30
Painters (Cont'd.):		
Regular spray & gloves, & blasting	$11.75	$ 1.30
Power Equipment Operators:		
GROUP I	13.63	1.87
GROUP II	12.20	1.87
GROUP III	9.86	1.87
GROUP IV	7.69	1.87

DECISION #GA81-1233 - Mod. #4 (46 FR 28101 - May 22, 1981) Chattahoochee & Muscogee Counties, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator Constructors:		
Mechanics	$13.45	2.69+a+b
Helpers	9.415	2.69+a+b
Probationary helpers	6.725	

DECISION NO. DC82-3031- MOD. #1 (47 FR 51304-November 12, 1982) District of Columbia:Maryland-Montgomery & Prince Georges Counties; & D.C. Training School; Virginia-Independent City of Alexandria, Arlington & Fairfax Counties	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS(EXCLUDING HEAVY CONSTRUCTION)		
ALL CLASSIFICATIONS FRINGE BENEFITS TO READ:		1.73
LABORERS(HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINE CONSTRUCTION PROJECTS, EXCEPT TUNNELS,RAISES AND SHAFTS FOR FREE AIR)		
ALL CLASSIFICATIONS FRINGE BENEFITS TO READ:		1.73
LABORERS(HEAVY CONSTRUCTION TUNNELS RAISES AND SHAFTS FOR FREE AIR)		
ALL CLASSIFICATIONS FRINGE BENEFITS TO READ:		1.73

MODIFICATION PAGE 2

DECISION NO. MN82-2064 - MOD. #1 (47 FR 53622 - November 26, 1982) Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, & Washington Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Anoka (Exclu. Anoka & Fridley Twps.) & Remaining Cos.:		
Commercial Building:		
Electricians	$15.75	$3.69
Cable Splicers	16.35	3.7%

DECISION NO. MN82-2069 - MOD. #1 (47 FR 57611 - December 27, 1982) Benton, Sherburne, & Stearns Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Sherburne (Rem. of Co.) Co.:		
Electricians	15.75	3.69
Cable Splicers	16.35	3.7%

DECISION NO. TN82-2071 - MOD. #1 (48 FR 930 - January 5, 1983) Statewide, Tennessee	Basic Hourly Rates	Fringe Benefits
Add:		
Electricians for Shelby County only	$17.48	1.45+ 3.55%

DECISION NO. NJ82-3006 - MOD. #4 (47 FR 8523 - FEBRUARY 26, 1982) BERGEN,ESSEX,HUDSON AND PASSIC COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS:		
BERGEN,HUDSON (excluding EAST NEWARK, HARRISON, AND KEARNY), and PASSIC COUNTIES	$17.38	4.05

DECISION NO. NJ81-3053 - MOD. #17 (46 FR 50243 - October 9, 1981) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
ADD:		
DIVERS AND DIVER TENDERS:		
ZONE 1		
Divers	19.29	5.75
Diver Tenders	15.09	5.75
DIVER AND DIVER TENDERS ZONES:		
ZONE 1 - Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Cos.		

DECISION NO. NJ81-3063 - MOD. #17 (46 FR 62746 - Dec. 29, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
ADD:		
DIVERS AND DIVER TENDERS:		
ZONE 1		
Divers	19.29	5.75
Diver Tenders	15.09	5.75
DIVER & DIVER TENDERS ZONES:		
ZONE 1 - Mercer and Monmouth Cos.		

SUPERSEDEAS DECISION

STATE: ALABAMA
DECISION NUMBER: AL83-1001
COUNTIES: COLBERT & LAUDERDALE
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1042 dated September 10, 1982 in 47 FR 39967.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$ 15.16	$ 2.26
BRICKLAYERS:		
Bricklayers, Blocklayers, & Stonemasons	13.67	
Saw Operators	13.92	
CARPENTERS:		
Carpenters, Soft Floor Layers	12.90	.50
Piledrivermen	13.15	.50
Millwrights	13.40	.50
CEMENT MASONS:		
Cement Masons	10.15	.65
Power Tool Operators	10.40	.65
ELECTRICIANS:		
Electricians	14.10	1.90 + 4%
Cablesplicers	14.35	1.90 + 4%
IRONWORKERS	12.62	1.58
LABORERS:		
Unskilled, Mason Tenders, Mortar Mixers, & Plasterers Tenders	8.01	1.00
Air Tool Operators & Pipe-Layers	8.21	1.00
PAINTERS:		
COMMERCIAL	10.65	.75
INDUSTRIAL	11.80	.75
PLASTERERS	10.44	.65
PLUMBERS & STEAMFITTERS	$ 14.85	$ 2.23
ROOFERS	11.10	.55
SHEET METAL WORKERS	14.67	1.96
WELDERS-Rate for Craft		
POWER EQUIPMENT OPERATORS:		
GROUP A	13.03	1.50
GROUP B	11.39	1.50
GROUP C	10.37	1.50

POWER EQUIPMENT OPERATORS-Definitions:

GROUP A-Backhoe, Bulldozers, Crane, Crane Car, Central Mixing Plant, Concrete Pump, Derrick, Dragline, Dredge, Drill, Elevating Grader, Finishing Machine (concrete), Forklift, Front End Loader, Gradall, Grout Pump, Helicopter, Pilot, Hoist, Locomotive Engineer, Mechanic, Motor Patrol, Mucking Mechanic, Master Pilot, Piledriver, Post Hole Digger, Scraper (pull type & self Prop.), Shovel, Sweeper, Tractor(spec. Equip.), Trenching Machine, Well Point, and Winch Truck Operators.

GROUP B-Bituminous Dist., Central Air Comp., Concrete Mixer (port.), Fireman Floating Equip., Front End Loader, Rubber Tire, ½ cu. yd. & under, Locomotive Brakeman, Locomotive Flagman, Locomotive Switchman, Oiler-Driver (35 tons crane & over), Outboard Motor Boat (when used for towing), Paving Machine, Post Hole Digger Mounted on Farm Type Tractor & walk behind type Trenching Machine Operators.

GROUP C-Air Compressors (port.), Conveyor, Fireman Stationary Equip., Oiler, Outboard Motor Boat & Pump Operators

OILER DRIVER - additional $.10 per hour.

All Crane, Derrick, and Gantry Tower Crane Operators Operating such equipment with an overall height of 150 ft. including jobe-additional $.50 per hour.

All Scraper Operators Operating Tandem Scrapers receive $.25 per hour additional for each additional Scraper (bowl).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: FLORIDA
DECISION NUMBER: FL83-1004
COUNTIES: CHARLOTTE, COLLIER, GLADES, HENDRY & LEE
DATE: DATE OF PUBLICATION
Supersedes Decision No.: FL80-1050 dated February 8, 1980 in 45 FR 8834.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 7.08	
BRICKLAYERS	8.34	
CARPENTERS	7.00	
CEMENT MASONS	8.00	
DRYWALL FINISHER	10.00	
DRYWALL HANGER	10.00	
ELECTRICIANS	6.94	
INSULATION INSTALLERS-		
Batt or Blown	6.95	
IRONWORKERS	7.00	
LABORERS:		
Mason Tenders	5.88	
Mortar Mixers	6.00	
Plasterers Tenders	6.50	
Unskilled	5.17	
MARBLE SETTERS	5.75	
PAINTERS	6.95	
PLASTERERS	$10.00	
PLUMBERS & PIPEFITTERS	7.50	
ROOFERS	6.00	
SHEET METAL WORKERS	8.50	
TILE SETTERS	10.00	
TRUCK DRIVERS	4.75	
POWER EQUIPMENT OPERATORS:		
Backhoe	6.00	
Crane	9.00	
Grader	8.49	
Loader	6.00	
Paver	6.13	
Roller	5.75	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKLAB & FULTON

DECISION NUMBER GA83-1002

DATE: DATE OF PUBLICATION

Supersedes Decision Number GA82-1033, dated July 2, 1982, in 47 FR 29146.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.60	$ 2.20
BOILERMAKERS	16.20	3.015
BRICKLAYERS & STONE MASONS	13.97	2.10
CARPENTERS, DRYWALL HANGERS & RESILIENT FLOOR LAYERS	14.00	1.77
CARPET LAYERS	10.50	1.77
CEMENT MASONS	13.95	1.40
ELECTRICIANS:		
Wiremen	15.00	21%
Cable Splicers	15.90	21%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.45	1.69+a+b
Helpers	9.415	1.69+a+b
Probationary helpers	6.725	
GLAZIERS	13.45	1.84
IRONWORKERS	14.92	1.97
LATHERS	11.80	.86
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	13.97	2.03
MARBLE, TILE, & TERRAZZO FINISHERS	10.19	.66
MILLWRIGHTS	14.38	2.07
PAINTERS:		
Brush, Roller & Drywall Finishers	13.60	2.60
Paperhangers	13.85	2.60
Drywall taping (where pressurized tools are used), boatswain chair & windowjack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (not floored solid)	14.10	2.60
Spray, steamcleaning, waterblasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	14.60	2.60
PILEDRIVERMEN	14.15	1.77
PLASTERERS	14.17	1.65
PLUMBERS & PIPEFITTERS	14.60	2.24
ROOFERS	11.00	.55
SHEET METAL WORKERS	14.24	2.29
SPRINKLER FITTERS	14.57	2.83

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service..

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. GA83-1002

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits
GROUP A	$14.21	1.88
GROUP A-1	13.99	1.88
GROUP B	13.64	1.88
GROUP B-1	13.43	1.88
GROUP C	11.21	1.88
GROUP D-1	12.01	1.88
GROUP D-2	10.40	1.88
GROUP E	10.62	1.88
GROUP F	9.27	1.88

LABORERS		Basic Hourly Rates	Fringe Benefits
GROUP 1		$ 9.96	1.12
GROUP 2		10.18	1.12
GROUP 3		10.46	1.12
GROUP 4		10.71	1.12
GROUP 5		11.03	1.12
GROUP 6	(25¢ above rate for classification under which employed)		

DECISION NO. GA82-1033

CLASSIFICATION DEFINITIONS - LABORERS

GROUP 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & Plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

GROUP 2 - All tool operators: air, electric or gas powered, such as jackhammer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; form setter, steel; mixer, mortar, cement, grout, clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; motorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot pot man; slip form raisers steel or wood, jack or screw type, wheelbarrow operator, motorized.

GROUP 3 - Powderman tender; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

GROUP 4 - Caisson work, hole man; tunnel laborer.

GROUP 5 - Nozzleman, concrete pneu.; powderman.

GROUP 6 - Chimneys or stacks, isolated.

DECISION NO. GA83-1001

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

GROUP A - Crane operator (truck, tower, crawler, or locomotive);

GROUP A-1 - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, derrick operator, dragline operator, drill operator - caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel, elevating grader operator, hoisting engine operator, locomotive operator, mechancis - heavy duty, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 feet depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over, furnishing air simultaneously for more than one contractor.

GROUP B - Bulldozer operator, dewatering system operator - where multiple pumps are used, dozer shovel operator, drill operator - Quarry Master type, fireman stationary or portable, forklift operator, generator operator - 75 K.V.A. and over, motor grader operator, motor scraper operator (pans), oilers on cranes with earth boring drill attached with a separate power source, pusher dozer operator, self propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 feet depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor.

GROUP B-1 - Elevator operator - inside electric permanent house elevator used to haul building materials and personnel.

GROUP C - Air compressor - 600 cubic feet and over, air compressor operator-battery of two 300 cubic feet and over, hydrohammer operator, concrete batch plant operator.

GROUP D-1 - Oiler-grease truck, truck or locomotive crane.

GROUP D-2 - Oiler - unspecified, pump operator - over 4", up to 4 batteries, welding machine operator - 4 or more batteries, portable, gas, or diesel driven.

GROUP E - Concrete mixer operator - skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator - asphalt type, well drill operator - not performing foundation work.

GROUP F - Air compressor operator - over 150 CFM but less than 600 cubic feet, conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4 inches and over, up to and including three welding machines do not require an operator.

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA83-1001
DATE: DATE OF PUBLICATION
Supersedes Decision Number GA82-1051, dated September 24, 1982, in 47 FR 42255.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (does not include Sewer & Water Lines Construction Projects).

	Basic Hourly Rates	Fringe Benefits
BRICK MASONS	$13.97	$ 2.10
CARPENTERS	14.00	1.77
CEMENT MASONS/FINISHERS	13.95	1.40
ELECTRICIANS	15.00	21%
IRONWORKERS	14.92	1.97
LABORERS:		
Unskilled	9.96	1.12
Air tool operators (air, electric, or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipe layers	10.18	1.12
Tunnel laborers	10.71	1.12
Powdermen	10.46	1.12
Miners	12.56	1.12
PAINTERS:		
Brush & Roller	13.60	2.60
Spray	14.60	2.60
PILEDRIVERMEN	14.15	1.77
PLUMBERS & PIPEFITTERS	14.60	2.24
SHEET METAL WORKERS	14.24	2.29
TRUCK DRIVERS	7.17	
WATERPROOFERS (ROOFERS)	11.00	.55
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Crane	$14.21	$ 1.88
Backhoe, Mechanic, & Mucker	13.99	1.88
Bulldozer, Front end Loader, & Motor grader	13.64	1.88
Oiler/Greaser, & Pump	10.40	1.88
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).		

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN83-2003
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. MN81-2022 dated May 22, 1981 in 46 FR 28102
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

*Beltrami, Clearwater, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, & Roseau

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$9.50	
CEMENT MASONS	10.70	
LABORERS:		
Unskilled	6.68	
Skilled	8.72	
Rakers	7.87	$1.03
POWER EQUIPMENT OPERATORS:		
Asphalt Distributor Spreader	9.62	
Asphalt Plant	9.77	
Bulldozer	10.64	
Cranes, Derricks, & Draglines	10.66	
Crusher & Screening Plant	10.32	1.03
Fireman	9.51	1.03
Front End Loader	10.55	
Grader	10.32	1.03
Mechanics	10.30	
Motor Patrols	10.70	1.03
Rollers	8.59	
Rollers, Finish	10.32	1.03
Scrapers	12.53	1.90
Screedman	9.43	
Tractor, Wheel	8.83	1.03
TRUCK DRIVERS:		
Bituminous Distributor Drivers	9.51	1.03
Tandem	9.51	1.03
Four Axle	8.60	1.60
Five Axle	9.00	1.55
Truck Mechanic	9.87	1.03

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri
COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren, and City and County of St. Louis
DECISION NUMBER: MO83-4010
DATE: Date of Publication
Supersedes Decision No. MO82-4007 dated February 19, 1982, in 47 FR 7599
DESCRIPTION OF WORK: Building projects, excluding single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Asbestos Workers	$18.99	$2.76
Swing Stage of Bosun's Chair	19.74	2.76
BOILERMAKERS	16.27	2.825
BRICKLAYERS: Stonemasons	13.35	2.76
CARPENTERS; MILLWRIGHTS;		
PILEDRIVERMEN;*		
Zone 1	15.26	2.23
CARPENTERS;*		
Zone 2:		
Contracts $200,000.00 and under	10.35	1.50
Contracts over $200,000.00	15.26	2.23
Zone 3:		
Contracts $25,000.00 and under	14.46	2.00
Contracts over $25,000.00	15.26	2.23
Zone 4:		
Contracts under $250,000.00	11.35	1.50
Contracts over $250,000.00	15.26	2.23
Zone 5:		
Contracts $250,000.00 and under	10.65	1.50
Contracts over $250,000.00	15.26	2.23
CEMENT MASONS;*		
Zone 1	15.35	2.60
Zone 2		
Projects less than $700,000.00	14.65	2.60
Projects over $700,000.00	15.35	2.60
ELECTRICIANS;*		
Zone 1	15.80	1.39+ 28½%
Zone 2	15.80	1.39+ 28½%
Zone 3	14.78	1.39+ 28½%
ELEVATOR CONSTRUCTORS	$14.19	2.465 +a
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	2.465 +a
ELEVATOR CONSTRUCTORS' (PROB.)	50%JR	
GLAZIERS:		
Glaziers	15.81	4.91+ 13.2%
St. Louis County:		
Glaziers (Installing of art glass; repairing, cleaning, cementing and waterproofing in connection with the restoration of stained and leaded glass windows)	8.86	**
** 1.00+50% of Premium + a and b		
IRONWORKERS	15.325	2.24
LABORERS:*		
Zone 1:		
General Laborers	14.425	1.75
Wrecking Laborers	14.30	1.75
Dynamiter or Powderman	14.925	1.75
Plasterers' Tenders	13.425	1.75
Mason Tenders, brick	14.40	1.85
Plumber, Labor	14.30	2.20
Zone 2:		
Contracts $500,000.00 or less:		
General Laborers	11.50	1.35
Mason Tenders; Plumbers' Laborers; Plaster Tender	11.70	1.35
Contracts over $500,000.00:		
General Laborers	13.00	1.35
Mason Tenders; Plumbers' Laborers; Plaster Tender	13.20	1.35

*ZONE DESCRIPTIONS -
Page 2

	Basic Hourly Rates	Fringe Benefits
LABORERS:* (Cont'd)		
Zone 3:		
Laborers	$12.80	$1.55
Powderman; Mason Tenders; Plaster Tenders	13.30	1.55
Zone 4:		
General Laborer	14.195	1.66
Dynamiter or Powderman	14.695	1.66

ZONE DESCRIPTIONS

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN:
Zone 1: St. Louis City and County
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County
Zone 5: Lincoln and Warren Counties

CEMENT MASONS:
Zone 1: St. Louis City and County; Jefferson and St. Charles Counties
Zone 2: Franklin, Lincoln, and Warren Counties

ELECTRICIANS:
Zone 1: City and County of St. Louis, and St. Charles County
Zone 2: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contracts exceeds $15,000.00
Zone 3: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contract does not exceed $15,000.00

LABORERS:
Zone 1: City and County of St. Louis
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County

FOOTNOTES

ELEVATOR CONSTRUCTORS:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

FOOTNOTES (Cont'd)

GLAZIERS:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day
b. Employee with one (1) year of service, the employer pays 2% of all hours worked at straight time, the negotiated inside wage rate; employee with three (3) years or more of service, the employer pays 4% of all hours worked at straight time, the negotiated inside wage rate; employee with twelve (12) years or more, the employer pays 6% of all hours worked at straight time, the negotiated inside wage rate; employee with fifteen (15) years or more of service, the employer pays 8% of all hours worked at straight time, the negotiated inside wage rate.

	Basic Hourly Rates	Fringe Benefits
LABORERS:* (Cont'd)		
Zone 5:		
Projects under one (1) million dollars	$13.475	1.66
Projects one (1) to ten (10) million dollars	13.975	1.66
Projects ten (10) million dollars and over	14.475	1.66
MARBLE SETTERS	14.11	2.905
MARBLE FINISHERS	14.45	
PAINTERS:		
Brush	16.11	1.30
Spray & sandblasting	18.11	1.30
PIPEFITTERS:*		
Zone 1	16.85	4.875
PIPEFITTERS and PLUMBERS:*		
Zone 1	16.85	4.875
PLASTERERS	15.555	1.62
PLUMBERS:*		
Zone 1	15.405	3.35
ROOFERS:		
Composition; Slate and Tile	14.85	2.05
Kettleman	12.65	2.05
SHEET METAL WORKERS	15.16	3.35+ 3%
SPRINKLER FITTERS	18.86	2.87
TERRAZZO WORKERS	17.55	
TILE SETTERS	$13.98	2.905
TILE WORKERS' FINISHERS	11.70	1.605
TRUCK DRIVERS:		
Group 1 - Trucks or trailers of a water level capacity of 11.99 cu. yds. or less, fork lift trucks, job site ambulances & pick-up trucks and flat bed trucks	13.52	76.00 per/wk +b
Group 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace and and similar equipment of same capacity	13.72	76.00 per/wk +b
Group 3 - Trucks or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace and all floats, flat bed trailers, boom trucks & similar equipment of same capacity	13.82	76.00 per/wk +b

*ZONE DESCRIPTIONS - Page 4

FOOTNOTE

b - Paid vacation of 3 days for 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any one contract year; 5 days paid vacation for 1,000 hours of service in any one contract year. Also 7 paid holidays.

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

ZONE DESCRIPTIONS

LABORERS: (Cont'd)
Zone 5: Lincoln and Warren Counties
PIPEFITTERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis City and County and Warren Counties
PIPEFITTERS AND PLUMBERS:
Zone 1: Lincoln County
PLUMBERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis City and County and Warren Counties

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	$15.17	$3.00
Group 2	15.17	3.00
Group 3	13.87	3.00
Group 4	13.42	3.00

Group 1: Backhoe; Cableway; Crane, Crawler or Truck; Crane, Hydraulic-truck or crusier mounted-16 tons and over; Crane, Locomotive; Derrick, steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradeall, Crawler or Tire Mounted; Locomotive, gas, steam and other power; Piledriver; Land or scoop Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boat; Whirley

Group 2: Air Tugger with air compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Back-filling Machine; Boat Operator-Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Truck, placing or erecting; Boring Machine, footing foundation; Bullfloat; Cherry Picker, combination concerete hoist and mixer such as Mixer-mobile; Compressor-welder combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine, Concerst Spreader; Compressor (when operator run throttle); Compressor-generator combination;

Group 2: (Cont'd)
Compressor-pump combination; Generators, two 30 KW or over, or any number developing over 30 KW; Generator-pump combination Conveyer, large (not self-propelled) hoisting or moving brick and concrete into and/or on floor level, one or both; Crane, Hydraulic, Rough Terrain, self-propelled; Crane hydraulic-truck or crusier mounted, under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any hand drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment); Elevating Grader; Engine Man, dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Forklift; Grader, road with power blade; Highlift; Hoist, concrete and brick (brick cages on concrete skips operating in or on tower, Towermobile or similar equipment); Hoist, stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mixer-mobile, Mucking Machine, Pipe Cleaning Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or ready-mix, job site; Plant, heating, job site; Plant, mixing, job site; Plant, power generating, job site; Pumps, two self powered, over 2" through 6" pumps, electric submersible, one through three over 4" Quad-track; Roller, asphalt, top or subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor, crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; Trenching Machine; Tunnel Boring Machine; Vibrating Machine, automatic, automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine; Mechanic on job site; Mixer, paving; Compressors, two, not more than 50 feet apart

Group 3:
Air Tugger with plant, air; Boiler, for power or heating on construction projects; Boiler, temporary; Compressor, air, one; Compressor, air (mounted on truck); Concrete Saw, self-propelled; Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine; Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator, other hoisting; Manlift; Mixer, asphalt, over 8 cu. ft. capacity; Mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; Mixer, without side loader, 2 bag capacity or more; Mixer with side loader, regardless of size, not Paver; Oiler on dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump, self-powered, automatic controller over 3" during use in connection with construction work; Sweeper, street; Welding Machine, one over 400 amp.; Winch operating from truck; Scissor Lift (used for hoisting); Curb Finishing Machine; Tractor, small wheel type, 50 HP and under with Grader, blade and similar equipment

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Boat Operator, outboard motor (job site); Conveyor (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2002
COUNTIES: Butler & Warren
DATE: Date of Publication
Supersedes Decision No.: OH80-2010 dated March 28, 1980 in 45 FR 20661
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$8.77	
BRICKLAYERS; Blocklayers	9.00	
CARPENTERS	7.61	
DRYWALL FINISHERS & TAPERS	7.00	
ELECTRICIANS	7.68	
INSULATORS	5.41	
LABORERS:		
Common	6.64	
Landscapers	6.00	
PLUMBERS & Pipefitters	8.52	
SHEET METAL WORKERS	9.43	
TRUCK DRIVERS	7.60	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.37	
Bulldozers	8.00	
Front End Loaders	6.97	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2004
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. OH81-2008, dated April 3, 1981 in 46 FR 20446
DESCRIPTION OF WORK: Residential Construction Projects Consisting of single family homes and apartments up to and including 4 stories

*Crawford, Hancock, Seneca, & Wyandot

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	09.00	
CARPENTERS	8.46	
CEMENT MASONS	10.00	
DRYWALL FINISHERS & TAPERS	8.00	
DRYWALL HANGERS	7.65	
ELECTRICIANS	8.71	
INSULATORS	6.02	
LABORERS:		
Common	6.15	
Landscapers	5.00	
PLUMBERS	11.41	
ROOFERS	6.37	
SHEET METAL WORKERS	7.27	
SOFT FLOOR LAYERS; Carpet Layers	8.00	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.50	
Bulldozers	7.50	
Front End Loaders	7.57	
TRUCK DRIVERS	4.50	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2005
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. OH81-2024 dated May 15, 1981 in 46 FR 27054
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

*Greene, Miami, Montgomery, & Preble

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	16.63				
BRICKLAYERS; Blocklayers	8.50				
CARPENTERS	6.30				
CEMENT MASONS	8.44				
DRYWALL HANGERS	7.55				
DRYWALL TAPERS & FINISHERS	7.00				
ELECTRICIANS	6.84				
INSULATORS	5.47				
LABORERS	5.54				
PAINTERS, Brush	5.80				
PLUMBERS; Pipefitters	7.29				
ROOFERS	6.00				
SHEET METAL WORKERS	7.54				
SOFT FLOOR LAYERS	7.10				
TILE SETTERS	7.60				
TRUCK DRIVERS	5.54				
POWER EQUIPMENT OPERATORS:					
Backhoes	7.80				
Bulldozers	7.00				
Front End Loaders	7.02				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 83-1479 Filed 1-20-83; 8:45 am]

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federal register

Friday
January 21, 1983

Part III

Environmental Protection Agency

Underground Injection Control Program

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[OW-FRL 2243-1]

Underground Injection Control Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its Consolidated Permit Regulations (40 CFR Part 122), as promulgated on May 19, 1980, to allow more flexibility to the Agency in prescribing Class II Underground Injection Control (UIC) programs for Indian lands under the Safe Drinking Water Act.

DATES: This amendment to 40 CFR Part 122 will become effective February 22, 1983.

ADDRESSES: Comments of a technical and non-substantive nature should be addressed to Thomas E. Belk, Chief, Ground Water Protection Branch, EPA, Office of Drinking Water, (WH-550), 401 "M" Street, SW Washington, DC. 20460.

FOR FURTHER INFORMATION CONTACT: Thomas E. Belk, Chief, Ground Water Protection Branch, Environmental Protection Agency, (202) 382-5530.

SUPPLEMENTARY INFORMATION: The amendment promulgated today was proposed by the Agency on April 23, 1982 (47 FR 17578 *et seq.*) The preamble to this proposal contains a comprehensive discussion of the justification for this action.

Briefly, Section 1425 of the Safe Drinking Water Act (SDWA), added in December 1980, gives the Administrator more flexibility in reviewing State UIC programs for oil and gas related wells. The standard for these programs is that they be effective and meet the general requirements of Section 1421(b)(1)(A)-(D) of the Act, rather than the more specific requirements of EPA's regulations promulgated under the Act, 40 CFR Parts 122, 124 and 146.

The Agency must prescribe and implement UIC programs on Indian reservations and lands whenever the States do not have the requisite jurisdiction. This amendment gives the Administrator the same flexibility in prescribing these programs that she has in reviewing programs subject to Section 1425.

It allows the Administrator to give special consideration to the interests and preferences of affected tribal governments. It also reduces the possibility that oil and gas production may be unnecessarily impeded by the imposition on an operator of inconsistent requirements established by a State (within its jurisdiction) and by EPA (for Indian lands in that State).

The amendment as promulgated today differs slightly from the proposed language, reflecting minor changes made for the sake of clarity. No substantive change has been made from the amendment as proposed.

Response to Comments

Testimony on the proposed amendment was given at a public hearing held in Washington, D.C. on June 2, 1982, and was overwhelmingly favorable. In addition, written comments were received which were generally favorable except for two dissenting views.

One commentor indicated that neither the SDWA nor the opinion of the courts in recent cases indicate that EPA has authority over Indian lands for the implementation of some programs. EPA is firmly convinced, however, that under the SDWA the Agency does have such authority. This is based on the statute's unrestricted coverage of "any underground injection" (SDWA Section 1421(b)(1)(A)), the requirement that UIC regulations shall apply to injection by any persons (SDWA Section 1421(b)(1)(D)), and the established principle that a Federal statute applicable in general terms to all persons includes Indians absent a clear showing to the contrary.

Another commentor expressed a fear that the flexibility given by the amendment could be used to implement stricter programs than those based on the 40 CFR Parts 122, 124 and 146 requirements. Each specific program for Indian lands or reservations will be prescribed after consultation with affected parties and through formal rulemaking which will give all parties ample opportunity to question any requirement which they may deem excessive.

All other comments were highly favorable. They varied, however, with respect to the weight EPA should give to the various interests involved. Some recommended that the concerns of the tribal government should govern the type of program implemented on Indian reservations while others placed greater importance on the operator's interest in consistency between program requirements of neighboring jurisdictions.

The Agency anticipated the existence of these various interests, and, for this reason, specified the factors it intends to take into account in prescribing programs for Indian lands. It seeks the flexibility of this amendment in part so that it may do a more responsive job of balancing the interests involved. The programs prescribed will be the result of consultation with all interested parties and will, therefore, vary from case to case. In order to reduce further the regulatory burden on operators, EPA is also actively seeking a coordinated approach to the implementation of the program. The Bureau of Indian Affairs and the Minerals Management Service of the Department of the Interior have been approached on this matter.

Impact on Small Businesses

Under the Regulatory Flexibility Act an agency is required to prepare an initial regulatory flexibility analysis whenever it is required to publish general notice of any rule, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This amendment will provide increased regulatory flexibility. Therefore, the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether the rule is major and therefore subject to the requirements of a regulatory impact analysis. This amendment will not impose additional costs nor set any additional requirements for the regulated community. It does not constitute major rulemaking .

This amendment was submitted to OMB for review as required by Executive Order 12291.

(Sec. 1421, 1422, 1423, 1431, 1445, 1447, 1450, Safe Drinking Water Act, as amended, 42 U.S.C. 300(f) *et seq.*)

List of Subjects in 40 CFR Part 122

Administrative practice and procedures, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, water supply, Confidential business information.

Note.—This amendment, currently numbered 40 CFR 122.46, will be renumbered 40 CFR 144.2 in the revision of the Consolidated Permit Regulations expected to be published in the near future.

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE UNDERGROUND INJECTION CONTROL PROGRAM

40 CFR Part 122 is amended as follows:

1. Add § 122.46 which reads:

§ 122.46 Alternate class II programs for Indian lands.

Notwithstanding the requirements of this Part or of Parts 124 and 146 of this chapter, the Administrator may promulgate an alternate UIC Program for Class II wells on any Indian reservation or Indian lands. In promulgating such a program, the Administrator shall consider the following factors:

(a) The interest and preferences of the tribal government having responsibility for the given reservation or Indian lands;

(b) The consistency between the alternate program and any program in effect in an adjoining jurisdiction; and,

(c) Such other factors as are necessary and appropriate to carry out the Safe Drinking Water Act.

[FR Doc. 83-1588 Filed 1-20-83; 8:45 am]

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federal register

Friday
January 21, 1983

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

U.S. Fishing Industry; Financial Assistance for Research and Development Projects

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Financial Assistance for Research and Development Project to Strengthen and Develop the U.S. Fishing Industry

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Saltonstall-Kennedy Funds Notice of availability/Instruction to the public.

SUMMARY: For fiscal year 1983, Saltonstall-Kennedy funds will be available to assist persons in carrying out research and development projects addressed to any aspect of a United States fishery (as herein defined) involving the United States fishing industry (recreational or commercial) including, but not limited to, harvesting, processing, marketing, and associated infrastructures. Projects will be funded through grants and cooperative agreements. Any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands, any fishery development foundation or other private non-profit corporation located in Alaska, or any corporation, partnership, association or other entity, non-profit or otherwise, if a citizen of the United States (as defined by Section 2 of the Shipping Act of 1916 (46 U.S.C. 802)), is eligible to apply for funding under this solicitation. The National Marine Fisheries Service (NMFS), NMFS employees and their immediate relatives are not eligible to apply.

This notice sets forth conditions under which applications will be received and evaluated to determine appropriateness for funding. This notice of availability of financial assistance for fisheries research and development projects will also appear in the *Commerce Business Daily*. Information collection requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0648-0086.

This solicitation has been reviewed in accordance with Executive Order 12291 and the Commerce Department guidelines implementing that Order. The National Marine Fisheries Service has determined that this solicitation is not "major" within the context of the Order or its implementing guideline because the solicitation does not significantly affect the economy, costs or prices, competition, employment, investment, or productivity.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Hutchinson, Industry Development Division, National Marine Fisheries Service, Washington, D.C. 20235, phone: 202-634-7451.

I. Introduction

The Saltonstall-Kennedy (S-K) Act (15 U.S.C. 713c-2-713c-3) makes up to 30 percent of the gross receipts collected under the customs laws from duties on fishery products available to the Secretary of Commerce. At least 50 percent of these funds must be used by the Secretary each year to make grants to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, and marketing. United States fisheries [1] include any fishery that is or may be engaged in by U.S. citizens or nationals or citizens of the Northern Mariana Islands. For fiscal year 1983, about $8 million of Saltonstall-Kennedy monies are available to fund fisheries research and development projects which promote the goals and priorities of the NMFS fisheries development and utilization program. The phrase "fishing industry" is intended to include both the commercial and recreational sectors of U.S. fisheries.

II. Saltonstall-Kennedy Activities

The Saltonstall-Kennedy grant program constitutes an important part of the NMFS fisheries development and utilization program. Under this program, the National Marine Fisheries Service will consider funding projects which relate to the development of one specific fishery, projects which relate to more than one fishery, or projects which are national in scope.

The NMFS has two objectives for funding projects. They are (1) to maintain stability in and strengthen traditional fisheries; and (2) provide for the growth of the fishing industry through increased utilization of nontraditional resources.

Traditional fisheries are those for which the existing fishing industry has the capability to fully harvest, process and market the fishery resources which are available and historically has done so. Stability in traditional fisheries can be influenced by resource fluctuations; changing economic conditions; and product safety and quality concerns of the public. In order to maintain stability in traditional fisheries, the NMFS will support projects that increase the financial stability of the fishing industry to ensure that the industry remains competitive in world and domestic markets. This could involve providing assistance for expansion into nontraditional fisheries that the industry has the capability to use. Research to improve the efficiency of harvesting, processing, or marketing of fishery products will be supported, as will product safety and quality research, if it is related to the production and use of products provided from the traditional fisheries or would support expansion of the existing industry into nontraditional fisheries.

In supporting growth of the fishing industry, NMFS will target its activities on underutilized fisheries such as Alaska groundfish, coastal pelagics in the South Atlantic and Gulf of Mexico and squid and mackerel in the North Atlantic. NMFS recognizes that the existing industry cannot fully utilize these resources because of inadequate harvesting, processing, marketing, or other capabilities. Research will be supported which will lessen the risks associated with expansion by the present industry or entry by new participants into these fisheries.

For fiscal year 1983, NMFS seeks to fund fisheries research and development projects which will address regional and national concerns developed in consultation with members of the fishing industry. In general, the areas of concern relate to the following activities:

A. *Harvesting activities* to demonstrate the economic feasibility of commercial or recreational harvesting of fisheries resources and to provide fishermen with information that documents the potential profitability of commercial or recreational harvesting activities and identifies abundance, location, and seasonal characteristics of stocks of fish;

B. *Quality enhancement and control* to develop, evaluate or demonstrate handling, sorting, grading, storage, and processing or distribution methods or techniques that will enable fishermen, processors, and those in the distribution chain to maintain or improve the quality of fish and fish products marketed domestically or in foreign countries or used by recreational fishermen;

C. *Domestic market development* to increase domestic consumption of

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna, which are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of fisheries are: Alaskan groundfish, Pacific whiting, New England whiting, Gulf of Mexico groundfish, etc. The term "United States fishery" is defined by the S-K Act as any fishery, including any tuna fishery, which is or may be engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

underutilized fish by increasing the use of nontraditional fisheries products in traditional markets or expanding the use of all fish in nontraditional markets; identification and solution of safety and public health problems impeding domestic market expansion would be included; for recreational fisheries, this would include increased use of nontraditional species, awareness of sport-fishing opportunities, and activities increasing the opportunities and value of recreational fishing;

D. *Foreign market development* to increase U.S. exports of fish and fish products with particular emphasis on the underutilized species and domestic recreational fishing opportunities for foreign visitors;

E. *Improvement in efficiency and productivity* to lower the costs of supplying domestic fish and fish products to consumers or to increase the output or value of existing or new methods or techniques for harvesting, processing, distributing or marketing domestic fisheries products; and

F. *Economic and investment studies* to document the costs and profitability of any activity that would enable the fishing industry to increase use of underutilized fisheries resources or increase the value of fisheries products or to refine or improve upon methodologies for ascertaining the economic and social value of recreational fisheries.

Projects having the highest priority for funding are described in Section III. NMFS has identified, after consultation with the fishing industry, specific species of fish and activities which will receive the highest priority for funding. Fisheries research, development, and utilization applications should relate to one or more of the areas of concern. Other projects within the areas of concern will also be considered, although funding will be available only for exceptionally good projects and only if projects of adequate quality and quantity addressing the specific needs are not received.

With the exception of the Western Pacific, funding will not be provided for projects primarily involving the following activities: (1) infrastructure planning; (2) port and harbor development; (3) aquaculture research and development; (4) resource enhancement; (5) research evaluating the ability or extent to which fish are attracted to artificial reefs or fish aggregating devices; and (6) extension activities such as newsletters, training, or technology transfer unless identified as a necessary part of a specific project.

Endorsement and support from broad-based interest groups concerned with the development and strengthening of the U.S. fishing industry will be taken into account as a positive factor during the review process. There is no guarantee that sufficient funds will be available to make awards for all approved projects.

III. Regional and National Priorities

NMFS is seeking to encourage a regional approach to developing and strengthening U.S. fisheries. "Region" refers to a geographic area in which fishing for a species or group of species would likely take place. A region generally corresponds to the range over which the species of fish can be harvested and/or the area encompassed by the NMFS Regions. Regional priorities have been identified and established by NMFS in conjunction with fishing industry groups, other organizations and local governmental units having an interest in the development and utilization of fisheries in the region.

Projects addressing national concerns are generally those which require the coordinated participation of members of the fishing industry from more than one Region or involve activities such as generic domestic and export marketing activities or seafood quality and safety research where results directly impact the fishing industry or consumers on a national scale. NMFS intends to support strong Regional fisheries development programs and will consider for evaluation as a national project only those projects providing clear evidence of the necessary participation of members of the fishing industry in more than one Region and having broad national impacts. If it is determined that an application submitted as a national project can best be evaluated at the Regional level, it will be referred to the appropriate Region and will be evaluated in accordance with the Regional priorities.

Specific fish resources and needs within each Region and at the national level which have the greatest potential for development have been identified. These fish resources, and the major needs related to their development or full utilization which will be given priority for funding are:

A. *Northeast Region.* In the Northeast Region, priority will be given to supporting growth of the squid and mackerel fisheries and in encouraging and maintaining product quality in traditional offshore fisheries through improvements in harvesting and processing operations. Projects addressing other important underutilized species will be considered, however, priority will be given to projects which would:

1. Improve the effectiveness of fishing gear in harvesting operations;

2. Demonstrate the technical and economic feasibility of processing equipment for squid in commercial operations;

3. Demonstrate improvements in quality of squid and mackerel as well as traditional offshore fisheries through better on-board handling techniques;

4. Demonstrate improvements in quality of processed fishery products through in-plant training;

5. Develop export and domestic markets for underutilized species. Proposals in this area must be closely coordinated and consistent with National Market Development Programs; and

6. Promote the stabilization and growth of the recreational fishing industry.

B. *Southeast Region.* (1) *Commercial.* Projects to be funded in the Southeast Region should have the general purpose of helping to shift current harvesting, processing, and marketing activities from traditional shrimp fisheries into alternate fisheries, particularly the coastal pelagics. Coastal pelagics include herrings, menhaden, sardines, tunas, bonitos, ladyfish, and jacks. Projects addressing other important underutilized species will also be considered. Priority will be given to proposals which:

(a) Assess the commercial significance of stocks through contracted fishing vessels and spotter aircraft in the Southeast Region;

(b) Develop, evaluate, or demonstrate new technology for the harvest of midwater schooling species in deeper offshore waters;

(c) Develop, evaluate, or demonstrate new technology for on-board or shoreside handling, grading, and storage systems;

(d) Develop new products or processes for underutilized species which provide evidence of consumer/market acceptance and a determination of economic feasibility; and

(e) Develop export or domestic markets for underutilized species. Proposals in this area must be closely coordinated and consistent with National Market Development Programs.

(2) *Recreational* Projects are solicited which will either address problems affecting the stability of traditional recreational fisheries or will redirect fishing effort to presently underutilized sport caught species. While other proposals will be considered, priority

funding consideration will be given to projects which would:

(a) Develop specific opportunities and methods for increasing the use of nontraditional sport caught species in the Southeast;

(b) Develop improved methodologies for cost/benefit and valuation analyses of artificial reef development projects;

(c) Develop an artificial reef deployment (siting) plan(s) for one or more areas of the Region (South Atlantic, Gulf, and/or Caribbean) to enhance fishery habitat and fishing opportunities. Such plans should consider demand for fishing opportunities, fishing patterns, access facilities, Federal, state, and local laws, fishery and related habitat concerns and other relevant factors, and should recommend reef management strategies; and

(d) Develop a guide, suitable for use by domestic and foreign travelers, which identifies recreational fishing opportunities in the Southeast and describes how visitors can best take advantage of these opportunities.

C. *Southwest Region.* the Southwest Region is comprised of two distinct geographic areas—the Pacific Islands and the California coast. The island fisheries differ significantly in many ways from mainland fisheries.

(1) *Pacific.* Priority consideration will be given to projects that address problems of tuna harvesting or contribute to the fishery development goals of Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the Trust Territories of the Pacific Islands. The development of fisheries on underutilized resources will also be considered.

Priority will be given to projects which would:

(a) Contribute to the development of small scale island fisheries. Focus should be on improved efficiency in harvesting techniques, processing and marketing systems, and associated infrastructures;

(b) Investigate methods or techniques to support tuna harvesting in the Central and Western Pacific;

(c) Address area-wide problems of on-board fish handling and distribution; and

(d) Provide underutilized fisheries development opportunities. Species of special of special significance include, but are not limited to trochus, deepwater shrimp, snapper, grouper, alfonsin and armorhead.

(2) *California.* Priority consideration will be given to projects that contribute to stability in the traditional fisheries or resolve problems associated with greater use of Pacific whiting, shortbelly rockfish, squid, mackerel and herring.

Priority will be given to projects which would:

(a) Assess the commerical potential of harvesting squid in nontraditional areas, and demonstrate improved on-board handling methods for squid to increase the range of the squid fleet;

(b) Test the feasibility of developing a seafood quality program for fresh/frozen West Coast fish covering all phases of product handling;

(c) Provide higher value uses for seafood processing wastes and harvesting by-catch and demonstrate the technical and economic feasibility of the higher value use;

(d) Examine alternative uses for residual herring carcasses from the herring roe fishery and provide a determination of market and economic feasibility; and

(e) Develop new domestic or export products for mackerel, shortbelly rockfish, squid and albacore, including a determination of product acceptability. Proposals in this area must be closely coordinated and consistent with National Market Development Programs.

D. *Northwest Region.* Projects to be funded in the Northwest Region are to be directed to problems affecting the stability of the traditional fisheries and providing a redirection of current harvesting, processing, and marketing activities from traditional fisheries into the squid, Pacific whiting, and other potentially significant species within the West Coast fishery conservation zone. Priority will be given to funding projects which address any of the following areas:

(1) Domestic and export market development. Proposals in this area must be closely coordinated and consistent with National Market Development Progams;

(2) Product form development which provides evidence of consumer/market acceptance and a determination of economic feasibility; and

(3) Redirection of traditional salmon recreational fishing effort into non-salmonid species.

E. *Alaska Region.* Priority will be given to promoting the development and growth of U.S. fisheries for Pacific cod, Alaska pollock, Atka mackerel, and the various flounder species. Projects to be given priority for funding should resolve problems associated with the use of these species related to any of the following areas:

(1) Improving the quality of fish delivered to processing plants;

(2) Improved processing capability;

(3) Developing domestic markets for pollock. Proposals in this area must be closely coordinated and consistent with National Market Development Programs;

(4) Developing export markets for stock fish, salt cod, and pollock roe; and

(5) Developing new products using minced pollock and provide evidence of consumer/market acceptance and a determination of economic feasibility.

In supporting the stability of the existing fishing industry in Alaska, projects should address problems unique to remote geographical areas of Alaska and problems in obtaining trained fisheries and processing work forces. Any application submitted should be a practical, hands-on activity which will address the specific needs described above.

F. *National Priorities.* (1) *Domestic Market Development.* The NMFS intends to fund projects which are generic in approach and which will contribute to the increased use of seafood in the U.S. marketplace. Priority will be given to projects which address any of the following.

(a) Provide for the design, construction, and organization of a seafood exhibit at the Food Marketing Institute, National Grocers Association, and National Restaurant Association shows in 1984.

(b) Coordination, design, printing, and dissemination of any or all of the following:

(i) A periodic National Seafood Information Bulletin providing product availability, handling quality maintenance, and merchandising opportunities oriented to food marketers and emphasizing important regional species.

(ii) A pamphlet on Seafood and Health for national disribution which highlights current research findings on human health as related to seafood consumption.

(iii) A Seafood purchasing and merchandising aid for use by food marketers to reflect seasonal and regional availability of major commercial species.

(c) Development, pre- and post-market assessment, and dissemination of consumer information through a multi-media approach with emphasis on electronic media placement in national network and selected media markets.

(d) Conduct retail retaining seminars on seafood quality, handling, and distribution with emphasis on regional U.S. species in 10 major markets.

(e) Analyze and report on consumer attitudes toward seafood separately and in relationship to actual seafood

consumption, from data collection in 1981 from 10,000 respondents by the Market Research Corporation for NMFS.

(f) Determine domestic market trends and assess consumer perceptions for fabricated (e.g. minced, emulsified, extruded, etc.) foods and economic feasibility for including fish flesh in such products.

(2) *Export Market Development.* The NMFS intends to fund projects which provide direct access for U.S. exporters to buyers in other countries. Projects to be funded should address any of the following:

(a) Develop a series of publications entitled "How to Export to ———," which describes in detail procedures for exporting fish and fish products to the European Economic Community (United Kingdom, West Germany, Denmark, Greece, Belgium, Luxemburg, Netherlands, France, and Italy), Australia, Korea, Hong Kong, and Nigeria.

(b) Provide for the design, construction, and organization of a U.S. seafood exhibit at SIAL '84 in Paris, France in November 1984.

(c) Provide for the design, construction, and organization of a U.S. seafood exhibit at Alimentaria '84 in Barcelona, Spain in March 1984.

(d) Provide for the design, construction, and organization of a U.S. seafood exhibit at the ROKA '84 International Food Exhibit in Utrecht, the Netherlands in February 1984.

(e) Provide for the design, construction, and organization of a U.S. seafood exhibit at the International Food Show, in New York City in April 1984.

(f) Provide for the design, construction, and organization of a U.S. seafood exhibit at Food Asia '84 in Singapore in April 1984.

3. *Improving Safety, Quality and Use of Fish and Fish Products.*[2] NMFS is soliciting projects which support its goal of providing consumers with a good quality and wide variety of wholesome, nutritious fish and fish products. The research priorities for 1983 follow:

(a) Development of a specific field test for detecting ciguatera in species of Caribbean and Pacific origin including isolation and/or purification of ciguatoxin.

(b) Demonstration of the safe application of retortable pouch technology for fishery products, including the development of appropriate processing protocols.

(c) Collect and translate foreign country importing regulations related to fishery products safety (including the specific tolerance level or criteria, method of analysis to determine compliance with the established tolerance or criteria, the applicable sampling plan(s), and statistical applications which are used to determine acceptance or rejection of the U.S. fishery products).

(d) Authentic pack studies permitting objective and subjective measurements of changes in inherent textural and sensory characteristics at various intervals of storage or quality loss in traditional and underutilized species.

(e) Develop a specific sensitive methodology for detection of hepatitis A virus in molluscan harvest areas and shellfish products.

4. *Recreational Fisheries Development.* The NMFS intends to fund projects to resolve problems which threaten the stability of the marine recreational fishing industry. Projects to be given priority for funding should address any of the following areas:

(a) Implementing a program to coordinate the use of innovative techniques to locate artificial reefs, such as the use of oil drilling platforms or construction rubble (waste) which would develop, describe, and recommend artificial reef deployment (siting) and management strategies responsive to the needs of all areas of the country; and

(b) Implement a public awareness program to increase awareness about opportunities for recreational fishing along the nation's waterfronts.

IV. How To Apply

A. Eligible Applicants

Applications for grants or cooperative agreements for fisheries development projects can be made, in accordance with the procedures set forth in this notice, by:

1. Any individual who is a citizen or national of the United States;

2. Any individual who is a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under Section 8 of the Schedule on Transitional Matters attached to the Constitution of the NMI;

3. any fishery development foundation or other private non-profit corporation located in Alaska;

4. any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation or other private non-profit corporation not located in Alaska), non-profit or otherwise, if such entity is a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916 as amended (46 U.S.C. 802).[3] NMFS encourages women and minority individuals and groups to submit applications. NMFS employees (or their immediate families, including full, part-time, and intermittent personnel) and NMFS offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of an application, except to provide necessary information or guidance about the fisheries development and utilization program and the priorities and procedures included in this solicitation.

B. Amount and Duration of Funding

For fiscal year 1983, NMFS will have about $8 million available to fund the fishery research and development projects solicited herein. Grants or cooperative agreements will generally be awarded for a period of 1 year. Publication of this announcement shall not obligate NMFS to award any specific grant or to obligate the entire amount of funds available or any part thereof.

C. Cost-Sharing Requirements

The amount of a grant must be at least 50 percent of the total cost of the project.

[2] All planned research in the area of product quality and safety should be conducted in general accordance with the Good Laboratory Practice Regulations as promulgated by the Food and Drug Administration (FDA) appearing in the Federal Register vol. 43, Friday, December 22, 1981, page 60013–60019.

[3] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the NMI must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and, in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States, no more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens, and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, and NMI or any other Commonwealth, territory, or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens or nationals of the United States or citizens of the NMI, if: (i) the title to 75 percent of its stock is not vested in such citizens or nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any person not a citizen or national of the United States or citizen of the NMI; (ii) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (iii) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI; or (iv) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States or a citizen of the NMI.

The non-Federal share may include funds received from private sources or from State or local Governments or the value of inkind contributions. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by other (for which consideration is not required) in carrying out the project.

The percentage of the total project costs provided from non-Federal sources, not to exceed 50 percent of the cost of the project, will be an important factor in the selection of projects to be funded. Exemption from cost-sharing requirements may be granted in unusual circumstances only to non-profit public interest organizations which demonstrate no financial ability to meet cost-sharing requirements. The total project costs and the percentage of cost sharing required will be determined as described below.

1. *Determining Total Project Cost.* The total costs of a project consist of all cost incurred in the performance of project tasks, including the value of the in-kind contributions, which are necessary to accomplish the objectives of the project during the peirod in which the project is to be conducted. A project begins on the date that a formal grant or other agreement between the applicant and an authorized representative of the United States takes effect, and ends when a final report is submitted and accepted by such authorized representative. Accordingly, the time expended and costs incurred in either development of a project or the finanical assistance application, or in any subsequent discussions or negotiations up to the point of formal award, are neither reimbursable nor recognizable as part of the recipient's cost share.

NMFS will determine appropriateness of all cost-sharing proposals, including the valuation of in-kind contributions, on the basis of guidance provided in Office of Management and Budget (OMB) Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations." In general, the value of in-kind services or property used to fulfill the cost-sharing requirements will be the fair market value of the services or property. Thus, the value is equivalent to the costs of obtaining such services or property if they had not been donated. Cost sharing to be provided may include:

(a) Expenses incurred as project costs. (Not all charges require cash outlays by the grantee during the project period; examples are depreciation and use charges for building and equipment.)

(b) Project cost paid with cash contributed or donated to the grantee by other non-Federal public agencies and institutions, or private organizations or individuals.

(c) The value of in-kind contributions.

2. *Determining the Level of Cost Sharing Required.* As previously stated, the amount of a grant must be at least 50 percent of the total cost of the project. The percentage of the total cost required to be provided from non-Federal sources will be as follows:

(a) *20 percent.* For projects in which direct fishing industry participation may be limited, the non-Federal cost share shall be no less than 20 percent of the total cost. Projects in this category benefit many interest groups and, therefore, offer no unique advantage to members of the fishing industry. Projects in this category might relate to: economic of food technology research, seafood product safety, or consumer attitudes toward seafoods. Because of their nature, these projects would ordinarily be conducted by or for State or local Government entities or by non-profit organizations.

(b) *30 percent.* For projects in which direct fishing industry participation can be significant, the non-Federal cost share shall be no less than 30 percent of the total project cost. These projects contain significant or indeterminate risks which prevent an individual or group within the fishing industry from undertaking them without assistance. Projects in this category would ordinarily deal with the nontraditional species, demonstration of new harvesting gear or processing methods, the development of new fish product concepts or forms, or the enhanced use of domestically harvested fish in institutional markets or for personal consumption.

(c) *40 percent.* For projects which involve significant fishing industry participation, entail a limited risk, and in which the prospects for immediate future gain from the project are significant, the non-Federal cost share shall be no less than 40 percent of the total project cost. These projects would involve established fisheries or market as, for example, expanding the markets for fish or parts of fish normally discarded during harvesting or processing. Such projects require significant participation by individuals or groups within the fishing industry to ensure their success.

In determining the category of cost sharing in which the project belongs NMFS will consider:

(i) The project's direct benefits to the fishing and seafood industry;

(ii) The financial risk that would be assumed by members of the fishing industry in undertaking the project;

(iii) The potential of the project to generate revenues that would allow members of the fishing industry to recover costs incurred through participation in the project; and

(iv) The compatibility of the project with national fisheries development and utilization policy and its potential for national or Regional economic benefit.

A project which will benefit the general public, such as a research project dealing with the safety of fish and fish products or demonstrating advanced technologies to benefit recreational fisheries, will have a lower cost-sharing requirement than one which directly benefits only a specific segment of the fishing industry or an identifiable number of firms. Similarly, industry demonstration projects in high-risk ventures, such as those which involve the harvesting, processing, or marketing of nontraditional U.S. species, will be expected to provide lesser amounts of cost sharing than would industry projects related to species for which strong domestic or foreign markets already exist. Projects which have a high potential for fulfilling national fisheries development and utilization policy or making significant contributions to the national economy might also have a lower cost-sharing requirement than projects with a lesser potential for doing so.

D. Format

Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, and its relevance to developing and strengthening the U.S. fishing industry. Applicants should not assume prior knowledge on the part of MNFS as to the relative merits of the project described in the application. The applicant is advised to contact the appropriate regional office for guidance in preparing project descriptions. Such consultations with NMFS staff will not result in more favorable consideration of any project. Applications shall be submitted in the following format:

1. *Cover Sheet.* A Federal Government standard from 424 shall be used as the cover sheet for each project within an application. Standard form 424 may be

obtained from the NMES Regional Offices or NMFS Washington Office listed in Section IV.E.

2. *Project Summary.* A summary of not more than one page shall be provided for each project within the application and shall contain the following information:

(a) Project title.

(b) Name of applicant.

(c) Primary objective of project.

(d) Summary of work to be performed.

(e) Principal geographic impact of project (local, statewide, regional, national).

(f) Total Federal funds requested; total amount and percentage of total project costs.

(g) Project costs to be provided from non-Federal Government sources; total amount and percentage of total project costs.

(h) Total project costs.

(i) Principal uses for Federal funds and amounts requested for each use (salaries, travel, vessel charter, subcontracts, equipment rental, etc.).

3. *Project Description.* Each project within the application shall be completely and accurately described. Each project description may be up to fifteen pages in length. All portions of the project description will be made available to the public and members of the fishing industry for review and comment; therefore, NMFS will not guarantee the confidentiality of any information submitted as part of any project nor will NMFS accept for consideration any project requesting confidentiality of any part of the project. Each project shall be described as follows:

(a) *Identification of Problem(s).* Describe how existing conditions prevent or impede the U.S. fishing industry from developing the fishery or using existing fisheries. In this description, identify (i) the species of fish involved, (ii) the specific problem(s) that the fishing industry has encountered, (iii) the sectors of the fishing industry that are affected, and (iv) the impact of the problem(s) on the fishing industry.

(b) *Project Goals and Objectives.* Clearly state what the project would accomplish and how this would eliminate or reduce the problem(s) described above. In addition, the impact of the proposed work should be described in terms of anticipated increased landings, production, sales, exports, product quality, safety, or any other measurable factor.

(c) *Appropriateness and Need for Government Financial Assistance.* Clearly describe why members of the fishing industry have been unable to obtain funds from other public or private sources for the proposed work. Factors which inhibit private industry from undertaking the project are of particular importance. The applicant should list all other sources of funding which are or have been sought for the project.

(d) *Participation by Persons or Groups Other Than the Applicant.* Describe (i) the level of participation by NMFS, Sea Grant, or other Government and non-Government entities, particularly members of the fishing industry, required to ensure the success of the project(s); and (ii) the nature of such participation. In addition, list names and addresses of the principal persons or groups consulted during the preparation of the project description.

(e) *Federal, State, and Local Government Activities.* List any existing Federal, State, or local Government plans or activities, including State Coastal Zone Management Plans, which would be affected by this project, and describe the relationship between the project and these plans or activities. Last names and addresses of persons contacted to provide this informtion.

(f) *Project Outline.* Describe the work to be performed during the project starting with the first month's work and continuing to the last month.

(g) *Project Management.* Describe how the the project will be organized and managed. List all persons or groups who will be involved in the project, their qualifications, and their level of involvement in the project. Provide copies of any agreements between the applicant and participants who are not directly employed by the applicant which describe the specific tasks that will be performed.

(h) *Monitoring of Project Performance.* Describe how the progress of the project would be monitored and who will participate in the monitoring. Specify what actions would be taken in the event specific project tasks become unattainable. This is particularly important in demonstration projects that can be affected by factors beyond the control of the applicant.

(i) *Evaluation of Project Results.* The applicant is required to provide an evaluation of the project when it is completed. Describe the methodology or procedures to be followed to determine the impact of the project in promoting increased landings, production, sales, exports, product quality, safety, or other measurable factors.

(j) *Project Benefits.* Describe the benefits anticipated from conducting the project and identify the sectors of the fishing industry which will receive the benefits. Benefits should be described in terms that can be measured.

(k) *Dissemination of Project Results.* Describe how the project results will be conveyed to the members of the fishing industry or others who could directly benefit from the project.

(l) *Project Costs.* Provide a detailed schedule of project costs, identifying in particular: (i) Sub-contracts, (ii) salaries, (iii) travel cost, and (iv) all other administrative and technical costs of the project. Funds will ordinarily not be granted for the purchase of capital equipment. Fee or profit will not be paid by NMFS under any funding award.

Any applicant submitting a project may request funds to cover administrative costs associated with the management of the project and the performance of functions required by the Federal Government as part of the grant award if the project is funded. These functions are identified in Section VI, A, "Obligations of the Applicant." These costs are to be identified for each project submitted. In applications containing two or more projects, administrative costs are not to be combined for all projects but must be identified separately for each individual project. The amount of administrative funds provided will be based on the actual number of projects and specific activities which will be funded.

(m) *Cost Sharing for the Project.* Specify all activities which will be funded from non-Federal sources, including in-kind contributions. State the total amount of non-Federal funds, including in-kind contributions, to be committed to the project, and specify the time at which such contributions will be available. Projects costs provided by the applicant cannot exceed percent of total project costs.

4. *Supporting Documentation.* This section shall include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed. The applicant should present any information which would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project to fisheries development may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower ranking of the project. Reviewers will not necessarily review material provided as supporting documentation except where sufficient detail is lacking in the project description to properly

evaluate the project. Therefore, information presented in this section should be referenced in the project description, where appropriate.

E. Application Submission and Deadline

1. *Deadline.* Applications for funding under this program shall be accepted between February 1, 1983 and April 1, 1983. An application will be considered to be timely filed if (a) the application is in any of the offices listed below on or before April 1, 1983, or (b) the application is postmarked (First Class Mail) no later than March 26, 1983.

2. *Submission of Applications to NMFS.* One signed original and two (2) copies of the complete application must be submitted. Applications are not to be bound in any manner.

(a) Applications relating to a specific fishery or a particular region should be submitted to the appropriate NMFS Regional Office as specified below:

Northeast Region (Maine, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota): Regional Director, National Marine Fisheries Service, 7 Pleasant Street, Gloucester, MA 01930, Phone: (617) 281–3600.

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Oklahoma, Arkansas, Tennessee, Kentucky, Missouri, Kansas, Nebraska, Iowa, Puerto Rico, Virgin Islands): Regional Director, National Marine Fisheries Service, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702, Phone: (813) 893–3142.

Southwest Region (California, Hawaii, Nevada, Arizona, American Samoa, Guam, Trust Territory of Pacific Islands): Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, Phone: (213) 548–2575.

Northwest Region (Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota): Regional Director, National Marine Fisheries Service, 7600 Sand Point Way, N.E., Bin C15700, Seattle, Washington 98115, Phone: (206) 527–6150.

Alaska Region (Alaska): Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, Phone: (907) 586–7221.

(b) Applications that do not directly address the development of a particular fishery or region of the country but do address broad national concerns, such as impediments to increased use of fish and fish products both domestically and abroad, industry productivity or efficiency, product quality and safety, or consumer welfare identified in Section III, Regional and National Priorities, should be sent to: Director, Office of Industry Services, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235.

NMFS shall review all applications to determine the appropriate reviewing office. NMFS determination of this matter shall be final.

V. Review Process and Criteria

A. Evaluation and Ranking of Proposed Projects

Applications which meet the requirements of this solicitation will be evaluated by the NMFS office determined by NMFS to be the most appropriate to evaluate the proposed work. This will normally be the office where the application is filed. The project(s) contained in the application will be evaluated in consultation with representatives from other Federal government agencies with programs affecting the U.S. fishing industry, members of the fishing industry, and consumer groups on the basis of technical merit. The regional and Washington offices of NMFS will make project descriptions available for review as follows:

1. Public review and comment. Regional projects may be inspected at the office to which they are submitted. All projects will be available for inspection at the NMFS Office of Industry Services, 3300 Whitehaven Street NW., Room 387, Washington, D.C. from April 12, 1983 to April 29, 1983. Written comments will be accepted at the regional or Washington offices until April 29, 1983.

2. Consultation with members of the fishing industry. NMFS shall, in its discretion, request comment from members of the fishing industry who have knowledge in the area of a project or who would be affected by a project.

3. Consultation with Government agencies. Projects will be reviewed in consultation with NMFS Research Centers and Utilization Laboratories, Regional Fisheries Management Councils, and the appropriate NOAA Grants/Contracts Offices. The appropriate Regional Fisheries Management Council may be asked to review projects and advise of any real or potential conflicts with Council activities.

A technical evaluation of each project will be conducted. If an application contains two or more projects, the projects will be evaluated separately. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. Projects will be given point scores based on the following criteria:

(a) Adequacy of research/development/demonstration for resolving an impediment and possibilities of securing productive results (20 points).

(b) Soundness of design/technical approach for resolving an impediment (20 points).

(c) Organization and management of the project, including qualifications and previous related experience of the management team and the personnel involved (20 points).

(d) Effectiveness of proposed methods for monitoring and evaluating the success or failure of the project in resolving an impediment (20 points).

(e) Appropriateness of the budget in terms of the work to be performed (20 points).

A panel of NMFS, fishing industry, consumer representatives, and others, as appropriate, will be convened by each reviewing office to rank the projects filed with the office. The panel will consider the significance of the problem addressed in the project along with the technical evaluation and will rank each project in terms of importance or need for funding. The panel will make recommendations on the level of funding to be awarded for each project and the merits and benefits of funding each project.

B. Funding Awards

After projects have been evaluated by the reviewing offices, recommendations for project funding will be developed by the Regional Directors for regional projects and the Director, Office of Industry Services for national projects. The recommendations will be submitted to the Assistant Administrator for Fisheries for review. The Assistant Administrator for Fisheries will determine the number of projects to be funded based on the recommendations provided to him, consistency of projects with national fisheries policy, and the amount of funds available for the program.

The exact amount of funds to be awarded for a project will be determined in preaward discussions between the applicant and NOAA/NMFS Program and Grants representatives. The form of the financial assistance agreement and the award will be determined by NOAA Grants Officers. All applications will be approved or Misapproved before July 30, 1983. Projects approved and

recommended for funding will be subject to review by the Secretary of Commerce before funding is authorized.

VI. Administrative Requirements

A. Obligations of the Applicant

An Applicant shall:

1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. If a project is funded, manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are granted, and be responsible for the satisfaction of all administrative and managerial conditions imposed by NMFS.

4. If a project is funded, keep records sufficient to disclose the use made of grant funds, provide an audit of the use of funds, and allow access to records for audit and examination by the Secretary, the Comptroller of the United States, or their authorized representatives.

5. If a project is funded, submit quarterly project status reports to NMFS within thirty days after the end of each calendar quarter, on the use of funds and progress of the project. These reports shall specify, for each project funded:

(a) Whether goals or objectives are being achieved within projected time periods;

(b) Where necessary, state reasons why goals or objectives are not being met;

(c) Any changes in plans or redirection of resources or activities and the reason therefor;

(d) Such report shall be submitted within the time and to the individual specified in the funding agreement.

6. If a project is funded, submit a final report within 90 days after the end of each project. This report shall describe the project and include an evaluation of the work performed and the results and benefits of the work in sufficient detail to enable NMFS to assess the completed project for its annual report to Congress as specified in subsection B(6) of this section. Results should be described in relation to the project objectives of resolving specific impediments, and should be quantified to the extent possible. Potential uses of project results in private industry should be specified. Any conditions or requirements necessary to make productive use of project results should be identified.

7. If project is funded, comply with Office of Management and Budget Circulars A–102 (for use by states and local governments) and A–110 (for use by universities, hospitals and other non-profit organizations) which provide standards for financial management systems of financial assistance (grant or cooperative agreement) activities.

Consistent with the OMB Circulars, the following is a description of audit requirements under the Saltonstall-Kennedy Program by type of recipient.

States and Local Governments: Grant or cooperative agreement recipients which are states or local governments should have audits conducted in accordance with Attachment P of OMB Circular A–102.

Educational Institutions: Grant or cooperative agreement recipients which are educational institutions will be audited by their cognizant Federal audit agency. The cognizant agency for each educational institution is listed in OMB Circular A–88. Upon completion of a specific financial assistance award or on a regularly scheduled basis, the cognizant Federal audit agency will conduct an audit of the institution's financial management system.

Hospitals and Other Non-Profit Organizations: Grants or cooperative agreement recipients which are hospitals or other non-profit organizations must have audits conducted by Independent Public Accountants (IPA's) in accordance with the General Accounting Office *Standards for Audit of Government Organizations, Programs, Activities and Functions.* The grant or cooperative agreement recipient is responsible for arranging for the audit to be conducted by an IPA. Under the Saltonstall-Kennedy Program, non-profit organizations are required to obtain an audit of any project where the estimated cost of the grant or cooperative agreement is $100,000 or more, and/or where sub-award(s) of $50,000 or more to non-profit organizations are contemplated.

Other: All other recipients will follow procedures established for hospitals and other non-profit organizations.

8. Submit such additional reports as may be required by NMFS.

B. Obligations of the National Marine Fisheries Service

NMFS shall:

1. provide all forms and exlanatory information necessary for the proper submisson of applications for fisheries development and utilization projects;

2. provide advice, through NMFS Office servicing the applicant's area, to inform applicants of NMFS fisheries development policies and goals;

3. when projects submitted to regional offices are approved for funding, the NMFS Regional Director of such regional office shall inform the applicant of all requirements and conditions for the use of such funds;

4. monitor all projects to ascertain their effectiveness in achieving project objectives and in producing measurable results. Actual accomplishments of a project will be compared with intended or anticipated accomplishments.

5. make project results and reports available upon request to Congress, public agencies or the public.

6. include in the annual report to Congress a description of all funded projects, a list of applications approved and disapproved, the total amount of grants made during the current fiscal year and the extent to which available funds were not obligated or expended for such fiscal year. The report shall also include an assessment of each funded project that was completed in the proceding year in terms of the extent to which project objectives were attained and the extent to which it contributed to fishery development.

C. Legal Requirements

The applicant shall be required to satisfy the requirements of applicable local, State and Federal Laws.

(Federal Domestic Assistance Catalogue No. 11.427 Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements)

Signed at Washington, D.C. this 18th day of January 1983.

Carmen J. Blondin,

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

[FR Doc. 83-1687 Filed 1-20-83; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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